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INTRODUCTION

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

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

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

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

ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2014

Issue#	Rules Due Date	Date of Issue
1	December 23, 2013	January 3, 2014
2	December 30, 2013	January 10, 2013
3	January 6, 2014	January 17, 2014
4	January 13, 2014	January 24, 2014
5	January 21, 2014	January 31, 2014
6	January 27, 2014	February 7, 2014
7	February 3, 2014	February 14, 2014
8	February 10, 2014	February 21, 2014
9	February 18, 2014	February 28, 2014
10	February 24, 2014	March 7, 2014
11	March 3, 2014	March 14, 2014
12	March 10, 2014	March 21, 2014
13	March 17, 2014	March 28, 2014
14	March 24, 2014	April 4, 2014
15	March 31, 2014	April 11, 2014
16	April 7, 2014	April 18, 2014
17	April 14, 2014	April 25, 2014
18	April 21, 2014	May 2, 2014

19	April 28, 2014	May 9, 2014
20	May 5, 2014	May 16, 2014
21	May 12, 2014	May 23, 2014
22	May 19, 2014	May 30, 2014
23	May 27, 2014	June 6, 2014
24	June 2, 2014	June 13, 2014
25	June 9, 2014	June 20, 2014
26	June 16, 2014	June 27, 2014
27	June 23, 2014	July 7, 2014
28	June 30, 2014	July 11, 2014
29	July 7, 2014	July 18, 2014
30	July 14, 2014	July 25, 2014
31	July 21, 2014	August 1, 2014
32	July 28, 2014	August 8, 2014
33	August 4, 2014	August 15, 2014
34	August 11, 2014	August 22, 2014
35	August 18, 2014	August 29, 2014
36	August 25, 2014	September 5, 2014
37	September 2, 2014	September 12, 2014
38	September 8, 2014	September 19, 2014
39	September 15, 2014	September 26, 2014
40	September 22, 2014	October 3, 2014
41	September 29, 2014	October 10, 2014
42	October 6, 2014	October 17, 2014
43	October 14, 2014	October 24, 2014
44	October 20, 2014	October 31, 2014
45	October 27, 2014	November 7, 2014
46	November 3, 2014	November 14, 2014
47	November 10, 2014	November 21, 2014
48	November 17, 2014	December 1, 2014
49	November 24, 2014	December 5, 2014
50	December 1, 2014	December 12, 2014
51	December 8, 2014	December 19, 2014
52	December 15, 2014	December 26, 2014

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

1) Heading of the Part: Rate Case Expense

2) Code Citation: 83 Ill. Adm. Code 288

3)

Section Numbers:	Proposed Action:
288.10	New Section
288.20	New Section
288.100	New Section
288.200	New Section
288.300	New Section
288.400	New Section

4) Statutory Authority: Implementing Sections 9-201, 9-202, and 9-229 and authorized by Section 10-101 of the Public Utilities Act [220 ILCS 5/9-201, 9-202, 9-229, and 10-101]

5) A Complete Description of the Subjects and Issues Involved: Courts have held that the expenses incurred by a public utility in preparing and presenting a rate case may be recovered in rates as an ordinary and reasonable cost of doing business. Section 9-229 of the Public Utilities Act now requires, however, that the Commission "specifically assess the justness and reasonableness of any amount expended by a public utility to compensate attorneys or technical experts to prepare and litigate a general rate case filing." See Commonwealth Edison Co. v. Illinois Commerce Comm'n, 2014 IL App (1st) 130302; People ex rel. Madigan v. Illinois Commerce Comm'n, 2011 IL App (1st) 101776. The proposed rules are intended to provide consistent guidance for assessing the justness and reasonableness of attorney and expert witness fees in rate case expense, in accordance with the statutory directive.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

11) Statement of Statewide Policy Objective: The proposed rulemaking neither creates nor expands any State mandate on units of local government, school districts, or community college districts.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments should be filed, within 45 days after the date of this issue of the *Illinois Register*, in Docket No. 11-0711 with:

Elizabeth Rolando, Chief Clerk
Illinois Commerce Commission
527 East Capitol Avenue
Springfield IL 62701

217/782-7434

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking will affect any subject jurisdictional entities that are also small businesses as defined in the Illinois Administrative Procedure Act. This rulemaking will not affect any small municipalities or not-for-profit corporations.

B) Reporting, bookkeeping or other procedures required for compliance: Bookkeeping and filing procedures

C) Types of professional skills necessary for compliance: Managerial and accounting skills

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent agendas because the Commission did not anticipate the need for this rulemaking at that time.

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

ILLINOIS COMMERCE COMMISSION

NOTICE OF PROPOSED RULES

TITLE 83: PUBLIC UTILITIES
CHAPTER I: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER b: PROVISIONS APPLICABLE TO
MORE THAN ONE KIND OF UTILITY

PART 288
RATE CASE EXPENSE

Section

288.10 Scope
288.20 Definitions
288.30 Required Support for Compensation Costs
288.40 Determination of Reasonable Compensation Costs
288.50 Compensation Costs Support Disclosure

AUTHORITY: Implementing Sections 9-101, 9-201, 9-229 and 16-108.5 of, and authorized by Section 10-101 of, the Public Utilities Act [220 ILCS 5/9-101, 9-201, 9-229, 10-101 and 16-108.5].

SOURCE: Adopted at 38 Ill. Reg. _____, effective _____.

Section 288.10 Scope

The requirements of this Part shall only apply to the amounts described in subsections (a) and (b) that are designated by a utility as rate case expense and sought to be recovered by the utility through rates:

a) amounts expended by a utility to compensate outside counsel/support staff and outside technical experts/support staff to prepare and litigate a rate case filing; and

b) amounts expended by a utility to compensate affiliate counsel/support staff and affiliate technical experts/support staff to prepare and litigate a rate case filing.

Section 288.20 Definitions

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

"Flat fee contract" means a contract between a utility and outside counsel or an outside technical expert by which the utility pays an agreed upon amount, regardless of hours worked or billed.

"Hourly rate contract" means a contract under which a utility agrees to compensate outside counsel or an outside technical expert based on hourly rates multiplied by hours billed.

"Miscellaneous expenses" means expenses billed by an outside counsel, outside technical expert, utility affiliate counsel, or utility affiliate technical expert for costs including, but not limited to, travel, travel-related meals, lodging and photocopying, if evidence establishes that those costs were excluded from the agreement with the utility as compensation for the rate case at issue.

"Not-to-exceed contract" means a contract between a utility and outside counsel or an outside technical expert by which the utility agrees to compensate the outside counsel or outside technical expert at an hourly rate for work billed, if there is a cap on the maximum amount that may be paid out under the contract.

"Outside counsel" means an attorney not employed by the utility or any of its affiliates who is retained to prepare and litigate a rate case filing subject to this Part on behalf of the utility.

"Outside counsel and outside technical expert compensation" means costs subject to the Commission's specific assessment as to justness and reasonableness, which include the following costs for which the utility seeks recovery as part of rate case expense in a rate case filing:

Outside counsel (attorney) fees, whether billed under an hourly rate contract, a flat fee contract, a not-to-exceed contract, or some other arrangement for compensation; in this non-attorney support staff fees; and reimbursement of miscellaneous incidental expenses.

Outside technical expert fees, whether billed under an hourly rate contract, a flat fee contract, a not-to-exceed provision, or some other arrangement for compensation; support staff fees; and reimbursement of miscellaneous incidental expenses.

"Outside technical expert" means a consultant or other professional not employed by the utility or any of its affiliates that is retained to testify as an expert witness on behalf of the utility and/or otherwise assist the utility with the preparation and/or litigation of a rate case filing.

"Support staff" means personnel performing functions under the direction and supervision of outside counsel, outside technical experts, utility affiliate counsel or utility affiliate technical experts in connection with a rate case filing subject to this Part, such as paralegals, legal assistants or other non-attorney/non-technical expert staff whose time is billed to the utility in connection with a rate case filing.

"Time entry" means a contemporaneously generated document that states the hours performed on a particular task, specifying the task performed and the applicable hourly rate in the case of hourly rate billing or contracts with not-to-exceed clauses, or the applicable estimated hourly rate in the case of a flat fee contract.

"Utility affiliate counsel" means an attorney employed by a utility affiliate who is retained to prepare and litigate a rate case filing subject to this Part on behalf of the utility.

"Utility affiliate counsel and support staff and utility affiliate technical experts and support staff compensation" means costs subject to the Commission's specific assessment as to justness and reasonableness, which include the following costs for which the utility seeks recovery as part of rate case expense in a rate filing:

Expenses for affiliate counsel and related support staff for services rendered on a rate case, pursuant to an affiliate agreement, provided that the recovery of incentive compensation costs shall be consistent with the utility's recovery of non-rate case expense incentive compensation costs;

Affiliate technical experts and related support staff for services rendered on the rate case, pursuant to an affiliate agreement, provided that the recovery of incentive compensation costs shall be consistent with the utility's recovery of non-rate case expense incentive compensation costs.

"Utility affiliate technical expert" means a professional employed by a utility affiliate that is:

retained to testify as an expert witness on behalf of the utility and/or otherwise assist the utility with the preparation and/or litigation of a rate case filing; and

who is not a utility affiliate counsel as that term is defined.

Section 288.30 Required Support for Compensation Costs

a) A utility subject to this Part shall, upon request during discovery, make information available to parties of record in order to assist those parties in the development of a recommended amount of rate case expense and for the Commission in assessing the justness and reasonableness of amounts paid to compensate all persons covered by Section 288.10. Information shall include, but not be limited to, the following:

1) Facts and documentation describing the terms of the engagement between the utility and outside counsel/support staff and the utility and outside technical experts/support staff to include the nature of the services to be provided, by whom the services would be provided, and the hourly rates to be charged in the case of a flat fee contract or a not-to-exceed contract, the presumed or estimated hourly rate charged for work of similar nature, or some other unit of time measurement period.

2) For services provided, including, but not limited to, under an hourly rate contract, a flat fee contract, or a contract with a not-to-exceed provision, invoices disclosing time entries for each outside counsel/support staff that clearly indicate:

A) a description of the services provided;

B) by whom the services were provided;

C) the time spent providing the services on a daily basis;

D) the applicable hourly rate charged by the persons providing the services, or some other unit of time measurement period; and

E) the applicable codes from the American Bar Association's Uniform Task-Based Management System Litigation Code Set or similar

standardized billing system, if and to the extent that the outside counsel/support staff use that coding system in their billing invoices.

3) For services provided under an hourly rate contract, including but not limited to a contract with a not-to-exceed provision, invoices or other documents disclosing time entries for each outside technical expert/support staff that clearly indicates:

A) a description of the services provided;

B) by whom the services were provided;

C) the time spent providing the services on a daily basis;

D) the hourly rate charged, or some other unit of time measurement period.

4) For services provided under a flat fee contract, all invoices provided by the outside counsel/support staff or outside technical expert/support staff to the utility that are related to the contract, as well as any existing invoices or documentation disclosing time entries and summaries of any proposals reviewed prior to the selection for service.

5) For a flat fee contract, documents created or reviewed by the utility in considering the reasonableness of the contracted fee, including any calculations that the utility performed or reviewed related to the fee prior to execution of the contract. This includes the presumed or estimated hourly rate that would be charged in an hourly rate contract and the presumed or estimated number of hours to be worked.

6) For services provided by utility affiliate counsel/support staff and utility affiliate technical experts/support staff, documentation that clearly indicates:

A) a description of the services provided;

B) the name and title of the persons providing the services;

C) the time spent providing the services on a daily basis; and

D) the rates charged, excluding incentive compensation costs.

b) In addition to the information required in subsection (a), the utility shall provide the following information at the time of filing its direct case:

1) All information required by 83 Ill. Adm. Code 285.3085 (Schedule C-10) and 285.3090 (Schedule C-10.1).

2) Invoices from the attorneys and expert witnesses that specify the work performed, by whom the work was performed and the charges for the services.

3) An explanation of the process, procedures and controls the utility has in place to ensure that the work performed by all persons covered by Section 288.10 does not duplicate work performed by a utility employee.

4) An explanation of the process, procedures and controls the utility has in place to ensure that the bills from all persons covered by Section 288.10 are accurate, reasonable and not redundant before payment is made to those vendors.

5) An explanation of the reasonableness of the fees to be paid to all persons covered by Section 288.10 with consideration of the factors enumerated in Section 288.40.

6) An explanation of the utility's rationale for the proposed amortization period of total rate case expense that approximates the time period between rate cases.

c) The utility shall file at the time of filing its direct or rebuttal case and, if applicable, its surrebuttal case, and as otherwise directed by the Administrative Law Judge, a summary schedule of the compensation costs for which rate recovery is sought that includes, for all persons covered by Section 288.10, the following:

1) Identification of the outside counsel/support staff, outside technical experts/support staff, utility affiliate counsel/support staff, and utility affiliate technical experts/support staff;

2) Total projected expense update, if the projection is the basis for the total requested rate case expense;

3) Actual expense incurred to date, with supporting invoices made available upon request;

4) Remaining costs projected to be incurred, if any; and

5) Total rate case expense that was approved by the Commission in the utility's previous rate case for the work performed by all persons covered by Section 288.10.

d) Inclusion of overhead expenses on the part of all persons covered by Section 288.10 (e.g., photocopying, binding) shall be accompanied by evidence that the rates charged the utility by the attorney or expert specifically exclude those overhead expenses from the rates charged to the utility.

e) No later than five business days prior to the start of evidentiary hearings in the rate case, the utility shall file an affidavit signed by a utility representative with authority to make affirmations on behalf of the utility that, to the best of the utility representative's knowledge, information and belief:

1) The compensation paid or to be paid to all persons covered by Section 288.10 that the utility is seeking to recover as rate case expense in the instant rate case is supported by billings or other documentation that:

A) Are true and accurate;

B) Support costs that were reasonable to prepare and litigate the rate case;

C) Were reviewed and approved by utility management prior to payment; and

D) Are not duplicative;

2) The utility paid or will pay the billed amounts requested to be recovered as rate case expense;

3) Additional compensation, if any, to be paid to all persons covered by Section 288.10 not yet billed to the utility, or not yet performed, will be made in accordance with the affirmations required in this subsection (e); and

4) The filing of the utility representative affidavit is informational in nature and shall not be binding on the Commission in its assessment of the justness and reasonableness of the amount of rate case expense requested by the utility.

f) All updates and supporting documentation of the rate case expense amounts requested by the utility for recovery in rates shall be submitted for inclusion in the evidentiary record of the rate case.

Section 288.40 Determination of Reasonable Compensation Costs

a) Rate case expenses shall be addressed in the attorney review that occurs in post-trial briefs.

b) The factors to be considered by the Commission in determining the reasonableness of compensation costs for all persons covered by Section 288.10 may include, without limitation, the following:

1) The fulfillment of the required support for compensation costs as required in Section 288.30;

2) Identification of the type of service involved as either professional or support staff;

3) Novelty, complexity or difficulty of the issues;

4) Nature, extent and reasonableness of work performed considered at the time the work was performed, including, without limitation, the amount of support required for pleadings, discovery, briefing and hearings and the

relevance of the work products to the justness and reasonableness of the proposed utility rates;

5) Requisite skill required to perform services efficiently and accurately;

6) Professional credentials, including, without limitation, education, training, experience, achievements and reputation, in the applicable professional discipline;

7) The reasons why multiple outside counsel, outside technical experts, utility affiliate counsel or utility affiliate technical experts addressed the same issues;

8) Relevant evidence regarding the market rates concerning fees charged for comparable services, including, as applicable, fees charged in other rate cases in Illinois or fees charged in other jurisdictions for rate cases;

9) Hourly rates applicable to outside counsel and outside technical experts representing or retained by utilities and outside counsel or outside technical experts representing or retained by other entities that regularly appear in Commission proceedings; and

10) The reasonableness of the amount of time taken to perform a task.

Section 288.50 Compensation Costs Support Disclosure

a) Information disclosed by the utility in support of compensation costs for all persons covered by Section 288.10 shall be afforded the same protections for privileged, confidential and proprietary information that exist under the Commission's Rules of Practice (83 Ill. Adm. Code 200), the Illinois Code of Civil Procedure [735 ILCS 5], the Illinois Rules of Evidence and other applicable Illinois law.

b) When information or a document is withheld from disclosure or discovery on a claim that it is privileged pursuant to a common law or statutory privilege, any such claim shall be made expressly and shall be supported by a description of the nature of the documents, communications or things not produced or disclosed and the exact privilege that is being claimed.

c) When there is a dispute regarding a claim of privilege, any party may file a motion seeking an in camera inspection of the documents in question by the Administrative Law Judge to resolve that dispute.

d) Nothing in this Section is intended to preclude or otherwise change any protections or rights existing pursuant to the Illinois Code of Civil Procedure, the Illinois Supreme Court Rules, the Illinois Rules of Evidence, the Commission's Rules of Practice, or any other applicable law with respect to privileged information or documents.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Medical Payment

2) Code Citation: 89 Ill. Adm. Code 140

3)

Section Numbers:	Proposed Action:
140.413	Amendment
140.462	Amendment

4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 98-104

5) Complete Description of the Subjects and Issues Involved: The proposed amendments allow one-year timely filing of claims per Public Act 98-104, for providers under the Cook County health system, define a primary payer, and amend language related to electronic submittal of long term care admission documents. The proposed amendments also set standard timeframes for adjustments to claims.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other rulemakings pending on this Part? Yes

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
140.12	Amendment	37 Ill. Reg. 19971; December 20, 2013
140.440	Amendment	37 Ill. Reg. 19971; December 20, 2013
140.80	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.82	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.84	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.86	New Section	38 Ill. Reg. 14658; July 18, 2014
140.420	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.421	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.425	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.442	Amendment	38 Ill. Reg. 14658; July 18, 2014

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

140.457	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.458	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.472	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.485	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.488	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.Table D	Repeal	38 Ill. Reg. 14658; July 18, 2014
140.20	Amendment	38 Ill. Reg. 16096; August 1, 2014
140.25	Amendment	38 Ill. Reg. 16096; August 1, 2014

11) Statement of Statewide Policy Objective: These proposed amendments neither create nor expand any State mandate affecting units of local government.

12) Information and questions regarding this amendment shall be directed to:

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

217/782-1233
HFS.Rules@illinois.gov

The Department requests the submission of written comments within 45 days after the publication of this Notice. The Department will consider all written comments it receives during the first notice period as required by Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES
SUBCHAPTER d: MEDICAL PROGRAMS

PART 140
MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section
140.1 Incorporation By Reference
140.2 Medical Assistance Programs
140.3 Covered Services Under Medical Assistance Programs
140.4 Covered Medical Services Under AFDC-MANG for non-pregnant persons who are 18 years of age or older (Repealed)
140.5 Covered Medical Services Under General Assistance
140.6 Medical Services Not Covered
140.7 Medical Assistance Provided to Individuals Under the Age of Eighteen Who Do Not Qualify for AFDC and Children Under Age Eight
140.8 Medical Assistance For Qualified Severely Impaired Individuals
140.9 Medical Assistance for a Pregnant Woman Who Would Not Be Categorically Eligible for AFDC/AFDC-MANG if the Child Were Already Born Or Who Do Not Qualify As Mandatory Categorically Needy
140.10 Medical Assistance Provided to Persons Confined or Detained by the Criminal Justice System

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140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Suspension and Denial of Payment, Recovery of Money and Penalties
140.16 Termination, Suspension or Exclusion of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination, Suspension, Exclusion or Revocation on Persons

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Associated with Vendor
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140.22 Magnetic Tape Billings (Repealed)
140.23 Payment of Claims
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140.32 Prohibition on Participation, and Special Permission for Participation
140.33 Publication of List of Sanctioned Entities
140.35 False Reporting and Other Fraudulent Activities
140.40 Prior Approval for Medical Services or Items
140.41 Prior Approval in Cases of Emergency
140.42 Limitation on Prior Approval
140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.44 Withholding of Payments Due to Fraud or Misrepresentation
140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible Allegation of Fraud or Failure to Cooperate
140.55 Electronic Data Interchange Service
140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72 Drug Manual (Recodified)
140.73 Drug Manual Updates (Recodified)

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140.97	Special Requirements (Recodified)
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140.99	Hospital Services Not Covered (Recodified)
140.100	Limitation On Hospital Services (Recodified)
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140.102	Heart Transplants (Recodified)
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AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

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thru 140.972 recodified to 89 Ill. Adm. Code 149.5 thru 149.325 at 12 Ill. Reg. 7401; amended at 12 Ill. Reg. 7695, effective April 21, 1988; amended at 12 Ill. Reg. 10497, effective June 3, 1988; amended at 12 Ill. Reg. 10717, effective June 14, 1988; emergency amendment at 12 Ill. Reg. 11868, effective July 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 12509, effective July 15, 1988; amended at 12 Ill. Reg. 14271, effective August 29, 1988; emergency amendment at 12 Ill. Reg. 16921, effective September 28, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 16738, effective October 5, 1988; amended at 12 Ill. Reg. 17879, effective October 24, 1988; amended at 12 Ill. Reg. 18198, effective November 4, 1988; amended at 12 Ill. Reg. 19396, effective November 6, 1988; amended at 12 Ill. Reg. 19734, effective November 15, 1988; amended at 13 Ill. Reg. 125, effective January 1, 1989; amended at 13 Ill. Reg. 2475, effective February 14, 1989; amended at 13 Ill. Reg. 3069, effective February 28, 1989; amended at 13 Ill. Reg. 3351, effective March 6, 1989; amended at 13 Ill. Reg. 3917, effective March 17, 1989; amended at 13 Ill. Reg. 5115, effective April 3, 1989; amended at 13 Ill. Reg. 5718, effective April 10, 1989; amended at 13 Ill. Reg. 7025, effective April 24, 1989; Sections 140.850 thru 140.896 recodified to 89 Ill. Adm. Code 146.5 thru 146.225 at 13 Ill. Reg. 7040; amended at 13 Ill. Reg. 7786, effective May 20, 1989; Sections 140.94 thru 140.398 recodified to 89 Ill. Adm. Code 148.10 thru 148.390 at 13 Ill. Reg. 9572; emergency amendment at 13 Ill. Reg. 10977, effective July 1, 1989, for a maximum of 150 days; emergency expired November 28, 1989; amended at 13 Ill. Reg. 11516, effective July 3, 1989; amended at 13 Ill. Reg. 12119, effective July 7, 1989; Section 140.110 recodified to 89 Ill. Adm. Code 148.120 at 13 Ill. Reg. 12118; amended at 13 Ill. Reg. 12562, effective July 17, 1989; amended at 13 Ill. Reg. 14391, effective August 31, 1989; emergency amendment at 13 Ill. Reg. 15473, effective September 12, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 16992, effective October 16, 1989; amended at 14 Ill. Reg. 190, effective December 21, 1989; amended at 14 Ill. Reg. 2564, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 3241, effective February 14, 1990, for a maximum of 150 days; emergency expired July 14, 1990; amended at 14 Ill. Reg. 4543, effective March 12, 1990; emergency amendment at 14 Ill. Reg. 4577, effective March 6, 1990, for a maximum of 150 days; emergency expired August 3, 1990; emergency amendment at 14 Ill. Reg. 5575, effective April 1, 1990, for a maximum of 150 days; emergency expired August 29, 1990; emergency amendment at 14 Ill. Reg. 5865, effective April 3, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 7141, effective April 27, 1990; emergency amendment at 14 Ill. Reg. 7249, effective April 27, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 10062, effective June 12, 1990; amended at 14 Ill. Reg. 10409, effective June 19, 1990; emergency amendment at 14 Ill. Reg. 12082, effective July 5, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13262, effective August 6, 1990; emergency amendment at 14 Ill. Reg. 14184, effective August 16, 1990, for a maximum of 150 days; emergency amendment at 14 Ill. Reg. 14570, effective August 22, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 14826, effective August 31, 1990; amended at 14 Ill. Reg. 15366, effective September 12, 1990; amended at 14 Ill. Reg. 15981, effective September 21, 1990;

amended at 14 Ill. Reg. 17279, effective October 12, 1990; amended at 14 Ill. Reg. 18057, effective October 22, 1990; amended at 14 Ill. Reg. 18508, effective October 30, 1990; amended at 14 Ill. Reg. 18813, effective November 6, 1990; Notice of Corrections to Adopted Amendment at 15 Ill. Reg. 1174; amended at 14 Ill. Reg. 20478, effective December 7, 1990; amended at 14 Ill. Reg. 20729, effective December 12, 1990; amended at 15 Ill. Reg. 298, effective December 28, 1990; emergency amendment at 15 Ill. Reg. 592, effective January 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 1051, effective January 18, 1991; amended at 15 Ill. Reg. 6220, effective April 18, 1991; amended at 15 Ill. Reg. 6534, effective April 30, 1991; amended at 15 Ill. Reg. 8264, effective May 23, 1991; amended at 15 Ill. Reg. 8972, effective June 17, 1991; amended at 15 Ill. Reg. 10114, effective June 21, 1991; amended at 15 Ill. Reg. 10468, effective July 1, 1991; amended at 15 Ill. Reg. 11176, effective August 1, 1991; emergency amendment at 15 Ill. Reg. 11515, effective July 25, 1991, for a maximum of 150 days; emergency expired December 22, 1991; emergency amendment at 15 Ill. Reg. 12919, effective August 15, 1991, for a maximum of 150 days; emergency expired January 12, 1992; emergency amendment at 15 Ill. Reg. 16366, effective October 22, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 17318, effective November 18, 1991; amended at 15 Ill. Reg. 17733, effective November 22, 1991; emergency amendment at 16 Ill. Reg. 300, effective December 20, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 174, effective December 24, 1991; amended at 16 Ill. Reg. 1877, effective January 24, 1992; amended at 16 Ill. Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment

suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective

September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective

November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007; emergency amendment at 31 Ill. Reg. 10115, effective June 30, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 14749, effective October 22, 2007; emergency amendment at 32 Ill. Reg. 383, effective January 1, 2008, for a maximum of 150 days; peremptory amendment at 32 Ill. Reg. 6743, effective April 1, 2008; peremptory amendment suspended at 32 Ill. Reg. 8449, effective May 21, 2008; suspension withdrawn by the Joint Committee on Administrative Rules at 32 Ill. Reg. 18323, effective November 12, 2008; peremptory amendment repealed by emergency rulemaking at 32 Ill. Reg. 18422, effective November 12, 2008, for a maximum of 150 days;

emergency expired April 10, 2009; peremptory amendment repealed at 33 Ill. Reg. 6667, effective April 29, 2009; amended at 32 Ill. Reg. 7727, effective May 5, 2008; emergency amendment at 32 Ill. Reg. 10480, effective July 1, 2008, for a maximum of 150 days; emergency expired November 27, 2008; amended at 32 Ill. Reg. 17133, effective October 15, 2008; amended at 33 Ill. Reg. 209, effective December 29, 2008; amended at 33 Ill. Reg. 9048, effective June 15, 2009; emergency amendment at 33 Ill. Reg. 10800, effective June 30, 2009, for a maximum of 150 days; amended at 33 Ill. Reg. 11287, effective July 14, 2009; amended at 33 Ill. Reg. 11938, effective August 17, 2009; amended at 33 Ill. Reg. 12227, effective October 1, 2009; emergency amendment at 33 Ill. Reg. 14324, effective October 1, 2009, for a maximum of 150 days; emergency expired February 27, 2010; amended at 33 Ill. Reg. 16573, effective November 16, 2009; amended at 34 Ill. Reg. 516, effective January 1, 2010; amended at 34 Ill. Reg. 903, effective January 29, 2010; amended at 34 Ill. Reg. 3761, effective March 14, 2010; amended at 34 Ill. Reg. 5215, effective March 25, 2010; amended at 34 Ill. Reg. 19517, effective December 6, 2010; amended at 35 Ill. Reg. 394, effective December 27, 2010; amended at 35 Ill. Reg. 7648, effective May 1, 2011; amended at 35 Ill. Reg. 7962, effective May 1, 2011; amended at 35 Ill. Reg. 10000, effective June 15, 2011; amended at 35 Ill. Reg. 12909, effective July 25, 2011; amended at 36 Ill. Reg. 2271, effective February 1, 2012; amended at 36 Ill. Reg. 7010, effective April 27, 2012; amended at 36 Ill. Reg. 7545, effective May 7, 2012; amended at 36 Ill. Reg. 9113, effective June 11, 2012; emergency amendment at 36 Ill. Reg. 11329, effective July 1, 2012 through June 30, 2013; emergency amendment to Section 140.442(e)(4) suspended at 36 Ill. Reg. 13736, effective August 15, 2012; suspension withdrawn from Section 140.442(e)(4) at 36 Ill. Reg. 14529, September 11, 2012; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.442(e)(4) at 36 Ill. Reg. 14820, effective September 21, 2012 through June 30, 2013; emergency amendment to Section 140.491 suspended at 36 Ill. Reg. 13738, effective August 15, 2012; suspension withdrawn by the Joint Committee on Administrative Rules from Section 140.491 at 37 Ill. Reg. 890, January 8, 2013; emergency amendment in response to Joint Committee on Administrative Rules action on Section 140.491 at 37 Ill. Reg. 1330, effective January 15, 2013 through June 30, 2013; amended at 36 Ill. Reg. 15361, effective October 15, 2012; emergency amendment at 37 Ill. Reg. 253, effective January 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 846, effective January 9, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 1774, effective January 28, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2348, effective February 1, 2013 through June 30, 2013; amended at 37 Ill. Reg. 3831, effective March 13, 2013; emergency amendment at 37 Ill. Reg. 5058, effective April 1, 2013 through June 30, 2013; emergency amendment at 37 Ill. Reg. 5170, effective April 8, 2013 through June 30, 2013; amended at 37 Ill. Reg. 6196, effective April 29, 2013; amended at 37 Ill. Reg. 7985, effective May 29, 2013; amended at 37 Ill. Reg. 10282, effective June 27, 2013; amended at 37 Ill. Reg. 12855, effective July 24, 2013; emergency amendment at 37 Ill. Reg. 14196, effective August 20, 2013, for a maximum of 150 days; amended at 37 Ill. Reg. 17584, effective October 23,

2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. _____, effective _____.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.413 Limitation on Physician Services

a) When provided in accordance with the specified limitations and requirements, the Department shall pay for the following services:

1) Termination of pregnancy – only in those cases in which the physician has certified in writing to the Department that the procedure is necessary to preserve the life of the mother. All claims for reimbursement for abortions or induced miscarriages or premature births must be accompanied by the physician's written certification that the procedure is necessary for preservation of the life of the woman, or that the induced premature birth was to produce a live viable child and was necessary for the health of the mother or her unborn child.

2) Sterilization

A) Therapeutic sterilization – only when the procedure is either a necessary part of the treatment of an existing illness, or is medically indicated as an accompaniment of an operation on the female genitourinary tract. Mental incapacity does not constitute an illness or injury that would authorize this procedure.

B) Nontherapeutic sterilization – only for recipients age 21 or older and mentally competent. The physician must obtain the recipient's informed written consent in a language understandable to the recipient before performing the sterilization and must advise the recipient of the right to withdraw consent at any time prior to the operation. The operation shall be performed no sooner than 30

days and no later than 180 days following the date of the recipient's written informed consent, except in cases of premature delivery or emergency abdominal surgery. An individual may consent to be sterilized at the time of premature delivery or emergency abdominal surgery if at least 72 hours have passed since informed consent was given.

3) Effective October 1, 2012, surgery for morbid obesity is covered only with prior approval by the Department. The Department shall approve payment for this service only in those cases in which the physician determines that obesity is exogenous in nature, the recipient has had the benefit of other therapy with no success, endocrine disorders have been ruled out, and the body mass index (BMI) is 40 or higher, or 35 to 39.9 with serious medical complications. The medical record must contain the following documentation of medical necessity:

A) Documentation of review of systems (history and physical);

B) Client height, weight and BMI;

C) Listing of co-morbidities;

D) Patient participation in a six month consecutive medically supervised weight loss program working in conjunction with a registered dietician and or physician within two years prior to the surgery, with at least four documented visits within the consecutive six months;

E) Current and complete psychiatric evaluation indicating the patient is an appropriate candidate for weight loss surgery; and

F) Documentation of nutritional counseling.

4) Psychiatric services

A) Treatment – when the services are provided by a physician who has been enrolled as an approved provider with the Department.

B) Consultation – only when necessary to determine the need for psychiatric care. Services provided subsequent to the initial

consultation must comply with the requirements for treatment.

C) Group Psychotherapy – payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:

i) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases (ICD-9-CM) or, upon implementation, International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM), or the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services; and

ii) beginning 1/1/10, the entire group psychotherapy service is directly performed by a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program; and

iii) the group size does not exceed 12 patients, regardless of payment source; and

iv) the minimum duration of a group session is 45 minutes; and

v) the group session is documented in the patient's medical record by the rendering physician, including the session's primary focus, level of patient participation, and begin and end times of each session; and

vi) the group treatment model, methods, and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services; and

vii) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and

viii) Effective July 1, 2012, group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act [210 ILCS 45] or the Specialized Mental Health Rehabilitation Act [210 ILCS 48].

5) Services provided to a recipient in his or her home – only when the recipient is physically unable to go to the physician's office.

6) Services provided to recipients in group care facilities by a physician other than the attending physician – only for emergency services provided when the attending physician of record is not available or when the attending physician has made referral with the recipient's knowledge and permission.

7) Services provided to recipients in a group care facility by a physician who derives a direct or indirect profit from total or partial ownership (or from other types of financial investment for profit in the facility) – only when occasioned by an emergency due to acute illness or unavailability of essential treatment facilities in the vicinity for short-term care pending transfer, or when there is no comparable facility in the area.

8) Maternity care – Payment shall be made for pre-natal and post-natal care only when the following conditions are met:

A) the physician, whether based in a hospital, clinic or individual practice, retains hospital delivery privileges, maintains a written referral arrangement with another physician who retains such privileges, or has been included in the Maternal and Child Health Program as a result of having entered into an appropriate Healthy Moms/Healthy Kids Program provider agreement;

B) the written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; and

C) maternal services are delivered in a manner consistent with the quality of care guidelines published by the American College of Obstetricians and Gynecologists in the current edition of the "Standards for Obstetric-Gynecologic Services" (1989 Edition), 409 12th Street, S.W., Washington, D.C. 20024-2188.

9) Physician services to children under age 21

A) Payment shall be made only when the physician meets one or more of the following conditions. The physician:

i) has admitting privileges at a hospital; or

ii) is certified or is eligible for certification in pediatrics or family practice by the medical specialty board recognized by the American Board of Medical Specialties; or

iii) is employed by or affiliated with a Federally Qualified Health Center; or

iv) is a member of the National Health Service Corps; or

v) has been certified by the Secretary of the Department of Health and Human Services as qualified to provide physician services to a child under 21 years of age; or

vi) has current, formal consultation and referral arrangements with a pediatrician or family practitioner for the purposes of specialized treatment and admission to a hospital. The written referral agreement is kept on file and is available for inspection at the physician's place of business, and details procedures for timely transfer of medical records; or

vii) has entered into a Maternal and Child Health provider agreement or has otherwise been transferred in from the Healthy Moms/Healthy Kids Program;

B) The physician shall certify to the Department the way in which he

or she meets the above criteria; and

C) Services to children shall be delivered in a manner consistent with the standards of the American Academy of Pediatrics and rules published by the Illinois Department of Public Health (77 Ill. Adm. Code 630, Maternal and Child Health Services; 77 Ill. Adm. Code 665, Child Health Examination Code; 77 Ill. Adm. Code 675, Hearing Screening; 77 Ill. Adm. Code 685, Vision Screening).

10) Hysterectomy – only if the individual has been informed, orally and in writing, that the hysterectomy will render her permanently incapable of reproducing and the individual has signed a written acknowledgment of receipt of the information. The Department will not pay for a hysterectomy that would not have been performed except for the purpose of rendering an individual permanently incapable of reproducing.

11) Selected surgical procedures, including:

A) Tonsillectomies or Adenoidectomies

B) Hemorrhoidectomies

C) Cholecystectomies

D) Disc Surgery/Spinal Fusion

E) Joint Cartilage Surgery/Meniscectomies

F) Excision of Varicose Veins

G) Submucous Resection/Rhinoplasty/Repair of Nasal System

H) Mastectomies for Non-Malignancies

I) Surgical procedures that generally may be performed in an outpatient setting (see Section 140.117) only if the Department authorizes payment. The Department will in some instances require that a second physician agree that the surgical procedure is medically necessary prior to approving payment for one of these

procedures. The Department will require a second opinion when the attending physician has been notified by the Department that he or she will be required to obtain prior approval for payment for the surgeries listed. (See Sections 140.40 through 140.42 for prior approval requirements.) The Department will select physicians for this requirement based on the recommendation of a peer review committee that has reviewed the utilization pattern of the physician.

12) Mammography screening

A) Covered only when ordered by a physician for screening by low-dose mammography for the presence of occult breast cancer under the following guidelines:

i) a baseline mammogram for women 35 through 39 years of age; and

ii) a mammogram once per year for women 40 years of age or older.

B) As used in this subsection (a)(12), "low-dose mammography" means the x-ray examination of the breast using equipment specifically designated for mammography that will meet appropriate radiological standards.

13) Pap tests and prostate-specific antigen tests – coverage is provided for the following:

A) An annual cervical smear or Pap smear test for women.

B) An annual digital rectal examination and a prostate-specific antigen test, upon the recommendation of a physician licensed to practice medicine in all its branches, for:

i) asymptomatic men age 50 and over;

ii) African-American men age 40 and over; and

iii) men age 40 and over with a family history of prostate cancer.

14) Effective July 1, 2012, coronary artery by-pass grafts are covered only with prior approval by the Department.

15) Face-to-face tobacco cessation counseling only for pregnant and up to 60-day postpartum women age 21 and over. The tobacco cessation counseling services:

A) Must be provided by or under supervision of a physician, or by any other health care professional who is legally authorized to furnish those services under State law, and who is authorized to provide Medicaid covered services other than tobacco cessation services.

B) Are limited to a maximum of three quit attempts, with four individual face-to-face counseling sessions per quit attempt, per calendar year.

C) Must be properly documented in the patient's medical record and include the total time spent and what was discussed during the counseling session, including cessation techniques, resources available and follow-up. Distinct documentation to support this service is required if reported in conjunction with another evaluation and management service.

D) Rendered to participants under age 21 are not subject to the limitations in this subsection (a)(15).

b) In cases in which a physical examination by a second physician is needed, the Department will notify the recipient and designate a physician to perform the examination. Physicians will be subject to this requirement for six months, after which a request can be submitted to the peer review committee to consider removal of the prior approval requirement.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 140.462 Covered Services in Clinics

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Payment shall be made to clinics for the following types of services when provided by, or under the direction of, a physician:

a) Hospital-Based Organized Clinics covered services are those described in 89 Ill. Adm. Code 148.

~~1) Covered services described in 89 Ill. Adm. Code 148.~~

~~2) Group psychotherapy services meeting the guidelines set forth in Section 140.413(a)(4)(C).~~

b) Encounter Rate Clinics

1) With respect to those encounter rate clinics that qualify as Maternal and Child Health providers, as described in Section 140.924(a)(2)(B), covered services are those described in Section 140.922.

2) With respect to all other encounter rate clinics, covered services are medical services that provide for the continuous health care needs of persons who elect to use this type of service, including dental services that will be billed as separate encounters for dates of service on or after January 1, 2011.

3) Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).

c) Rural Health Clinics
Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:

1) Physician's Services, including covered services of nurse practitioners, nurse midwives and physician-supervised physician assistants. Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).

2) Group Psychotherapy Services – Payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:

A) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases 9th Revision, Clinical Modification (ICD-9-CM) or, upon implementation, International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM), or the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services;

B) beginning February 1, 2013, the entire group of psychotherapy services must be directly performed by one of the following practitioners:

i) a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program;

ii) an Advanced Practice Nurse holding a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code 1305.Appendix A;

iii) Psychologist;

iv) Licensed Clinical Social Worker;

v) Licensed Clinical Professional Counselor; or

vi) Licensed Marriage and Family Therapist;

C) the group size does not exceed 12 patients, regardless of payment source;

D) the minimum duration of the group session is 45 minutes;

E) the group session is documented in the patient's medical record by the rendering practitioner, including the session's primary focus,

level of patient participation, and begin and end times of each session;

F) the group treatment model, methods and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services;

G) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and

H) group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act [210 ILCS 45] or the Specialized Mental Health Rehabilitation Act [210 ILCS 48].

3~~2~~) Other services for which a separate encounter may be billed include dentist and behavioral health services as defined in Section 140.463(a).

4~~3~~) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice that have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:

A) medical case management;

B) laboratory services;

C) occupational therapy;

D) patient transportation;

E) pharmacy services;

F) physical therapy;

G) podiatric services;

H) speech and hearing services;

I) x-ray services;

J) health education;

K) nutrition services;

L) optometric services.

54) A rural health clinic (RHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service provided.

65) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing prior to billing for the services.

76) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any RHC services with the exception of services identified in subsections (c)(87) and (c)(98).

87) Effective July 1, 2012 through June 30, 2013, a physician or APN may submit fee-for-service billings for implantable contraceptive devices administered in an RHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:

A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;

B) The RHC must be listed as the payee on the claim;

C) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;

D) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.

9~~8~~) Effective July 1, 2013, an RHC may submit fee-for-service billings for implantable contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:

A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;

B) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;

C) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.

10) Tobacco cessation counseling services may be billed as an encounter if furnished by a provider as defined in Section 140.413(a)(15) within the designated coverage limitations.

d) Federally Qualified Health Centers
Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:

1) Physician's services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants. Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).

2) Group Psychotherapy Services – Payment may be made for up to two group sessions per week, with a maximum of one session per day. The following conditions must be met for group psychotherapy:

A) documentation maintained in the patient's medical record must indicate the person participating in the group session has been diagnosed with a mental illness as defined in the International Classification of Diseases 9th Revision, Clinical Modification

(ICD-9-CM) or, upon implementation, International Classification of Diseases, 10th Revision, Clinical Modification (ICD-10-CM), or the Diagnostic and Statistical Manual of Mental Disorders (DSM IV). The allowable diagnosis code ranges will be specified in the Handbook for Practitioners Rendering Medical Services;

B) beginning February 1, 2013, the entire group of psychotherapy services must be directly performed by one of the following practitioners:

i) a physician licensed to practice medicine in all its branches who has completed an approved general psychiatry residency program or is providing the service as a resident or attending physician at an approved or accredited residency program;

ii) an Advanced Practice Nurse holding a current certification in Psychiatric and Mental Health Nursing as set forth in 68 Ill. Adm. Code 1305.Appendix A;

iii) Psychologist;

iv) Licensed Clinical Social Worker;

v) Licensed Clinical Professional Counselor; or

vi) Licensed Marriage and Family Therapist;

C) the group size does not exceed 12 patients, regardless of payment source;

D) the minimum duration of the group session is 45 minutes;

E) the group session is documented in the patient's medical record by the rendering practitioner, including the session's primary focus, level of patient participation, and begin and end times of each session;

F) the group treatment model, methods and subject content have been selected on evidence-based criteria for the target population of the group and follows recognized practice guidelines for psychiatric services;

G) the group session is provided in accordance with a clear written description of goals, methods and referral criteria; and

H) group psychotherapy is not covered for recipients who are residents in a facility licensed under the Nursing Home Care Act [210 ILCS 45] or the Specialized Mental Health Rehabilitation Act [210 ILCS 48].

3~~2~~) Other services for which separate encounters may be billed include dentists and behavioral health services as defined in Section 140.463(a).

4~~3~~) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:

A) medical case management;

B) laboratory services;

C) occupational therapy;

D) patient transportation;

E) pharmacy services;

F) physical therapy;

G) podiatric services;

H) optometric services;

I) speech and hearing services;

J) x-ray services;

K) health education;

L) nutrition services.

5~~4~~) A federally qualified health center (FQHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service.

6~~5~~) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing.

7~~6~~) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any FQHC services provided with the exception of services identified in subsections (d)(8~~7~~) and (d)(9~~8~~).

8~~7~~) Effective July 1, 2012 through June 30, 2013, a physician or APN may submit fee-for-service billings for implantable contraceptive devices administered in an FQHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:

A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;

B) The FQHC must be listed as the payee on the claim;

C) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;

D) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.

9~~8~~) Effective July 1, 2013, an FQHC may submit fee-for-service billings for implantable contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:

A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;

B) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;

C) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.

10) Tobacco cessation counseling services may be billed as an encounter if furnished by a provider as defined in Section 140.413(a)(15) within the designated coverage limitations.

e) School Based/Linked Health Clinics (Centers)
Covered services are the following services, when delivered in a school based/linked health center setting as described in Section 140.461(f):

1) Basic medical services: well child or adolescent exams, consisting of a comprehensive health history, complete physical assessment, screening procedures and age appropriate anticipatory guidance; immunizations; EPSDT services; diagnosis and treatment of acute illness and injury; basic laboratory tests; prescriptions and dispensing of commonly used medications for identified health conditions, in accordance with Medical Practice and Pharmacy Practice Acts; and acute management and on-going monitoring of chronic conditions, such as asthma, diabetes and seizure disorders.

2) Reproductive health services: gynecological exams; diagnosis and treatment of sexually transmitted diseases; family planning; prescribing and dispensing of birth control or referral for birth control services; pregnancy testing; treatment or referral for prenatal and postpartum care; and cancer screening.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Rules and Rate Filings

2) Code Citation: 50 Ill. Adm. Code 754

3)

Section Numbers:	Proposed Action:
754.10	Amendment
754.20	Repeal
754.30	Amendment
754.40	Amendment
754.50	Amendment
754.EXHIBIT A	Repeal
754.EXHIBIT B	Repeal
754.EXHIBIT C	Repeal

4) Statutory Authority: Implementing Articles VIIA and XXVI of the Illinois Insurance Code [215 ILCS 5/Art. VIIA and XXVI] and authorized by Section 401(a) of the Illinois Insurance Code [215 ILCS 5/401(a)]

5) A Complete Description of the Subjects and Issues Involved: 215 ILCS 5/143(2) requires filings to be submitted using SERFF (System for Electronic Rate and Form Filing) initiated and maintained by the National Association of Insurance Commissioners (NAIC). The proposed amendments require SERFF to be used in submitting rate and rule filings and delete certain forms not required by SERFF.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Simone Arthur	or	Susan Anders
Assistant General Counsel		Rules Coordinator
Illinois Department of Insurance		Illinois Department of Insurance
122 S. Michigan Ave, 19th Fl		320 W. Washington St.
Chicago IL 60603		Springfield IL 62767
312/814-8580		217/558-0957
fax: 312-814-2862		

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: Submission of form filings

C) Types of professional skills necessary for compliance: Administrative

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER i: ADVISORY ORGANIZATIONS

PART 754
RULES AND RATE FILINGS

Section
754.10 Companies Must File
754.20 Other Company Filings (Repealed)
754.30 Documentation – Individual Risks
754.40 Submission of Filings
754.50 Prohibited Acts and Practices

754.EXHIBIT A Summary Sheet (Form RF-3) (Repealed)
754.EXHIBIT B Automobile Annual Premium Comparison (Form RF-4) (Repealed)
754.EXHIBIT C Homeowners Annual Premium Comparison (Form RF-5) (Repealed)

AUTHORITY: Implementing Articles VIIA and XXVI of the Illinois Insurance Code [215 ILCS 5/Art. VIIA and XXVI] and authorized by Section 401(a) of the Illinois Insurance Code [215 ILCS 5/401(a)].

SOURCE: Filed September 9, 1975, effective September 30, 1975; amended at 4 Ill. Reg. 26, p. 164, effective July 1, 1980; codified at 7 Ill. Reg. 3458; amended at 13 Ill. Reg. 1542, effective January 23, 1989; amended at 14 Ill. Reg. 5793, effective April 6, 1990; amended at 15 Ill. Reg. 4458, effective March 6, 1991; amended at 38 Ill. Reg. _____, effective _____.

Section 754.10 Companies Must File

a) All companies are subject to this filing requirement that~~which~~ write any of the following kinds of insurance:

1) Motor Vehicle, as used in this Section, ~~here~~ includes only Private Passenger Automobiles, Taxicabs~~,~~ and Motorcycles;

2) Homeowners, including Mobile Homeowners;

3) Dwelling Fire and Allied Lines;

4) Workers' Compensation (see 50 Ill. Adm. Code 2902);~~Liquor Liability.~~

5) Medical Malpractice (see 50 Ill. Adm. Code 929); and

6) Group Inland Marine (see 50 Ill. Adm. Code 2302).

b) The following must be filed:

1) All Companies – All underwriting rule manuals that~~which~~ contain rules for applying rates or rating plans, plans for reporting statistics to statistical agencies, classifications, or other such schedules used in writing the kinds of insurance in subsections~~Section 754.10~~ (a)(1) through ~~-~~(a)(3~~4~~)~~ above; and~~

2) All Companies – All rates applied to the writing of the kinds of insurance in subsections~~Sections 754.10~~ (a)(1) through ~~-~~(a)(3~~4~~); and~~ above.~~

3) All Advisory Organizations – All underwriting rule manuals that~~which~~ contain rules for applying rates or rating plans, plans for reporting statistics to statistical agencies, classifications, or other such schedules used in writing the kinds of insurance enumerated in Section 4 of the Illinois Insurance Code [215 ILCS 5] (Code), Class 2, except paragraphs (a), (d)~~,~~ and (g) of Class 2, and Class 3~~ of Section 4 of the Code~~.

c) The filing~~Filing~~ requirement of subsection ~~Section 754.10~~(b)(1)~~ above~~ can be met by:

1) A company making a direct filing on its own behalf; or

2) A company making a rule reference filing on its own behalf by utilizing its advisory organization's data relative to subsection ~~Section 754.10~~(b)(1); or

3) A company authorizing the advisory organization~~,~~ of which it is a member or subscriber~~,~~ to make the filing on the company's behalf.

d) All filings required under subsection ~~Section 754.10~~(b)(1) must be submitted using the System for Electronic Rate and Form Filing (SERFF) and must include~~accompanied by duplicate copies of a rule submission letter which includes~~:

1) The name of the advisory organization or company making the filing;~~.~~

2) Identification of the rule with the manual or kind of insurance to which it applies;~~.~~

3) Notification as to whether the filing is new or supersedes a present filing. Identification of all changes in all superseding filings, as well as identification of all superseded filings, is required. The preferred format is to underline the new wording and overstrike the deleted or changed language and give an explanation for the changes being made, but alternative methods of indicating changes will also be accepted; and

4) The effective date of use.

~~e) Companies under the same ownership or general management are required to make separate individual filings in Section 754.10(b)(1). Company Group filings are unacceptable.~~

~~e~~~~f~~) The filing~~Filing~~ requirement of subsection ~~Section 754.10~~(b)(2) can be met by:

1) A company making a direct filing on its own behalf; and

2) Company rate information being completed for each company for which a filing is being submitted. The rate information shall include:~~A company filing a Form RF-3 (see Exhibit A attached to this Part) which provides information on changes in rate level based on the distribution of business with respect to the kinds of insurance to which the rate revision applies. If the rate filing is not a change in rate level, no RF-3 Form is required.~~

A) Overall % indicated change;

B) Overall % rate impact – This is the statewide average percentage change to the accepted rates for the coverages included for each company;

C) Written premium change for this program – This is the statewide change in written premium based on the proposed overall percentage rate impact for each company;

D) Number of policyholders affected for this program – This is the number of policyholders affected by the overall percentage rate impact for each company;

E) Written premium for this program – This is the statewide written premium for each company;

F) Maximum % change; and

G) Minimum % change.

~~3) A company filing Form RF-4 for private passenger automobile or Form RF-5 for homeowners insurance which provide premium comparisons based on the company's current rate levels for the specified risks.~~

~~4) Forms RF-4 and RF-5 must be submitted in duplicate, as described in Exhibits A & B attached to this rule.~~

~~5) Any variation in coverage or amounts of insurance should be indicated on Forms RF-4 and RF-5.~~

~~6) If a specified form of coverage is not available, please indicate "Not Written."~~

f~~g~~) All filings~~filing~~ required under subsection ~~Section 754.10~~(b)(2)~~ above~~ must be submitted using SERFF and shall include~~accompanied by duplicate copies of a rate submission letter which includes~~:

1) The name of the company making the filing;~~.~~

2) Identification of the kinds of insurance to which the filing applies;~~.~~

3) Notification of whether the filing is new or supersedes a present filing. Identification of all changes in superseding filings, as well as identification of all superseded filing, is required; and~~.~~

4) The effective date of use.

g~~h~~) A company making a filing under subsection ~~Section 754.10~~(b)(2) must maintain documentary data for rate changes in its files so that it will be available for review by the Department's Property and Casualty Compliance Unit~~Evaluation Section~~.

~~i) Companies under the same ownership or general management are required to make separate individual filings under Section 754.10(b)(2). Company Group filings are unacceptable.~~

~~j) A company making a rule reference filing under Section 754.10(c)(2) must file a Form RF-1, in duplicate. (See Exhibit attached to 50 Ill. Adm. Code 753, Filing Policy and Endorsement Forms). The RF-1 Form lists the kinds of business written, the corresponding advisory organization and the rules to which the reference is being made).~~

h~~k~~) A company making a filing under subsection ~~Section 754.10~~(c)(2) or Section 754.10(c)(3) that~~which~~ wants to vary from advisory organization rules must file:

~~1) Manual size exception pages in duplicate.~~

1~~2~~) The manual rule number, which must be the same as the rule number being replaced; and~~.~~

2~~3~~) The effective date of use.

i~~l~~) A company making a filing under subsection ~~Section 754.10~~(c)(2) or (c)(3) that~~above which~~ wants an effective date different from that of the advisory organization's advisory effective date must notify the Department of Insurance, using SERFF, of an automatic uniform delayed effective date applicable to all future advisory organization rule revisions.~~file: 1) Manual size exception pages in duplicate~~ establishing an automatic uniform delayed effective date applicable to all future advisory organization rule revisions.~~, or~~

~~2) Copies of the Advisory Organization Checking Slip, in duplicate, establishing a special effective date for a particular advisory organization rule revision.~~

j~~m~~) A company authorizing its advisory organization to file on the company's behalf under subsection ~~Section 754.10~~(c)(3) must have the organization notify the Department of Insurance electronically of that authorization.~~on file a rule~~

~~authorization letter, in duplicate, including:~~

~~1) The name of their authorized advisory organization.~~

~~2) The kinds of insurance for which the filing is being made.~~

~~3) Authorization clause or language.~~

~~4) Effective date of authorization.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 754.20 Other Company Filings (Repealed)

~~a) All companies must file a Form RF-3 for any rate level change affecting any of the kinds of business enumerated in Class 2 and Class 3 of Section 4 of Illinois Insurance Code (The Act) except:~~

~~1) Reinsurance;~~

~~2) Ocean Marine;~~

~~3) Aircraft;~~

~~4) Title Insurance;~~

~~5) Worker's Compensation;~~

~~6) Accident and Health;~~

~~7) Inland Marine risks which by general custom are not written according to manual rates or rating plans.~~

~~b) A company must indicate whether the information in the Form RF-3 is "exact" or estimated.~~
~~Note: (The purpose of the Form RF-3 is to provide information on changes in rate level based on the company's premium volume rating system and distribution of business, with respect to the kind of business to which the rate revision applies. The Form RF-3 is attached to the Rule. Supplies of it will not be furnished.)~~

~~c) A company must maintain documentary data for rate level changes required by Section 754.20 (a) so that it will be available for review by the Department's Property and Casualty Evaluation Section.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 754.30 Documentation – Individual Risks

a) A company is not required to file under Section 754.10~~ or Section 754.20~~ for individual risks in this State that~~which~~ cannot be rated in the normal course of business rating because of special or unusual characteristics and that~~which~~ must be rated on the basis of underwriting judgment~~judgement~~. This procedure does not apply to Workers'~~Worker's~~ Compensation insurance.

b) A company must maintain documentary information regarding rates determined in subsection ~~Section 754.30~~(a) for review by the Department's Property and Casualty Compliance Unit~~Evaluation Section~~.

c) A company is not required to file rates on individual risks in this State when~~where~~ the development of the rate for the individual risk is dependent upon an inspection of improvements on real property and an application of a schedule, the elements of which include loss ratio, hazard analysis, risk analysis and classification of municipal fire defenses.

d) A company must, however, maintain documentary information for the rates in subsection ~~Section 754.30~~(c) by:

1) Maintaining the information in files and records in its offices that~~which~~ will be available for review by the Department's Property and Casualty Compliance Unit~~Evaluation Section~~; or

2) Authorizing an advisory organization by use of an individual risk authorization letter to maintain documentary information for all rates in subsection ~~Section 754.30~~(c) in its files and records that~~which~~ will be available for review by the Department's Property and Casualty Compliance Unit~~Evaluation Section~~; and

3) Filing an~~duplicate copies of an individual risk~~ authorization letter that

includes~~which must include~~:

A) The~~the~~ name of its~~their~~ authorized advisory organization;

B) The~~the~~ kind of insurance for which the information will be maintained;

C) Authorization~~authorization~~ clause or language; and

D) Effective~~effective~~ date of authorization.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 754.40 Submission of Filings

a) All rule and rate filings required in Sections 754.10, 754.20 and 754.30~~ above~~ must be received no later than 10~~ten~~ days after their stated effective date or the stated effective date of the rule or rate filing to which the information or authorization relates.

b) All filings required in Sections 754.10, 754.20 and 754.30~~ above~~ must be submitted using SERFF.~~received by:~~

~~Illinois Department of Insurance~~
~~Property and Casualty Evaluation Section~~
~~Springfield, Illinois 62767~~

~~c)~~ ~~All filings required in Sections 754.10, 754.20 and 754.30 above must be accompanied by a self-addressed envelope.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 754.50 Prohibited Acts and Practices

a) The purpose of Article XXVI of the Illinois Insurance Code, entitled "Unfair Methods of Competition and Unfair and Deceptive Acts and Practices", according to Section 421 of the Code, is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Regulation of Insurance 15 USC~~U.S.C.A.~~ 1011 et

seq.) by prohibiting those~~such~~ trade practices.

b) Violation of any regulations adopted~~the Regulations, which are made~~ by the Director of Insurance in ~~effecting or~~ implementing Article XXVI and Article VII-4, or any Articles of the ~~Illinois Insurance~~ Code, is a violation~~are violations~~ of the Articles themselves and subjects the violators to the procedures and penalties provided by those~~these~~ Articles.

c) Acts and practices related to activities authorized or permitted by Article VII-A and this Part that~~754 Rules, which~~ are prohibited by Article XXVI of the Act as constituting unfair methods of competition or unfair and deceptive acts and practices, whether committed or practiced by a company, an advisory organization or companies constituting a group, association~~,~~ or organization authorized to engage in joint underwriting or joint reinsurance activities include the following:

1) Two or more companies, unless permitted or authorized by Article VII-A of the Code or~~Act,~~ this Part ~~754 Rules or Section 478.1 of the Act~~, may not act in concert with each other with respect to the compilation of insurance statistics; the preparation of insurance policies, bond forms, and underwriting rules; and the furnishing of that which it compiles and prepares to insurance companies, nor with respect to the activities of making rates.

2) Two or more companies engaged in authorized joint underwriting or joint reinsurance activities, unless permitted or authorized by Article VII-A of the Code or~~Act,~~ this Part ~~754 Rules, or Section 478.1 of the Act~~, may not act in concert with each other with respect to the activities enumerated in subsection ~~Section 754.50~~(c)(1) nor with respect to the activity of making rates.

3) All companies making rate level changes that~~which~~ require the filing of a Form RF-3 under Section 754.10(e~~f~~)(2) or 754.20(a) are prohibited from continuing to use the new rate level if the Form RF-3 has not been received by~~submitted to~~ the ~~Illinois~~ Department ~~of Insurance~~ within 10~~ten~~ days after its effective date.

~~4) All companies making a rule reference filing under Section 754.10(c)(2) are prohibited from continuing to use the rule reference after ten days from~~

~~its effective date filing unless or until the Form RF-1 required by Section 754.10(j) is submitted to the Illinois Department of Insurance.~~

~~5)~~ ~~All companies authorizing an advisory organization to make a rule filing on its behalf under Section 754.10(c)(3) are prohibited from continuing to use the rule filings after ten days from its effective date unless or until the required rule authorization letter required by Section 754.10(m) is submitted to the Illinois Department of Insurance.~~

4~~6~~) Groups, associations, organizations of companies authorized to engage in joint underwriting and joint reinsurance activities are prohibited from establishing rules that~~which~~ in any way unreasonably inhibit a company from individually underwriting any risks.

5~~7~~) All companies, advisory organizations, and groups, associations, or organizations of companies authorized to engage in joint underwriting activities are prohibited from practicing or sanctioning any plan or act of boycott or intimidation tending to result in the unreasonable restraint of trade or in a monopoly in the business of insurance.

6~~8~~) All companies, advisory organizations, and groups~~group~~, associations~~association~~, or organizations of~~organization or~~ companies authorized to engage in joint underwriting activities are prohibited from willfully withholding information from, or knowingly giving~~give~~ false information or misleading information to, the Director or to any organization authorized by the Director~~him~~ to receive information relative to underwriting rules, rating systems or rate filings required by Article VII-A of the Act or this Part~~ 754 rules~~.

7~~9~~) All companies required by Section 754.30(d)(2)~~ above~~ to file an individual risk authorization letter are prohibited from using the rate developed unless or until the individual risk authorization letter has been submitted to the ~~Illinois~~ Department~~ of Insurance~~.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 754.EXHIBIT A Summary Sheet (Form RF-3) (Repealed)

~~FORM (RF-3)~~

~~SUMMARY SHEET~~

~~Change in Company's premium or rate level produced by rate revision effective_____.~~

	~~(1)~~ ~~Coverage~~	~~(2)~~ ~~Annual Premium Volume (Illinois) *~~	~~(3)~~ ~~Percent Change (+or-) **~~
~~1.~~	~~Automobile Liability Private Passenger~~		
	~~Commercial~~		
~~2~~	~~Automobile Physical Damage Private Passenger~~		
	~~Commercial~~		
~~3.~~	~~Liability Other Than Auto~~		
~~4.~~	~~Burglary and Theft~~		
~~5.~~	~~Glass~~		
~~6.~~	~~Fidelity~~		
~~7.~~	~~Surety~~		
~~8.~~	~~Boiler and Machinery~~		
~~9.~~	~~Fire~~		
~~10.~~	~~Extended Coverage~~		
~~11.~~	~~Inland Marine~~		
~~12.~~	~~Homeowners~~		
~~13.~~	~~Commercial Multi-Peril~~		
~~14.~~	~~Crop Hail~~		
~~15.~~	~~Other~~ _____ ~~Life of Insurance~~		

~~Does filing only apply to certain territory (territories) or certain Classes? If so, specify:~~ _____

~~Brief description of filing. (If filing follows rates of an advisory Organization, specify organization):~~ _____

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

~~*Adjusted to reflect all prior rate changes.~~
~~**Change in Company's premium level which will result from application of new rates.~~

_____
~~Name of Company~~

_____
~~Official – Title~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 754.EXHIBIT B Automobile Annual Premium Comparison (Form RF-4) (Repealed)

~~AUTOMOBILE ANNUAL PREMIUM COMPARISON~~								
~~COVERAGE~~	~~Liability - $20/40,000 Bodily Injury~~ ~~$15,000 Property Damage~~ ~~$1,000 Medical Payments~~ ~~$20/40,000 Uninsured Motorists~~				~~Physical Damage - $100 Deductible~~ ~~Comprehensive~~ ~~$250 Deductible Collision~~			
~~CAR~~	~~Ford Taurus L 4 Door (Current Model Year)~~							
~~DRIVERS~~	~~#1 – 36-year-old married principal driver, no accidents or traffic violations in last five years, driving eight miles each way to and from work, 11,000 miles annually.~~ ~~#2 – 16-year-old single male, occasional operator (less than 25% usage), no accidents or traffic violations in last five years, driving eight miles each way to and from work, 11,000 miles annually.~~ ~~#3 – 20-year-old single female, principal operator (more than 50% usage), no accidents or traffic violations in last five years, driving eight miles each way to and from work, 11,000 miles annually.~~ ~~#4 – 20-year-old single male, principal operator (more than 50% usage), no accidents or traffic violations in last five years, driving eight miles each way to and from work, 11,000 miles annually.~~							
	~~Driver #1~~		~~Driver #2~~		~~Driver #3~~		~~Driver #4~~	
	~~Liability~~	~~Physical Damage~~	~~Liability~~	~~Physical Damage~~	~~Liability~~	~~Physical Damage~~	~~Liability~~	~~Physical Damage~~
~~Aurora~~								
~~Chicago*~~								
~~Chicago**~~								
~~Chicago***~~								
~~Danville~~								
~~East St. Louis~~								
~~Joliet~~								
~~Mt. Vernon~~								
~~Peoria~~								
~~Quincy~~								
~~Rockford~~								
~~Springfield~~								
~~Waukegan~~								
~~*5200 N. Western 60625~~ ~~**2400 W. Roosevelt 60608~~ ~~***7900 S. Ashland 60620~~								
~~Effective Date~~	~~Name of Company~~							
	~~FEIN Number~~							

~~RF-4~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 754.EXHIBIT C Homeowners Annual Premium Comparison (Form RF-5) (Repealed)

~~**Coverage**~~	~~HO-2 & 3-One-Family Dwelling, 20 years old~~ ~~$250 Deductible~~ ~~$100,000 Personal Liability~~ ~~$1,000 Medical Payments~~						~~HO-4-Six unit Nonfire Resistive Building~~ ~~$250 Deductible~~ ~~$100,000 Personal Liability~~ ~~$1,000 Medical Payments~~					
~~**Construction**~~	~~Frame~~						~~Brick~~					
~~**Forms**~~	~~HO-2~~		~~HO-3~~		~~HO-4~~		~~HO-2~~		~~HO-3~~		~~HO-4~~	
~~**Limits**~~	~~$70,000~~	~~$120,000~~	~~$70,000~~	~~$120,000~~	~~$30,000~~	~~$60,000~~	~~$70,000~~	~~$120,000~~	~~$70,000~~	~~$120,000~~	~~$30,000~~	~~$60,000~~
~~Aurora~~												
~~Chicago*~~												
~~Chicago**~~												
~~Chicago***~~												
~~Danville~~												
~~East St. Louis~~												
~~Joliet~~												
~~Mt. Vernon~~												
~~Peoria~~												
~~Quincy~~												
~~Rockford~~												
~~Springfield~~												
~~Waukegan~~												

~~* 5200 N. Western 60625~~
~~** 2400 W. Roosevelt 60608~~
~~*** 7900 S. Ashland 60620~~

~~Effective Date~~	~~Name of Company~~
	~~FEIN Number~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

1) Heading of the Part: Confidential Supervisory Information

2) Code Citation: 50 Ill. Adm. Code 870

3)

Section Numbers:	Proposed Action:
870.10	New Section
870.20	New Section
870.30	New Section

4) Statutory Authority: Implementing 215 ILCS 5/131.22 and authorized by 215 ILCS 5/131.29

5) A Complete Description of the Subjects and Issues Involved: The rule allows for conditional and limited disclosure of confidential supervisory information such as pursuant to a protective order of a court. It also provides for a procedure for the sharing of such information, and prohibits consultants and independent contractors from using the information for financial gain. The rule is necessary to assist the Department in becoming a signatory of the International Association of Insurance Supervisors Multilateral Memorandum of Understanding on Cooperation and Information Exchange.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

James Rundblom, Deputy General Counsel or
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/785-8559
fax: 217/524-9033

Susan Anders, Rules Coordinator
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/558-0957

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Unknown

B) Reporting, bookkeeping or other procedures required for compliance: Compliance with restrictions on obtaining and handling of confidential information disclosed by the Director of the Illinois Department of Insurance

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because: the rulemaking was not anticipated within that timeframe.

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER k: INSURANCE HOLDING COMPANY SYSTEMS

PART 870
CONFIDENTIAL SUPERVISORY INFORMATION

Section
870.10 Definitions
870.20 Disclosure of Confidential Supervisory Information
870.30 Consultants and Independent Contractors: Prohibited Activities

AUTHORITY: Implementing Section 131.22 of, and authorized by Section 131.29 of, the Illinois Insurance Code [215 ILCS 5/131.22 and 131.29].

SOURCE: Adopted at 38 Ill. Reg. _____, effective _____.

Section 870.10 Definitions

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Confidential Supervisory Information" means information that is confidential and exempt from public disclosure under:

Articles VIII½, IX and XXIV of the Code and its attendant regulations;

the insurance or financial regulatory laws or regulations of any state, district, commonwealth or territory of the United States of America or its federal government; or

the domestic insurance or financial regulatory laws or regulations of any foreign jurisdiction with which the Department has a memorandum of understanding to hold information confidential, including those jurisdictions that are signatory authorities to the International Association of Insurance Supervisors Multilateral Memorandum of Understanding on Cooperation and Information Exchange.

Confidential supervisory information includes, but is not limited to, information made confidential by law or privilege, including examination

work papers, holding company information, analyses of financial condition, draft examination reports, reports of potential fraudulent activity, investigatory information, and any other information that the Department determines to be of a non-public nature.

"Director" means the Director of the Illinois Department of Insurance.

"Department" means the Illinois Department of Insurance.

Section 870.20 Disclosure of Confidential Supervisory Information

a) Conditions and Limitations. The Director may impose any conditions and limitations on the disclosure of confidential supervisory information that are necessary to protect the confidentiality of that information. Unless authorized by the Director, no person obtaining access to confidential supervisory information under this Part may make a copy of that information.

b) Restrictions on Dissemination of Confidential Supervisory Information

1) The Director may condition a decision to disclose confidential supervisory information on entry of a protective order by the court or administrative tribunal presiding in a particular case or upon a written agreement to hold the information confidential. In a case in which a protective order or agreement has already been entered between parties other than the Director, the Director may nevertheless condition approval for release of the confidential supervisory information upon the inclusion of additional or amended provisions in the existing protective order. The Director may authorize a party who obtained the records for use in one case to provide them to another party in another case, subject to any conditions that the Director may impose on either or both parties.

2) Confidential supervisory information disclosed by the Director pursuant to subsection (b)(1) will be released in accordance with the Department's encryption policy and mediums to protect the integrity of the information.

c) Notification of Parties and Procedures for Sharing and Using Confidential Supervisory Information in Litigation. The party requesting the release of confidential supervisory information by the Director shall promptly notify the other parties to the case of the release of any such information obtained pursuant

to this Part. Upon entry of a protective order allowing for the release of the confidential supervisory information to the parties, the party requesting the release shall provide copies of the confidential supervisory information to the other parties as permitted by the order.

Section 870.30 Consultants and Independent Contractors: Prohibited Activities

No person hired by the State as a consultant or independent contractor shall use the authority provided to that person under the contract, or any confidential information acquired in the performance of the contract, to obtain financial gain for that person, an employee of that person or a member of the immediate family of that person or its employee.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Minimum Standards of Individual Accident and Health Insurance

2) Code Citation: 50 Ill. Adm. Code 2007

3)

Section Numbers:	Proposed Action:
2007.50	Amendment
2007.60	Amendment
2007.80	Amendment

4) Statutory Authority: Implementing Section 355a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/355a and 401], 42 USC 300gg-22, and 45 CFR 150.101(b)(2) and 150.201

5) A Complete Description of the Subjects and Issues Involved: For consistency, the Department is removing language found in 2007.60(g) that appears to permit exclusion for suicide or attempted suicide. The allowable exclusion for suicide (sane or insane), attempted suicide or intentionally self-inflicted injury was previously removed from 2007.60(e)(5). Also, 2007.50 (Definitions) is being revised to define "Fixed Indemnity Plans" and potentially confusing language is being deleted from 2007.60(e)(13).

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

James Rundblom, Deputy General Counsel or
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/785-8559
Fax: 217/524-9033

Susan Anders, Rules Coordinator
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

217/558-0957

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: Inclusion/exclusion of certain insurance policy provisions

C) Types of professional skills necessary for compliance: Insurance

14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCE

PART 2007
MINIMUM STANDARDS OF INDIVIDUAL ACCIDENT
AND HEALTH INSURANCE

Section
2007.10 Authority
2007.20 Purpose
2007.30 Applicability
2007.40 Revision of Noncomplying Policy Form and Subscriber Contracts Certificate of Compliance Required
2007.50 Definitions
2007.60 Prohibited Policy Provisions
2007.70 Accident and Health Minimum Standards for Benefits
2007.80 Required Disclosure Provisions
2007.90 Requirements for Replacement
2007.100 Severability

AUTHORITY: Implementing Section 355a and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/355a and 401] and 42 USC 300gg-22; 45 CFR 150.101(b)(2) and 150.201.

SOURCE: Adopted at 2 Ill. Reg. 30, p. 41, effective August 1, 1978; amended at 4 Ill. Reg. 45, p. 102, effective March 1, 1981; amended at 6 Ill. Reg. 7072, effective May 27, 1982; codified at 7 Ill. Reg. 10591; amended at 12 Ill. Reg. 6921, effective April 1, 1988; amended at 15 Ill. Reg. 7658, effective May 7, 1991; amended at 19 Ill. Reg. 16555, effective December 5, 1995; amended at 38 Ill. Reg. 2138, effective January 2, 2014; amended at 38 Ill. Reg. _____, effective _____.

Section 2007.50 Definitions

Except as provided hereafter, no individual accident or health insurance policy delivered or issued for delivery to any person in this State shall contain definitions respecting the matters set forth in this Part unless the definitions comply with the requirements of this Section.

"ACA" means the Patient Protection and Affordable Care Act" (42 USC 18001 et

seq.).

"Accident and Accidental Injury" shall be defined to employ "result" language and shall not include words that establish an accidental means test or use words such as "external", "violent", "visible" or similar words of description or characterization. The definition shall not be more restrictive than the following: "Injury or injuries, for which benefits are provided, means accidental bodily injuries sustained by the insured person which are the direct cause of loss, independent of disease cause of loss, independent of disease or bodily infirmity and occurring while the insurance is in force."
AGENCY NOTE: The fact that the injury combined with other factors to produce the loss does not necessarily relieve the insurer of liability. Each claim must be judged on the basis of its particular facts and in light of the court decisions, to determine whether the injury is to be considered as the cause of the loss.

The definition may provide that injuries shall not include injuries for which benefits are provided under any workers' compensation, employer's liability or similar law, motor vehicle no-fault plan, unless prohibited by law, or injuries occurring while the insured person is engaged in any activity pertaining to any trade, business, employment or occupation for wage or profit.

"Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility" shall be defined in relation to its status, facilities and available services.

A definition of the home or facility shall not be more restrictive than one requiring that it:

be operated pursuant to law;

be approved for payment of Medicare benefits or be qualified to receive approval, if so requested;

be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician;

provide continuous 24 hours a day nursing service by or under the supervision of a registered graduate professional nurse (R.N.); and

maintains a daily medical record of each patient.

The definition of a home or facility may provide that the term shall not be inclusive of:

any home, facility or part thereof used primarily for rest;

a home or facility for the aged or for the care of drug addicts or alcoholics; or

a home or facility primarily used for the care and treatment of mental diseases or disorders, or custodial or educational care.

"Excepted Benefits", for purposes of this Part, means benefits under one or more (or any combination thereof) of the following:

Benefits not subject to requirements:

Coverage only for accident or disability income insurance, or any combination thereof;

Coverage issued as a supplement to liability insurance;

Liability insurance, including general liability insurance and automobile liability insurance;

Workers' compensation or similar insurance;

Automobile medical payment insurance;

Credit-only insurance;

Coverage for on-site medical clinics; or

Other similar insurance coverage under which benefits for medical care are secondary or incidental to other insurance benefits.

Benefits not subject to requirements if offered separately:

Limited scope dental or vision benefits; and

Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof.

Benefits not subject to requirements if offered as independent, noncoordinated benefits:

Coverage only for a specified disease or illness; or

Hospital indemnity or other fixed indemnity insurance paid as a fixed dollar amount per day or other period, ~~or~~ per event or upon benefits paid upon a basis other than period of time, regardless of the amount of expenses incurred.

Benefits not subject to requirements if offered as separate insurance policy Medicare supplemental health insurance (as defined under section 1882(g)(1) of the Social Security Act (42 USC 1395ss(g)(1))), coverage supplemental to the coverage provided under 10 USC 55, and similar supplemental coverage provided to coverage under a group health plan. (26 USC 9832)

"Grandfathered Health Plan" means any group health plan or health insurance coverage in which an individual was enrolled on the date of the enactment of the ACA and shall have the same meaning as set forth in section 18011 of the Public Health and Welfare Act (42 USC 18011).

"Home Health Care Agency" shall not be defined more restrictively than a public agency or private organization that provides skilled nursing services and meets the following requirements:

It is primarily engaged in providing home health care services;

Its policies are established by a group of professional personnel (including at least one physician and one registered nurse (R.N.));

Supervision of home health care services is provided by a physician or a registered nurse (R.N.);

It maintains clinical records on all patients; and

It has a full time administrator.

"Home Health Care" shall not be defined more restrictively than skilled nursing care or services provided to a person at a residence according to a plan of treatment for illness or infirmity prescribed by a physician. These services shall include, but are not limited to, the following:

Part time and intermittent skilled nursing services − Services given to a patient at least once every 60 days or as frequently as a few hours per day, several days per week.

Therapeutic Services:

Physical Therapy;

Occupational Therapy;

Speech and Hearing Therapy;

Medical social services, medical supplies, drugs and medicines prescribed by a physician and related pharmaceutical services and laboratory services to the extent the charges or costs would have been covered under the policy if the insured person had remained in the hospital.

"Hospital" may be defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission.

The definition of the term "hospital" shall not be more restrictive than one requiring that the hospital:

be an institution operated pursuant to the law; and

be primarily and continuously engaged in providing or operating medical and diagnostic facilities, with major surgical facilities either on its premises or in facilities available to the hospital on a prearranged basis, under the supervision of a staff of duly licensed

physicians, for the medical care and treatment of sick or injured persons on an in-patient basis for which a charge is made; and

provide 24 hours nursing service by or under the supervision of registered graduate professional nurses (R.N.'s).

The definition of the term "hospital" may state that such term shall not be inclusive of:

convalescent, rest or nursing homes or facilities;

facilities primarily affording custodial or educational care or care or treatment for persons suffering from mental diseases or disorders;

facilities for the aged, mentally ill, drug addicts or alcoholics (except for a unit of a hospital dedicated to the treatment of drug addicts or alcoholics or the mentally ill); or

any military or veterans hospital or soldiers home or any hospital contracted for or operated by any national government or agency thereof for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability exists for charges made to the individual for those services.

"Medicare" shall be defined in any hospital, surgical or medical expense policy that relates its coverage to eligibility for Medicare or Medicare benefits. Medicare may be substantially defined as "The Health Insurance for the Aged Act, Subchapter XVIII of the Social Security Amendments of 1965 as then constituted or later amended (42 USC 1395 et seq.)~~,~~", or "Title I, Part I of Public Law 89-97, as enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act (42 USC 395 et seq.), as then constituted and any later amendments or substitutes thereof" or words of similar import.

"Mental or Nervous Disorders" shall not be defined more restrictively than a definition including neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease, disorder or condition, including serious mental illness and

substance use disorder or condition.

"Nurses" may be defined so that the description of nurse is restricted to a type of nurse, such as a registered graduate professional nurse (R.N.), a licensed practical nurse (L.P.N.), or a licensed vocational nurse (L.V.N.). If the words "nurse", "trained nurse" or "registered nurse" are used without specific instruction, then the use of those terms requires the insurer to recognize the services of any individual who qualifies under that terminology in accordance with the applicable statutes or administrative rules of the state licensing or registry board.

"One Period of Confinement or Continuous Hospital Confinement " means consecutive days of in-hospital service received as an in-patient, or successive confinements when discharge from and readmission to the hospital occurs within a period of time not more than 90 days or three times the maximum number of days of in-hospital coverage provided by the policy to a maximum of 180 days, whichever is greater.

"Partial Disability" shall be defined in relation of the individual's inability to perform one or more, but not all, of the "major", "important", or "essential" duties of employment or occupation or may be related to a percentage of time worked, to a specified number of hours or to compensation. When a policy provides total disability benefits and partial disability benefits, only one elimination period may be required.

"Physician" may be defined by including words such as "duly qualified physician" or "duly licensed physician". The use of such terms requires an insurer to recognize and to accept, to the extent of its obligation under the contract, all providers of medical care and treatment when the services are within the scope of the provider's licensed authority and are provided pursuant to applicable laws dealing with physician licensure.

"Residual Disability" shall be defined in relation to the individual's reduction in earnings and may be related either to the inability to perform some part of the "major," "important," or "essential" duties of employment or occupation, or to the inability to perform all usual business for as long as is usually required. A policy that provides for residual disability benefits may require a qualification period, during which the insured must be continuously totally disabled before residual disability benefits are payable. The qualification period for residual benefits may be longer than the elimination period for total disability. In lieu of the term

"residual disability", the insurer may use "proportionate disability" or other term of similar import that, in the opinion of the Director, adequately and fairly describes the benefit.

"Sickness" shall not be defined to be more restrictive than the following: "Sickness means sickness or disease of an insured person that first manifests itself after the effective date of insurance and while the insurance is in force." A definition of sickness may provide for a probationary period that will not exceed 30 days from the effective date of the coverage of the insured person. The definition may be further modified to exclude sickness or disease for which benefits are provided under any workers' compensation, occupational disease, employer's liability or similar law.

"Total Disability"

A general definition of total disability cannot be more restrictive than one requiring the individual to be totally disabled from engaging in any employment or occupation that he or she could, giving due consideration of his education, training or experience be reasonably expected to engage in and is not in fact engaged in any employment or occupation for wage or profit.

Total disability may be defined in relation to the inability of the person to perform duties but may not be based solely upon an individual's inability to:

Perform "any occupation whatsoever", "any occupational duty", or "any and every duty of his or her occupation~~,~~";

Engage in any training or rehabilitation program.

An insurer may specify the requirement of the complete inability of the person to perform all of the substantial and material duties of his or her regular occupation or words of similar import. An insurer may require care by a physician other than the insured or a member of the insured's immediate family.

When through a specific provision of a policy, disability coverage is provided to a retired person, the definition shall not require more than the

insured be completely unable to engage in the normal activities of a retired person of like age and good health.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 2007.60 Prohibited Policy Provisions

a) Except as provided in the Section 2007.50 definition of "sickness", no policy shall contain provisions establishing a probationary or waiting period during which no coverage is provided under the policy. An excepted benefit policy may specify a probationary or waiting period not to exceed six months for specified diseases or conditions and losses resulting therefrom for hernia, varicose veins, adenoids, appendix and tonsils. However, the permissible six months exception shall not be applicable when the specified diseases or conditions are treated on an emergency basis. Accident policies shall not contain a probationary or waiting period.

b) No policy or rider for additional coverage may be issued as a dividend unless an equivalent cash payment is offered to the policyholder as an alternative to the dividend policy or rider. No such dividend policy or rider shall be issued for an initial term of less than six months.

c) A disability policy, hospital confinement indemnity policy or specified disease policy may contain a "return of premium" or "cash value benefit" so long as:

1) The policy provides for a return of 100% of all premiums paid less the claims incurred by the time the insured attains age 65. A percentage of less than 100%, but greater than 50%, is permissible if the "return of premium" or "cash value benefit" has been in force for 10 years or less;

2) The policy contains a reasonable nonforfeiture benefit and provides for the value to be paid automatically upon lapse or death;

3) The surrender value percentages are not less than those calculated assuming 1958 Commissioners Standard Ordinary Mortality, 5% interest and 5 year preliminary term;

4) An acceptable method of reserving is approved by the Director concurrent with approval of the policy. Reserves should exceed or equal the cash value at all durations;

5) The surrender value percentages are calculated assuming a zero percent future claim offset;

6) The surrender value percentages are defined for all policy years (surrender value percentages may be shown only for the first 20 policy years, but under these conditions the contract shall define the method used to determine the surrender value percentages after the 20th contract year);

7) The interim surrender value percentages are defined when premiums are paid within a contract year;

8) The policy does not tie the return of premium to anything less than 100% of the premiums paid less claims paid.

d) When a liability exists for charges made to or on behalf of the insured or covered dependents, Accident and Health policies shall not contain provisions excluding coverage for:

1) Confinement in a hospital operated by a federal, state or local government;

2) Charges for medical services provided by a federal, state or local government.

e) No policy shall limit or exclude coverage by type of illness, accident, treatment or medical condition, except as follows:

1) With respect to excepted benefit policies and grandfathered health plans, preexisting conditions or diseases;

2) With respect to excepted benefit policies and grandfathered health plans, mental or emotional disorders, alcoholism, intoxication and drug addiction (policies that exclude benefits for alcoholism or intoxication shall provide the following definition: "That which is defined and determined by the laws of the state where the loss or cause of the loss was incurred");

3) With respect to excepted benefit policies and grandfathered health plans, pregnancy, except for complications of pregnancy;

4) With respect to excepted benefit policies and grandfathered health plans, rehabilitative care, except that when benefits, in whole or in part, would be payable for the care under the terms of coverage, those benefits shall not be denied on the basis that the care or treatment was provided, in whole or in part, in a rehabilitation institution, if the institution was a fully accredited hospital as defined in Section 2007.50 at the time care or treatment was provided;

5) Injury, illness, treatment or medical condition arising out of:

A) war or act of war (whether declared or undeclared); participation in a felony, riot or insurrection; service in the armed forces or auxiliary units;

B) aviation;

C) with respect to short-term nonrenewable policies, interscholastic sports;

6) Cosmetic surgery, except that "cosmetic surgery" shall not include reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part;

7) With respect to excepted benefit policies and grandfathered health plans, foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain, or symptomatic complaints of the feet;

8) Benefits provided under Medicare, any state or federal worker's compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law; services rendered by employees of hospitals, laboratories or other institutions; services performed by a member of the covered person's immediate family; and services for which no charge is normally made in the absence of insurance;

9) Dental care or treatment for adults;

10) Eye glasses, hearing aids and examination for the prescription or fitting of eye glasses or hearing aids for adults;

11) Rest cures, custodial care, transportation and routine physical examinations;

12) Territorial limitations;

13) Sex change surgery, with respect to excepted benefit policies and grandfathered health plans, or surgical sterilization;

14) Tests or x-rays not related to diagnosis;

15) With respect to excepted benefit policies and grandfathered health plans, infertility;

16) Drugs, therapies, procedures or treatments that are determined in coordination with the attending physician to not be medically necessary;

17) With respect to excepted benefit policies and grandfathered health plans, weight reduction procedures, treatments or classes (except for morbid obesity);

18) With respect to excepted benefit policies and grandfathered health plans, smoking cessation classes or patches.

f) No provision of this Part shall prohibit the use of any policy provision that is required or permitted by statute. With respect to excepted benefit policies and grandfathered health plans, other provisions of this Part shall not impair or limit the use of waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases, physical condition or extra hazardous activity. When waivers are required as a condition of issuance, renewal or reinstatement, signed acceptance by the insured is required unless on initial issuance the full text of the waiver is contained either on the first page or specification page of the policy, or unless notice of the waiver appears on the first page or specification page.

g) No policy, rider or endorsement providing benefits for loss due to an accident or accidental injury shall contain a provision or clause limiting, reducing or excluding liability for a loss resulting from purely accidental circumstances (e.g., involuntary or unintentional ingestion of poison or inhalation of poisonous gases or fumes). This restriction shall not preclude ~~the exclusion of loss due to suicide~~

~~or attempted suicide by properly drawn language nor shall it preclude~~ approval of a benefit for loss from defined accidents, such as travel, sport and student accident insurance.

h) No policy, rider or endorsement shall limit or exclude coverage for illness, accident, treatment or medical condition by using a general exclusion for complications arising from a covered condition or the treatment of a covered condition. This restriction shall not preclude the exclusion of loss due to complications that are specifically named.

i) Policy provisions precluded in this Section shall not be construed as a limitation on the authority of the Director to disapprove other policy provisions in accordance with Section 143(1) of the Illinois Insurance Code [215 ILCS 5/143(1)] that, in the opinion of the Director, are unjust, unfair or unfairly discriminatory to the policyholder, beneficiary, or any person insured under the policy.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 2007.80 Required Disclosure Provisions

a) General Rules

1) Each individual policy of accident and health insurance shall include a renewal, continuation or nonrenewal provision. The language or specifications of the provision must be consistent with the requirements of 50 Ill. Adm. Code 2001.Subpart A and the type of plan issued. The provision shall be appropriately captioned, shall appear on the first page of the policy, and shall clearly state the duration, when limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed.

2) Except for riders or endorsements by which the insurer effectuates a request made in writing by the policyholder or exercises a specifically reserved right under the policy, all riders or endorsements added to a policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy shall require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant

increase in premium during the policy term must be agreed to by the insured, except if the increased benefits or coverage is required by law.

3) When a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge shall be set forth in the policy.

4) A policy that provides for the payment of benefits based on standards described as "usual and customary", "reasonable and customary", or words of similar import shall include a definition of those terms and an explanation of those terms in its accompanying outline of coverage.

5) If a policy providing excepted benefits or a grandfathered health plan contains any limitations with respect to preexisting conditions, those limitations must appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations".

6) All accident only policies shall contain a prominent statement on the first page of the policy or attached to the policy in either contrasting color or in boldface type at least equal to the size of type used for policy captions, a prominent statement as follows:

"This is an accident only policy and it does not pay benefits for loss from sickness."

7) All policies, except single premium nonrenewal policies, shall have a notice prominently printed on the first page of the policy or attached thereto stating in substance, that the policyholder shall have the right to return the policy within 10 days after its delivery and to have the premium refunded if after examination of the policy the policyholder is not satisfied for any reason.

8) If age is to be used as a determining factor for reducing the maximum aggregate benefits made available in the policy as originally issued, that fact must be prominently set forth in the outline of coverage.

9) If a policy contains a conversion privilege, it shall comply, in substance, with the following: the caption of the provision shall be "Conversion Privilege", or words of similar import. The provision shall indicate the

persons eligible for conversion, the circumstances applicable to the conversion privilege, including any limitations on the conversion, and the person by whom the conversion privilege may be exercised. The provision shall specify the benefits to be provided on conversion or may state that the converted coverage will be as provided on a policy form then being used by the insurer for that purpose.

10) All specified disease policies shall contain a prominent statement on the first page of the policy in contrasting color and in bold face type at least equal to the size of type used for policy captions, a prominent statement as follows: "This is a limited policy. Read it carefully."

11) Notice Requirements:

A) At the time of purchase of fixed indemnity contracts, all applicants must attest to being enrolled in minimum essential coverage (MEC) as defined by CMS-9949-F-55 meaning of section 5000A(f). The fixed indemnity insurer must provide notice within the application indicating that the fixed indemnity is not MEC that satisfies the ACA individual mandate. That notice must contain the following verbiage displayed prominently in the plan materials in at least 14-point type that has the following language:

"THIS IS A SUPPLEMENT TO HEALTH INSURANCE AND IS NOT A SUBSTITUTE FOR MAJOR MEDICAL COVERAGE. LACK OF MAJOR MEDICAL COVERAGE (OR OTHER MINIMUM ESSENTIAL COVERAGE) MAY RESULT IN AN ADDITIONAL PAYMENT WITH YOUR TAXES."

B) The notice requirement of subsection (a)(11)(A) applies to all hospital or other fixed indemnity insurance policy years beginning on or after January 1, 2015, and the above attestation requirement applies to hospital or other fixed indemnity insurance policies issued on or after January 1, 2015, and to hospital or other fixed indemnity policies issued before that date, upon their first renewal occurring on or after October 1, 2016.

b) Outline of Coverage Requirements for Individual Coverages

1) No individual accident and health insurance policy shall be delivered or issued for delivery in this State unless an appropriate Summary of Benefits, in accordance with 50 Ill. Adm. Code 2001.10, that includes an outline of coverage as prescribed in subsections (c) through (l) is completed as to the policy and is delivered in accordance with Section 355a(5)(a) of the Illinois Insurance Code [215 ILCS 5/355a(5)(a)].

2) In the event that a policy is issued on a basis other than that applied for, an outline of coverage properly describing the policy must accompany the policy when it is delivered and, if an outline of coverage was delivered earlier, contain the following statement, in not less than 12 point type, immediately above the company name:

NOTICE

Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued.

3) In those cases in which a policy designed to supplement existing coverage is approved, the outline of coverage shall prominently state that coverage is designed to supplement other health insurance policies owned by the insured.

4) The appropriate outline of coverage for policies providing hospital coverage that only meets the standards of Section 2007.70(b)(2) shall be that statement contained in subsection (c) of this Section. The appropriate outline of coverage for policies providing coverage that meets the standards of both Section 2007.70(b)(2) and (3) shall be the statement contained in subsection (e) of this Section. The appropriate outline of coverage for policies providing coverage that meets the standards of Section 2007.70(b)(2) and (5), (b)(3) and (5), or (b)(2), (3) and (5) shall be the statement contained in subsection (g) of this Section.

c) Basic Hospital Expense Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed in this subsection (c), shall be issued in connection with policies meeting the standards of Section 2007.70(b)(2). The items included in the outline of coverage must appear in the sequence prescribed:

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(COMPANY NAME)
BASIC HOSPITAL EXPENSE COVERAGE
OUTLINE OF COVERAGE

1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2) Basic Hospital Expense Coverage – Policies of this category are designed to provide to persons insured coverage for hospital expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, and hospital outpatient services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for physicians or surgeons fees or unlimited hospital expenses.

3) (A brief specific description of the benefits, including dollar amounts and number of days duration where applicable, contained in this policy in the following order:

A) daily hospital room and board;

B) miscellaneous hospital services;

C) hospital out-patient services; and

D) other benefits, if any.)

AGENCY NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.

4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (c)(3).)

5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to charge premiums.)

d) Basic Medical-Surgical Expense Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(3). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
BASIC MEDICAL-SURGICAL EXPENSE COVERAGE
OUTLINE OF COVERAGE

1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control your policy. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2) Basic Medical-Surgical Expense Coverage – Policies of this category are designed to provide to persons insured coverage for medical-surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for surgical services, anesthesia services, and in-hospital medical services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for hospital expenses or unlimited medical surgical expenses.

3) (A brief specific description of the benefits, including dollar amounts and number of days duration where applicable, contained in this policy, in the following order:

A) surgical services;

B) anesthesia services;

C) in-hospital medical services; and

D) other benefits, if any.)

AGENCY NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.

4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (d)(3).)

5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

e) Basic Hospital and Medical Surgical Expense Coverage (Outline of Coverage) An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(2) and (3). The items included in the outline of coverage must appear in the sequence prescribed.

(COMPANY NAME)
BASIC HOSPITAL AND MEDIAL SURGICAL
EXPENSE COVERAGE OUTLINE OF COVERAGE

1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2) Basic Hospital and Medical Surgical Expense Coverage – Policies of this category are designed to provide, to persons insured, coverage for hospital and medical-surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, hospital out-patient services, surgical services, anesthesia services, and in-hospital medical services, subject to any limitations, deductibles and co-payment requirements set forth in the policy. Coverage is not provided for unlimited hospital or medical-

surgical expenses.

3) (A brief specific description of the benefits, including dollar amounts and number of days duration where applicable, contained in this policy, in the following order:

A) daily hospital room and board;

B) miscellaneous hospital services;

C) hospital out-patient services;

D) surgical services;

E) anesthesia services;

F) in-hospital medical services; and

G) other benefits, if any.)

AGENCY NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.

4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (e)(3).)

5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

f) Hospital Confinement Indemnity Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(4). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
HOSPITAL CONFINEMENT INDEMNITY COVERAGE

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OUTLINE OF COVERAGE

1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2) Hospital Confinement Indemnity Coverage – Policies of this category are designed to provide to persons insured, coverage in the form of a fixed daily benefit during periods of hospitalization resulting from a covered accident or sickness, subject to any limitations set forth in the policy. These policies do not provide any benefits other than the fixed daily indemnity for hospital confinement and any additional benefit described in subsections (f)(3) through (f)(6).

3) (A brief specific description of the benefits contained in this policy, in the following order:

A) daily benefit payable during hospital confinement; and

B) duration of benefit described in (A).)

AGENCY NOTE: The description of benefits in this subsection (f)(3) shall be stated clearly and concisely.

4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in (f)(3).)

5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

6) (Any benefits provided in addition to the daily hospital benefit.)

g) Major Medical Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed in this subsection (g), shall be

issued in connection with policies meeting the standards of Section 2007.70(b)(5). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
MAJOR MEDICAL EXPENSE COVERAGE
OUTLINE OF COVERAGE

1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2) Major Medical Expense Coverage – Policies of this category are designed to provide, to persons insured, coverage for major hospital, medical, and surgical expenses incurred as a result of a covered accident or sickness. Coverage is provided for daily hospital room and board, miscellaneous hospital services, surgical services, anesthesia services, in-hospital medical services, and out of hospital care, subject to any deductibles, co-payment provisions, or other limitations that may be set forth in the policy. Basic hospital or basic medical insurance coverage is not provided.

3) (A brief specific description of the benefits, including dollar amounts, contained in this policy, in the following order:

A) daily hospital room and board;

B) miscellaneous hospital services;

C) surgical services;

D) anesthesia services;

E) in-hospital medical services;

F) out of hospital care;

G) maximum dollar amount for covered charges; and

H) other benefits, if any.)

AGENCY NOTE: The above description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described.

4) (A description of policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (g)(3).)

5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

h) Disability Income Protection Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed below, shall be issued in connection with policies meeting the standards of Section 2007.70(b)(6). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
DISABILITY INCOME PROTECTION COVERAGE
OUTLINE OF COVERAGE

1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2) Disability Income Protection Coverage – Policies of this category are designed to provide, to persons insured, coverage for disabilities resulting from a covered accident or sickness, subject to any limitations set forth in the policy. Coverage is not provided for basic hospital, basic medical-surgical, or major medical expenses.

3) (A brief specific description of the benefits contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely.

4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (h)(3).)

5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

i) Accident Only Coverage (Outline of Coverage)
An outline of coverage in the form prescribed in this subsection (i) shall be issued in connection with policies meeting the standards of Section 2007.70(b)(7). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY)
ACCIDENT ONLY COVERAGE
OUTLINE OF COVERAGE

1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2) Accident Only Coverage – Policies of this category are designed to provide, to persons insured, coverage for certain losses resulting from a covered accident ONLY, subject to any limitations contained in the policy. Coverage is not provided for basic hospital, basic medical-surgical, or major medical expenses.

3) (A brief specific description of the benefits contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provision applicable to the benefits described. Proper disclosure of

benefits that vary according to accidental cause shall be made in accordance with Section 2007.70(e).

4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (i)(3).)

5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

j) Specified Disease or Specified Accident Coverage (Outline of Coverage)
An outline of coverage in the form prescribed in this subsection (j), shall be issued in connection with policies meeting the standards of Section 2007.70(b)(8). The coverage shall be identified by the appropriate bracketed title. The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
(SPECIFIED DISEASE) (SPECIFIED ACCIDENT COVERAGE)
OUTLINE OF COVERAGE

1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2) (Specified Disease) (Specified Accident) Coverage – Policies of this category are designed to provide, to persons insured, restricted coverage paying benefits ONLY when certain losses occur as a result of (specified diseases) or (specified accidents). Coverage is not provided for basic hospital, basic medical-surgical, or major medical expenses.

3) (A brief specific description of the benefits, including dollar amounts, contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment

provisions applicable to the benefits described. Proper disclosure of benefits that vary according to accidental cause shall be made in accordance with Section 2007.70(b)(1)(L).

4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (j)(3).)

5) (A description of policy provisions respecting renewability or continuation of coverage, including age restriction or any reservation of right to change premiums.)

k) Limited Benefit Health Coverage (Outline of Coverage)
An outline of coverage, in the form prescribed below, shall be issued in connection with policies that do not meet the minimum standards of Section 2007.70(b)(2) through (b)(7). The items included in the outline of coverage must appear in the sequence prescribed:

(COMPANY NAME)
LIMITED BENEFIT HEALTH COVERAGE
OUTLINE OF COVERAGE

1) Read Your Policy Carefully – This outline of coverage provides a very brief description of the important features of your policy. This is not the insurance contract and only the actual policy provisions will control. The policy itself sets forth in detail the rights and obligations of both you and your insurance company. It is, therefore, important that you READ YOUR POLICY CAREFULLY!

2) Limited Benefit Health Coverage – Policies of this category are designed to provide, to persons insured, limited or supplemental coverage.

3) (A brief specific description of the benefits, including dollar amounts, contained in this policy:)

AGENCY NOTE: The description of benefits shall be stated clearly and concisely, and shall include a description of any deductible or co-payment provisions applicable to the benefits described. Proper disclosure of benefits that vary according to accidental cause shall be made in

accordance with Section 2007.70(b)(1)(L).

4) (A description of any policy provisions that exclude, eliminate, restrict, reduce, limit, delay, or in any other manner operate to qualify payment of the benefits described in subsection (k)(3).)

5) (A description of policy provisions respecting renewability or continuation of coverage, including age restrictions or any reservation of right to change premiums.)

l) Non-Conventional Coverage (Outline of Coverage)
The outline of coverage shall include the following information:

1) The name and principal address of the insurer.

2) An appropriate statement of identification of the type of coverage provided by the policy.

3) A description of each of the principal benefits and coverages, including the benefit amounts, duration or limits, elimination periods, inner limits and any other items appropriate to the coverage provided.

4) A description of the terms and conditions of renewability of the policy, including any limitations by age, time or event, rights to change premium, status requirements and any other matters appropriate to the terms and conditions of renewability (including any rights of cancellation reserved to the insurer).

5) A description of the principal exceptions, reductions and limitations contained in the policy, including the preexisting conditions, if any, and the circumstances under which any reduction provisions become operative.

6) A statement that the Outline of Coverage is only a brief summary of the policy and is not the contract of insurance. The policy itself sets forth the rights and obligations of the insured and insurer.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

1) Heading of the Part: Workers' Compensation Electronic Claims

2) Code Citation: 50 Ill. Adm. Code 2908

3)

Section Numbers:	Proposed Action:
2908.10	New Section
2908.20	New Section
2908.30	New Section
2908.40	New Section
2908.50	New Section
2908.60	New Section
2908.70	New Section
2908.80	New Section
2908.90	New Section
2908.100	New Section

4) Statutory Authority: Implementing and authorized by Section 8.2a of the Workers' Compensation Act [820 ILCS 305/8.2a]

5) A Complete Description of the Subjects and Issues Involved: This rule is required to implement the electronic claims provisions contained in Section 8.2a of the Illinois Workers' Compensation Act [820 ILCS 305/8.2a]. The focus of this proposed rule is to provide a legal framework for electronic billing, processing, and payment of medical services and products provided to an injured employee.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? Yes

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Joe Clennon, Assistant General Counsel
Illinois Department of Insurance
320 West Washington St.
Springfield IL 62767-0001

217/557-1396
fax: 217/524-9033

or

Susan Anders, Rules Coordinator
Illinois Department of Insurance
320 West Washington St.
Springfield IL 62767-0001

217/785-8220

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: None

B) Reporting, bookkeeping or other procedures required for compliance: Use of medical billing information standards

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER hh: WORKERS' COMPENSATION

PART 2908
WORKERS' COMPENSATION ELECTRONIC CLAIMS

Section
2908.10 Applicability
2908.20 Purpose and Scope
2908.30 Definitions
2908.40 Formats for Electronic Medical Bill Processing
2908.50 Billing Code Sets
2908.60 Electronic Medical Billing, Reimbursement and Documentation
2908.70 Employer, Insurance Carrier, Managed Care Organization or Agents' Receipt of Medical Bills from Health Care Providers
2908.80 Communication Between Health Care Providers and Payers
2908.90 Medical Documentation Necessary for Billing Adjudication
2908.100 Submission of Payer Companion Guide

AUTHORITY: Implementing and authorized by Section 8.2a of the Workers' Compensation Act [820 ILCS 305/8.2a].

SOURCE: Adopted at 38 Ill. Reg. _____, effective _____.

Section 2908.10 Applicability

Every employer and insurer must accept electronic claims for payment of medical services as provided by Section 8.2a of the Act. Every health care provider or facility rendering treatment pursuant to the Act must submit medical bills for payment on standardized forms either electronically or on paper as provided by Section 8.2a of the Act.

Section 2908.20 Purpose and Scope

The purpose of this Part is to set forth the requirements for electronic billing, processing and payment of medical services and products provided to an injured employee, subject to Section 8.2a of the Act.

Section 2908.30 Definitions

"Act" means the Workers' Compensation Act [820 ILCS 305].

"ASC X12 Standards for Electronic Data Interchange" means Accredited Standards Committee X12 (ASC X12) EDI American National Standards, with reports incorporated by reference in this Part published by Washington Publishing Company, 2107 Elliott Ave., Suite 305, Seattle WA 98121.

"Business day" means Monday through Friday, excluding days on which a holiday is observed by the State.

"CAQH CORE" means the Council for Affordable Quality Healthcare Committee on Operating Rules for Information Exchange, which is a national standards organization that develops operating rules for the business aspects of HHS mandates for electronic healthcare transactions.

"Clearinghouse" means a public or private entity, including a billing service, repricing company, community health management information system or community health information system, and "value-added" networks and switches, that is an agent of either the payer or the provider and that may perform the following functions:

Processes or facilitates the processing of medical billing information, received from a client in a nonstandard format or containing nonstandard data content, into standard data elements or a standard transaction for further processing of a bill related transaction; or

Receives a standard transaction from another entity and processes or facilitates the processing of medical billing information into nonstandard format or nonstandard data content for a client entity.

"Commission" means the Illinois Workers' Compensation Commission.

"Complete electronic bill" means a medical bill that meets all of the criteria enumerated in Section 2908.60(b).

"CMMS" means the Centers for Medicare and Medicaid Services of the United States Department of Health and Human Services (HHS), the federal agency that administers these programs.

"Companion Guide" means the jurisdiction's Workers' Compensation Electronic Billing and Payment Companion Guides, based on IAIABC National Companion Guides, a separate document that gives detailed information for Electronic Data Interchange (EDI) medical billing and payment for the workers' compensation industry using national standards and Illinois Workers' Compensation Commission procedures.

"Complete electronic medical bill" means a medical bill that meets all of the criteria enumerated in Section 2908.60(b).

"Electronic" refers to a communication between computerized data exchange systems that complies with the standards enumerated in this Part.

"Health care provider" means a person or entity, appropriately certified or licensed, as required, who provides medical services or products to an injured worker in accordance with the Act.

"Health care provider agent" means a person or entity that contracts with a health care provider establishing an agency relationship to process bills for services provided by the health care provider under the terms and conditions of a contract between the agent and health care provider. The contracts may permit the agent to submit bills, request reconsideration, receive reimbursement, and seek medical dispute resolution for the health care provider services billed.

"Health Plan Identifier" or "HPID" means an identifier for health plans (as defined in 45 CFR 160.103) that need to be identified in standard transactions.

"NCPDP" means National Council for Prescription Drug Programs.

"National Provider Identification Number" or "NPI" means the unique identifier assigned to a health care provider or health care facility by the HHS Secretary.

"Other Entity Identifier" or "OEID" means an identifier for entities that are not health plans, health care providers or "individuals'" (as defined in 45 CFR 160.103), but that need to be identified in standard transactions (including, for example, workers' compensation payers, third party administrators, transaction vendors, clearinghouses and other payers).

"Operating Rules" means the necessary business rules and guidelines for the electronic exchange of information that are not defined by a standard or its implementation specifications.

"Payer" means the insurer or authorized self-insured employer legally responsible for paying the workers' compensation medical bills.

"Payer agent" includes, but is not limited to, any person or entity that performs medical bill related processes for the payer responsible for the bill. These processes include, but are not limited to, reporting to government agencies, electronic transmission, forwarding or receipt of documents, review of reports, review of bills, adjudication of bills, and their final payment.

"Supporting documentation" means those documents necessary for the payer to process a bill.

"Technical Report Type 3" (TR3 Implementation Guide) is an ASC X12 published document for national electronic standard formats that specifies data requirements and data transaction sets, incorporated by reference in Section 2908.40(a).

Section 2908.40 Formats for Electronic Medical Bill Processing

a) For electronic transactions, the following electronic medical bill processing standards shall be used:

1) Billing:

A) Professional Billing –

The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, Health Care Claim: Professional (837), May 2006, ASC X12, 005010X222 (no later amendments or editions); and Type 3 Errata to Health Care Claim: Professional (837), June 2010, ASC X12, 005010X222A1 (no later amendments or editions);

B) Institutional/Hospital Billing –

i) The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, Health Care Claim: Institutional (837), June 2010, ASC X12N/005010X223 (no later amendments or editions);

ii) Type 1 Errata to Health Care Claim: Institutional (837), ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, October 2007, ASC X12N/005010X223A1 (no later amendments or editions); and

iii) Type 3 Errata to Health Care Claim: Institutional (837), June 2010, ASC X12, 005010X223A2 (no later amendments or editions);

C) Dental Billing –

i) The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, Health Care Claim: Dental (837), June 2010, ASC X12N/005010X224 (no later amendments or editions);

ii) Type 1 Errata to Health Care Claim: Dental (837), ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, October 2007, ASC X12N/005010X224A1 (no later amendments or editions); and

iii) Type 3 Errata to Health Care Claim: Dental (837), June 2010, ASC X12, 005010X224A2 (no later amendments or editions);

D) Retail Pharmacy Billing –

i) The Telecommunication Standard Implementation Guide, Version D, Release 0 (Version D.0), August 2007, National Council for Prescription Drug Programs, 9240 East Raintree Drive, Scottsdale AZ 85260, July 2012 (no later amendments or editions); and

ii) The Batch Standard Batch Implementation Guide, Version 1, Release 2 (Version 1.2), January 2006, National Council for Prescription Drug Programs, 9240 East Raintree Drive, Scottsdale AZ 85260, July 2012 (no later amendments or editions).

2) Acknowledgment:

A) Electronic responses to ASC X12N 837 transactions:

i) The ASC X12 Standards for Electronic Data Interchange TA1 Interchange Acknowledgment contained in the standards adopted under subsection (a)(1);

ii) The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, Implementation Acknowledgment for Health Care Insurance (999), June 2007, ASC X12N/005010X231 (no later amendments or editions); and

iii) The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, Health Care Claim Acknowledgment (277CA), January 2007, ASC X12N/005010X214 (no later amendments or editions);

B) Electronic responses to NCPDP transactions: the response contained in the standards adopted under subsection (a)(1).

3) Electronic Remittance Advice (ERA):
The ASC X12 Standards for Electronic Data Interchange Technical Report Type 3, Health Care Claim Payment/Advice (835), April 2006, ASC X12N/005010X221 (no later amendments or editions); and Type 3 Errata to Health Care Claim Payment/Advice (835), June 2010, ASC X12, 005010X221A1 (no later amendments or editions).

4) ASC X12 Ancillary Formats:

A) The ASC X12N/005010X213 Request for Additional Information (277) is used to request additional attachments that were not originally submitted with the electronic medical bill.

B) Health Claim Status Request and Response
The use of the Health Claim Status Request and Response, 005010X213, shall be by mutual agreement.

5) Documentation submitted with an electronic medical bill in accordance with Section 2908.60(d) (Electronic Documentation): ASC X12N Additional Information to Support a Health Claim or Encounter (275), February 2008, ASC X12, 005010X210 (no later amendments or editions).

b) Insurance carriers and health care providers may exchange electronic data in a nonprescribed format by mutual agreement. All data elements required pursuant to this Part shall be present in a mutually agreed upon format.

c) The implementation specifications for the ASC X12N and the ASC X12 Standards for Electronic Data Interchange may be obtained from the ASC X12, 7600 Leesburg Pike, Suite 430, Falls Church VA 22043; Telephone (703) 970-4480 and FAX (703) 970-4488. They are also available through the Internet at http://store.x12.org/. A fee is charged for all implementation specifications.

d) The implementation specifications for the retail pharmacy standards may be obtained from the National Council for Prescription Drug Programs, 9240 East Raintree Drive, Scottsdale AZ 85260; Telephone (480) 477-1000 and FAX (480) 767-1042. They are also available through the Internet at http://www.ncpdp.org. A fee is charged for all implementation specifications.

e) Nothing in this Section prohibits payers and health care providers, through mutual agreement, from using a direct data entry methodology for complying with these requirements, provided the methodology complies with the data content requirements of the adopted formats and this Part.

Section 2908.50 Billing Code Sets

All billing codes and modifier systems used for electronic billing shall be in accordance with 50 Ill. Adm. Code 7110.90 (Illinois Workers' Compensation Commission Medical Fee Schedule). Billing codes and modifier systems identified in this Section are valid codes for the specified

workers' compensation transactions, in addition to any code sets defined by the standards adopted in the Workers' Compensation Act [820 ILCS 305] and 50 Ill. Adm. Code 7110.90.

a) "CDT-4 Codes" − codes and nomenclature prescribed by the American Dental Association.

b) "CPT-4 Codes" − the procedural terminology and codes contained in the "Current Procedural Terminology, Fourth Edition", as published by the American Medical Association (AMA) and as adopted in the appropriate fee schedule contained in 50 Ill. Adm. Code 7110.90.

c) "Diagnosis Related Group" or "DRG" − the inpatient classification scheme used by CMMS for hospital inpatient reimbursement. The DRG system classifies patients based on principal diagnosis, surgical procedure, age, presence of co-morbidities and complications, and other pertinent data.

d) "HCPCS" − CMMS' Healthcare Common Procedure Coding System, a coding system that describes products, supplies, procedures and health professional services and that includes AMA's ~~"Current Procedural Terminology, Fourth Edition",~~ CPT-4 codes, alphanumeric codes, and related modifiers.

e) "ICD-9-CM Codes" − diagnosis and procedure codes in the International Classification of Diseases, 9th Revision, Clinical Modification, published by HHS.

f) "ICD-10-CM/PCS Codes" − diagnosis and procedure codes in the International Classification of Diseases, 10th Edition, Clinical Modification/Procedure Coding System, maintained and published by HHS.

g) "NDC" − National Drug Codes of the United States Food and Drug Administration.

h) "Revenue Codes" − the 4-digit coding system developed and maintained by the National Uniform Billing Committee (NUBC) for billing inpatient and outpatient hospital services, home health services, and hospice services.

i) "National Uniform Billing Committee Codes" − code structure and instructions established for use by NUBC, such as occurrence codes, condition codes, or prospective payment indicator codes. These are known as UB04 codes.

Section 2908.60 Electronic Medical Billing, Reimbursement and Documentation

a) Applicability

1) This Section outlines the exclusive process for the initial exchange of electronic medical bill and related payment processing data for professional, institutional/hospital, pharmacy and dental services. This Section does not apply when a hospital, physician, surgeon or other person rendering treatment pursuant to the Act is submitting a standardized form on paper in conformity with 50 Ill. Adm. Code 2017 (Uniform Claim and Billing Codes) or responding to requests for reconsideration or judicial appeals concerning any matter related to medical compensation or requests for informational copies of medical records.

2) Unless exempted from this process in accordance with subsection (m), payers or their agents shall:

A) Accept electronic medical bills submitted in accordance with the standards set forth in this Part;

B) Transmit acknowledgments and remittance advice in compliance with this Part, in response to electronically submitted medical bills; and

C) Support methods to receive electronic documentation required for the adjudication of a bill, as described in Section 2908.90.

3) Before accepting an electronically submitted medical bill, the payer shall ensure that the medical provider or clearing house:

A) has implemented a software system capable of exchanging medical bill data in accordance with the adopted standards or has contracted with a clearinghouse to exchange its medical bill data;

B) is able to submit medical bills in accordance with Section 2908.40(a)(1) to the payer and has established connectivity between the payer and the health care provider's or clearinghouse's system;

C) can submit required documentation in accordance with this Part; and

D) can receive and process any acceptance or rejection acknowledgment from the payer.

b) A payer shall consider electronic medical bills to be complete if the bills or supporting transmissions:

1) Are submitted in the correct billing format, with the correct billing code sets as set forth in Section 2908.50;

2) Are transmitted in compliance with the format requirements described in Section 2908.40;

3) Include in legible text all supporting documentation for the bill, including, but not limited to, medical reports and records, including, but not limited to, evaluation reports, narrative reports, assessment reports, progress reports/notes, clinical notes, hospital records and diagnostic test results that are expressly required by law or can reasonably be expected by the payer or its agent;

4) Identify the:

A) Injured employee;

B) Employer;

C) Insurance carrier, third party administrator, managed care organization or its agent;

D) Health care provider; and

E) Medical service or product.

c) Acknowledgment

1) An Interchange Acknowledgment (TA1), as specified in Section 2908.40(a)(2)(A)(i), notifies the sender of the receipt of, and certain structural defects associated with, an incoming transaction.

2) An Implementation Acknowledgment (ASC X12 999) transaction as specified in Section 2908.40(a)(2)(A)(ii) is an electronic notification to the sender of the file that it has been received and has been:

   A) Accepted as a complete and structurally correct file; or

   B) Rejected with a valid rejection code.

3) A Health Care Claim Acknowledgment (ASC X12 277CA) transaction as specified in Section 2908.40(a)(2)(A)(iii) is an electronic acknowledgment to the sender of an electronic transaction that the transaction has been received and has been:

   A) Accepted as a complete, correct submission; or

   B) Rejected with a valid rejection code.

4) A payer shall acknowledge receipt of an electronic medical bill by returning an Implementation Acknowledgment (ASC X12 999) within one business day after receipt of the electronic submission.

   A) Notification of a rejected bill is transmitted using the appropriate acknowledgment when an electronic medical bill does not meet the definition of a complete electronic medical bill as described in this subsection (c).

   B) A health care provider or its agent shall not submit a duplicate electronic medical bill earlier than 60 business days from the date originally submitted if a payer has acknowledged acceptance of the original complete electronic medical bill. A health care provider or its agent may submit a corrected medical bill electronically to the payer after receiving notification of a rejection. The corrected medical bill is submitted as a new, original bill.

5) A payer shall acknowledge receipt of an electronic medical bill by returning a Health Care Claim Status Response or Acknowledgment (ASC X12 277CA) transaction (detail acknowledgment) within two business days after receipt of the electronic submission.

A) Notification of a rejected bill is transmitted in an ASC X12N 277CA response or acknowledgment when an electronic medical bill does not meet the definition of a complete electronic medical bill or does not meet the edits defined in the applicable implementation guide or guides.

B) A health care provider or its agent shall not submit a duplicate electronic medical bill earlier than 30 business days from the date originally submitted if a payer has acknowledged acceptance of the original complete electronic medical bill. A health care provider or its agent may submit a corrected medical bill electronically to the payer after receiving notification of a rejection. The corrected medical bill is submitted as a new, original bill.

6) Acceptance of a complete medical bill is not an admission of liability by the payer. A payer may subsequently reject an accepted electronic medical bill if the employer or other responsible party named on the medical bill is not legally liable for its payment.

A) The rejection shall be transmitted by means of an 835 transaction.

B) The subsequent rejection of a previously accepted electronic medical bill shall occur no later than 30 days from the date of receipt of the complete electronic medical bill.

C) The transaction to reject the previously accepted complete medical bill shall clearly indicate that the reason for rejection is that the payer is not legally liable for its payment.

7) Acceptance of a complete or incomplete medical bill by a payer does not begin the time period by which a payer shall accept or deny liability for any alleged claim related to the medical treatment pursuant to the Act.

8) Transmission of an Implementation Acknowledgment (ASC X12 999) under subsection (c)(2), and acceptance of a complete, structurally correct file, serves as proof of the received date for an electronic medical bill in this subsection (c).

d) Electronic Documentation

1) Electronic documentation, including, but not limited to, medical reports and records submitted electronically that support an electronic medical bill, may be required by the payer before payment may be remitted to the health care provider.

2) Complete electronic documentation shall be submitted by secure fax, secure encrypted electronic mail, or in conformity with 45 CFR 164.530.

3) The electronic transmittal by fax or electronic mail must be submitted, either by secure fax or by secure encrypted electronic mail or any other secure electronic format, and shall contain the following details prominently on its cover sheet or first page of the transmittal:

A) The name of the injured employee;

B) Identification of the worker's employer if known, the employer's insurance carrier, or the third party administrator or its agent handling the workers' compensation claim;

C) Identification of the health care provider billing for services to the injured worker and, when applicable, its agent;

D) Dates of service;

E) The workers' compensation claim number assigned by the payer, if established by the payer; and

F) the unique attachment indicator number.

4) When requested by the payer, a health care provider or its agent shall submit electronic documentation within 7 business days after the request. Electronic documentation may be submitted simultaneously with the

electronic medical bill or may be submitted separately within 7 business days after successful submission of the electronic medical bill.

5) If electronic transmittal of documentation proves to be impossible or infeasible, the documentation will be sent via first class mail to the address of record for the payer. Electronic transmittal is presumed to be infeasible if the electronic routing information to the payer is not available through normal means of transmittal allowed by this Part. Documentation transmitted via first class mail must contain the following details prominently:

A) The name of the injured employee;

B) Identification of the worker's employer to the extent known, the employer's insurance carrier, or the third party administrator or its agent handling the workers' compensation claim;

C) Identification of the health care provider billing for services to the injured worker and, when applicable, its agent;

D) Dates of service; and

E) The workers' compensation claim number assigned by the payer, if established by the payer.

6) When a signed release is required from the injured worker before release of requested records, the request is not complete and actionable until the medical provider or its agent has received a valid, signed release form.

e) Electronic Remittance Advice (ERA) and Electronic Funds Transfer (EFT)

1) An Electronic Remittance Advice (ERA) is an explanation of benefits (EOB) or explanation of review (EOR) submitted electronically regarding payment or denial of a medical bill, recoupment request or receipt of a refund.

2) A payer shall provide an ERA in accordance with 50 Ill. Adm. Code 7110.90.

3) The ERA shall contain the appropriate Group Claim Adjustment Reason Codes, Claim Adjustment Reason Codes (CARC) and associated Remittance Advice Remark Codes (RARC) as specified by the ASC X12 Technical Report Type 2 (TR2) Workers' Compensation Code Usage Section for pharmacy charges, the NCPDP Reject Codes, National Council for Prescription Drug Programs, 9240 East Raintree Drive, Scottsdale AZ 85260 (http://www.ncpdp.org/standards_info.aspx) (July 2012, no later amendments or editions), denoting the reason for payment, adjustment or denial. Instructions for the use of the ERA and code sets are found in section 7.4 of the IAIABC eBill Companion Guide.

4) The ERA shall be sent before 5 days after:

A) the expected date of receipt by the medical provider of payment from the payer; or

B) the date the bill was rejected by the payer.

f) Payers shall accept from health care providers paper medical bills for payment in the formats set forth in 50 Ill. Adm. Code 2017.

g) A payer shall not accept or submit a duplicate paper medical bill from a health care provider or its agent earlier than 30 business days from the date originally submitted unless the payer has returned the medical bill as incomplete in accordance with Section 2908.70 A payer may accept a corrected paper medical bill after the return of an incomplete medical bill. The corrected medical bill is submitted as a new, original bill.

h) Unless the payer or its agent is exempted from the electronic medical billing process in accordance with this Section, it should attempt to establish connectivity through a trading partner agreement with any clearinghouse that requests the exchange of data in accordance with Section 2908.40.

i) No party to the electronic transactions shall charge excessive fees to any other party in the transaction. A payer or clearinghouse that requests another payer or clearinghouse to receive, process or transmit a standard transaction shall not charge fees or costs in excess of the fees or costs for normal telecommunications that the requesting entity incurs when it directly transmits or receives a standard transaction.

j) A payer may accept reasonable fees related to data translation, data mapping and similar data functions when the health care provider is not capable of submitting a standard transaction. In addition, a payer may accept a reasonable fee related to:

1) Transaction management of standard transactions, such as editing, validation, transaction tracking, management reports, portal services and connectivity; and

2) Other value added services, such as electronic file transfers related to medical documentation.

k) A payer or its agent may not reject a standard transaction on the basis that it contains data elements not needed or used by the payer or its agent, or that the electronic transaction includes data elements that exceed those required for a complete bill as enumerated in subsection (b).

l) A payer may offer to a health care provider electing to submit bills electronically, who has not implemented a software system capable of sending standard transactions, an Internet-based direct data entry system if the payer does not charge a transaction fee. A health care provider using an Internet-based direct data entry system offered by a payer or other entity must use the appropriate data content and data condition requirements of the standard transactions.

m) Exemption

1) The Director of Insurance may grant exemptions to employers and insurance carriers who are unable to submit or accept medical bills electronically.

2) Requests must be submitted in writing to the Director.

3) Grounds for exemption will be based on the following factors:

A) Premium volume;

B) Number of policyholders; and

C) Expense to comply would be burdensome.

Section 2908.70 Employer, Insurance Carrier, Managed Care Organization or Agents' Receipt of Medical Bills from Health Care Providers

a) Upon receipt of medical bills submitted in accordance with Sections 2908.30, 2908.40 and 2908.50, a payer shall evaluate each bill's conformance with the criteria for a complete medical bill set forth in Section 8.2(d) of the Act.

1) A payer shall not reject medical bills that are complete, unless the bill is a duplicate bill.

2) Within 21 calendar days after receipt of an incomplete medical bill, a payer or its agent shall either:

A) Complete the bill by adding missing health care provider identification or demographic information already known to the payer; or

B) Reject the incomplete bill in accordance with this subsection (a).

b) The received date of an electronic medical bill is the date all of the contents of a complete electronic bill are successfully received by the claims payer. Transmission of an Implementation Acknowledgment (ASC X12 999) under Section 2908.40(a)(2), and acceptance of a complete, structurally correct file, serve as proof of the received date for an electronic medical bill in this subsection (b).

c) The payer may contact the medical provider to obtain the information necessary to make the bill complete.

1) Any request by the payer or its agent for additional documentation to pay a medical bill shall:

A) be made by telephone or electronic transmission unless the information cannot be sent by those media, in which case the sender shall send the information by first class mail or personal delivery;

B) be specific to the bill or the bill's related episode of care;

C) describe with specificity the clinical and other information to be included in the response;

D) be relevant and necessary for the resolution of the bill;

E) be for information that is contained in or is in the process of being incorporated into the injured employee's medical or billing record maintained by the health care provider; and

F) indicate the specific reason for which the insurance carrier is requesting the information.

2) If the payer or its agent obtains the missing information and completes the bill to the point it can be adjudicated for payment, the payer shall document the name and telephone number of the person who supplied the information.

3) Payers shall maintain documentation of any pertinent internal or external communications that are necessary to make the medical bill complete.

d) A payer shall not return a medical bill except as provided in subsection (a). When rejecting or denying an electronic medical bill, the payer shall clearly identify the reasons for the bill's rejection or denial by utilizing the appropriate Reason and Rejection Code identified in the standards incorporated by reference in Section 2908.40.

e) The rejection of an incomplete medical bill in accordance with this Section fulfills the obligation of the payer to provide to the health care provider or its agent information related to the incompleteness of the bill.

f) Payers shall timely reject incomplete bills or request additional information needed to reasonably determine the amount payable.

1) For bills submitted electronically, the rejection of the entire bill or the rejection of specific service lines included in the initial bill shall be sent to the submitter within two business days after receipt.

2) If bills are submitted in a batch transmission, only the specific bills failing edits shall be rejected.

3) If there is a technical defect within the transmission itself that prevents the bills from being accessed or processed, the transmission will be rejected with a TA1 and/or a 999 transaction, as appropriate.

g) If a payer has reason to challenge the coverage or amount of a specific line item on a bill, but has no reasonable basis for objections to the remainder of the bill, the uncontested portion must be paid timely, as defined in subsection (h).

h) Payment of all uncontested portions of a complete medical bill shall be made within 30 days after receipt of the original bill or receipt of additional information requested by the payer allowed under the law. Amounts paid after this 30 day review period will accrue an interest penalty of one percent per month after the due date. The interest payment must be made at the same time as the medical bill payment.

i) A payer shall not reject or deny a medical bill except as provided in this Section. When rejecting or denying a medical bill, the payer shall also communicate the reasons for the medical bill's rejection or denial.

Section 2908.80 Communication Between Health Care Providers and Payers

a) Any communication between the health care provider and the payer related to medical bill processing shall be of sufficient specific detail to allow the responder to easily identify the information required to resolve the issue or question related to the medical bill. Generic statements that simply state a conclusion, including, but not limited to, "payer improperly reduced the bill" or "health care provider did not document" or other similar phrases with no further description of the factual basis for the sender's position, do not satisfy the requirements of this Section.

b) The payer's utilization of the Claim Adjustment Group Codes, Claim Adjustment Reason Codes, and/or the Remittance Advice Remark Codes, or as appropriate, the NCPDP Reject/Payment Codes, specified in Section 2908.60(e)(3), when communicating with the health care provider or its agent or assignee through the use of the 835 transaction, provides a standard mechanism to communicate issues associated with the medical bill.

c) Communication between the health care provider and payer related to medical bill processing shall be made by telephone or secured electronic transmission unless the information cannot be sent by those media, in which case the sender shall send the information by first class mail or personal delivery.

Section 2908.90 Medical Documentation Necessary for Billing Adjudication

a) Medical documentation includes all medical reports and records permitted or required in accordance with the Act.

b) Requests for medical reports shall be accompanied by releases from the patient.

c) Any request by the payer for additional documentation to process a medical bill shall conform to the requirements of Section 2908.70(c).

d) It is the obligation of an insurer or employer to furnish its agents with any documentation necessary for the resolution of a medical bill.

e) Payers shall take reasonable steps to ensure that health care providers, health care facilities, third-party biller/assignees, and claims administrators and their agents comply with all applicable federal and State rules related to privacy, confidentiality and security.

Section 2908.100 Submission of Payer Companion Guide

Each payer shall submit to the Department for inspection a copy of its companion guide.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Managed Care Reform & Patient Rights

2) Code Citation: 50 Ill. Adm. Code 5420

3) Section Number: 5420.30 — Proposed Action: Amendment

4) Statutory Authority: Implementing the Managed Care Reform and Patient Rights Act [215 ILCS 134] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401], 42 USC 300gg-22, and 45 CFR 150.101(b)(2) and 150.201

5) A Complete Description of the Subjects and Issues Involved: Public Act 98-651 added nursing homes to the definition of provider in the Managed Care Reform and Patients' Rights Act. Part 5421 will be amended to reflect this.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Jim Rundblom, Deputy General Counsel
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

or

Susan Anders, Rules Coordinator
Department of Insurance
320 West Washington, 4th Floor
Springfield IL 62767-0001

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

217/785-8559 217/558-0957
fax: 217/524-9033

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER kkk : HEALTH CARE SERVICE PLANS

PART 5420
MANAGED CARE REFORM & PATIENT RIGHTS

Section
5420.10 Purpose
5420.20 Applicability and Scope
5420.30 Definitions
5420.40 Provision of Information
5420.50 Notice of Nonrenewal or Termination
5420.60 Transition of Services
5420.70 Health Care Services, Appeals, Complaints and External Independent Reviews
5420.80 Joint Resolution of Complaints – Department of Insurance and Department of Public Health − Notification and Resolution Process
5420.90 Record of Complaints
5420.100 Access and Quality of Care from Providers Without Primary Care Physician Referral or Authorization
5420.110 Emergency Services
5420.120 Post Stabilization Services
5420.130 Registration of Utilization Review Organizations
5420.140 Operational Requirements

5420.EXHIBIT A Description of Coverage – Cover Page (Repealed)
5420.EXHIBIT B Description of Coverage – Worksheet (Repealed)
5420.EXHIBIT C Complaint Reporting Column Descriptions
5420.EXHIBIT D Application for Registration of a Utilization Review Organization
5420.EXHIBIT E Utilization Review Organization Officers and Directors Biographical Affidavit
5420.EXHIBIT F NAIC Utilization Review Organization Officers and Directors Biographical Affidavit

AUTHORITY: Implementing the Managed Care Reform and Patient Rights Act [215 ILCS 134] and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/401]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENT

SOURCE: Emergency rules adopted at 23 Ill. Reg. 12466, effective September 27, 1999, for a maximum of 150 days; adopted at 24 Ill. Reg. 3374, effective February 10, 2000; amended at 24 Ill. Reg. 9429, effective July 1, 2000; amended at 28 Ill. Reg. 13711, effective September 28, 2004; amended at 30 Ill. Reg. 6368, effective March 29, 2006; amended at 34 Ill. Reg. 6879, effective April 29, 2010; amended at 38 Ill. Reg. 2253, effective January 2, 2014; amended at 38 Ill. Reg. _____, effective _____.

Section 5420.30 Definitions

"Act" means the Managed Care Reform and Patient Rights Act [215 ILCS 134].

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Department" means the Illinois Department of Insurance.

"Director" means the Director of the Illinois Department of Insurance.

"Health Care Plan" means a plan that establishes, operates, or maintains a network of health care providers that has entered into an agreement with the plan to provide health care services to enrollees to whom the plan has the ultimate obligation to arrange for the provision of or payment for services through organizational arrangements for ongoing quality assurance, utilization review programs, or dispute resolution. Nothing in this definition shall be construed to mean that an independent practice association or a physician hospital organization that subcontracts with a health care plan is, for purposes of that subcontract, a health care plan. For purposes of this definition, "health care plan" shall not include the following:

indemnity health insurance policies including those using a contracted provider network;

health care plans that offer only dental or only vision coverage;

preferred provider administrators, as defined in Section 370g(g) of the Illinois Insurance Code;

employee or employer self-insured health benefit plans under the federal Employee Retirement Income Security Act of 1974;

health care provided pursuant to the Workers' Compensation Act or the Workers' Occupational Diseases Act; and

not-for-profit voluntary health services plans with health maintenance organization authority in existence as of January 1, 1999 that are affiliated with a union and that only extend coverage to union members and their dependents.

"Health Care Provider" means any physician, hospital facility, nursing home or other person that is licensed or otherwise authorized to deliver health care services. Nothing in the Act shall be construed to define independent practice associations or physician hospital organizations as health care providers.

"Long-Standing Relationship" means the continuous relationship between an enrollee and his or her primary care physician of not less than 5 years; except in the case of a child 5 years or under who has had a continuous relationship with the same primary care physician since birth, placement for adoption, guardianship or foster care.

"Managed Care Organization" or "MCO" means a partnership, association, corporation or other legal entity, including but not limited to individual practice associations (IPAs) and Physician Hospital Organizations (PHOs), which delivers or arranges for the delivery of health care services through providers it has contracted with or otherwise made arrangements with to furnish such health care services.

"Nursing Home" means a skilled nursing or intermediate care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act [210 ILCS 45] or the ID/DD Community Care Act [210 ILCS 47].

"Ongoing Course of Treatment" means the treatment of a condition or disease that requires repeated health care services pursuant to a plan of treatment by a physician because of the potential for changes in the therapeutic regimen.

"Person" means a corporation, association, partnership, limited liability company, sole proprietorship, or any other legal entity.

"Referral Arrangement" means that, for each referral or standing referral, a

referral arrangement exists between a participating primary care physician and a participating specialist physician or a participating health care provider when a participating primary care physician makes a referral of an enrollee for that referral or standing referral to a participating specialist physician or participating health care provider.

"Standing Referral" means a written referral from the primary care physician for an ongoing course of treatment pursuant to a treatment plan specifying needed services and time frames developed by a specialist in consultation with the primary care physician and in accordance with procedures developed by the health care plan.

"Utilization Review" means the evaluation of the medical necessity, appropriateness, and efficiency of the use of health care services, procedures, and facilities.

"Utilization Review Organization" means an entity that has established one or more utilization review programs. This definition does not include:

persons providing utilization review program services only to the federal government;

self-insured health plans under the Federal Employee Retirement Income Security Act of 1974 (ERISA); however, this Part does not apply to persons conducting a utilization review program on behalf of these health plans;

hospitals and medical groups performing utilization review activities for internal purposes; however, this Part does apply when the hospital or medical group is conducting utilization review for another person.

"Utilization Review Program" means a program established by a person to perform utilization review.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Health Maintenance Organization

2) Code Citation: 50 Ill. Adm. Code 5421

3)

Section Numbers:	Proposed Action:
5421.20	Amendment
5421.130	Amendment

4) Statutory Authority: Implementing and authorized by Sections 4-6.1, 4-17, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125/4-6.1, 4-17, 5-2 and 5-7], 42 USC 300gg-22, and 45 CFR 150.101(b)(2) and 150.201

5) A Complete Description of the Subjects and Issues Involved: Public Act 98-651 added nursing homes to the definition of provider in the HMO Act. Part 5421 will be amended to reflect this. Changes are also being made to reflect updated mental health parity standards.

6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Jim Rundblom, Deputy General Counsel Department of Insurance 320 West Washington, 4th Floor	or	Susan Anders, Rules Coordinator Department of Insurance 320 West Washington, 4th Floor

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Springfield IL 62767-0001 Springfield IL 62767-0001

217/785-8559 217/558-0957
fax: 217/524-9033

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER kkk: HEALTH CARE SERVICE PLANS

PART 5421
HEALTH MAINTENANCE ORGANIZATION

Section
5421.10 Scope
5421.20 Definitions
5421.30 Valuation of Investments
5421.40 Grievance Procedure
5421.50 Contracts, Administrative Arrangements and Material Modifications
5421.60 Rates
5421.70 Subordinated Indebtedness
5421.80 Financial Reporting
5421.90 Conflict of Interest and Required Disclosure
5421.100 Solicitation
5421.110 Requirements for Group Contracts, Evidences of Coverage and Individual Contracts
5421.111 Cancellation
5421.112 Form Filing Requirements
5421.113 Point of Service Plan Requirements
5421.120 Internal Security Standards and Fidelity Bonds
5421.130 Basic Health Care Services
5421.131 Basic Outpatient Preventive and Primary Health Care Services for Children
5421.132 Required Coverage for Reconstructive Surgery Following Mastectomies
5421.140 General Provisions
5421.141 HMO Producer Licensing Requirements
5421.142 Limited Insurance Representative Requirements − Public Aid and Medicare Enrollers
5421.150 Severability
5421.160 Effective Date (Repealed)

AUTHORITY: Implementing and authorized by Sections 4-6.1, 4-17, 5-2 and 5-7 of the Health Maintenance Organization Act [215 ILCS 125/4-6.1, 4-17, 5-2 and 5-7]; 42 USC 300gg-22; and 45 CFR 150.101(b)(2) and 150.201.

SOURCE: Filed June 16, 1976, effective July 1, 1976; codified at 7 Ill. Reg. 3016; amended at 15 Ill. Reg. 199, effective December 28, 1990; amended at 20 Ill. Reg. 10639, effective July 25, 1996; recodified at 21 Ill. Reg. 1729; emergency amendment at 21 Ill. Reg. 15262, effective November 18, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 6671, effective March 31, 1998; amended at 23 Ill. Reg. 5690, effective May 3, 1999; emergency amendment at 26 Ill. Reg. 5146, effective March 25, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13088, effective August 19, 2002; amended at 28 Ill. Reg. 14412, effective October 19, 2004; amended at 30 Ill. Reg. 4732, effective March 2, 2006; amended at 37 Ill. Reg. 14032, effective August 26, 2013; amended at 38 Ill. Reg. 2272, effective January 2, 2014; amended at 38 Ill. Reg. _____, effective _____.

Section 5421.20 Definitions

"ACA" means the Patient Protection and Affordable Care Act (42 USC 18001 et seq.).

"Act" means the Health Maintenance Organization Act [215 ILCS 125].

"*Advertisement" means any printed or published material, audiovisual material and descriptive literature of the health care plan used in direct mail, newspapers, magazines, radio scripts, television scripts, billboards and similar displays; and any descriptive literature or sales aids of all kinds disseminated by a representative of the health care plan for presentation to the public including, but not limited to, circulars, leaflets, booklets, depictions, illustrations, form letters and prepared sales presentations* (Section 1-2(1) of the Act).

"Base Rates" means the rate generated before any classification deviations are applied.

"Basic Health Care Services" means emergency care, and inpatient hospital and physician care, outpatient medical services, mental health services and care for alcohol and drug abuse, infertility treatment, prenatal and postnatal care, delivery and inpatient services for maternity care, and preventative services required pursuant to 42 USC 300gg-13, all of which are subject to limitations set forth in this Part (see Section 1-2(3) of the Act).

"Cancellation" means the termination of a group contract, evidence of coverage or individual contract by an HMO prior to the expiration date of the group contract, evidence of coverage or individual contract.

"Consumer" means any enrollee, provided that the individual is not or has not been, in the previous two years: an employee (including the employee's spouse or dependent) of the HMO or affiliate of the HMO; or a provider furnishing health care services to the HMO or affiliate of the HMO.

"Copayment" means the amount an enrollee must pay in order to receive a specific covered service that is not fully prepaid.

"Deductible" means the amount an enrollee is responsible to pay out-of-pocket before the HMO begins to pay the costs associated with treatment.

"Director" means the Director of the Illinois Department of Insurance.

"Department" means the Illinois Department of Insurance.

"Department of Insurance Complaint" means a written complaint filed by or on behalf of an enrollee, with the Department pursuant to Section 4-6 of the Act, excluding complaints filed by Illinois Department of Healthcare and Family Services HMO members under Section 5-11 of the Public Aid Code [305 ILCS 5/5-11] and complaints subject to handling by the Centers for Medicare and Medicaid Services (CMMS) pursuant to a contract entered into between CMMS and the HMO.

"*Enrollee" means an individual who has been enrolled in a health care plan.* (Section 1-2(4) of the Act)

"Evidence of Coverage" means any certificate, agreement, or contract issued to enrollees setting out the coverage to which they are entitled in exchange for a per capita prepaid sum. (Section 1-2(5) of the Act)

"Governing Body" means the board of trustees, or directors, or if otherwise designated in the basic organizational document bylaws, those individuals vested with the ultimate responsibility for the management of any organization that has been issued, or is applying for, a certificate of authority as an HMO.

"Grievance" means any written complaint submitted to the HMO by or on behalf of an enrollee regarding any aspect of the HMO relative to the enrollee, but shall not include any complaint by or on behalf of a provider.

"Grievance Committee" means individuals who have been appointed by the HMO to respond to grievances that have been filed on appeal from the HMO's simplified complaint process established pursuant to Section 5421.40(d). At least 50% of the individuals on this committee shall be enrollees who are consumers.

"*Group Contract" means a contract for health care services which by its terms limits eligibility to members of a specified group* (Section 1-2(6) of the Act).

"Health Care Plan" means any arrangement in which any organization undertakes to provide or arrange for, and pay for or reimburse the cost of, any basic health care services from providers selected by the HMO. The arrangement consists of arranging for, or the provision of, the health care services, as distinguished from mere indemnification against the cost of the services, except as otherwise authorized by Section 2-3 of the Act, on a per capita prepaid basis, through insurance or otherwise (see Section 1-2(7) of the Act). A health care plan also includes any arrangement in which an organization undertakes to provide or arrange for, or pay for or reimburse the cost of, any health care services for persons who are enrolled in the integrated health care program established under Section 5-16.3 of the Illinois Public Aid Code through providers selected by the organization and the arrangement consists of making provision for the delivery of health care services, as distinguished from mere indemnification. A health care plan also includes any arrangement pursuant to Section 4-17 of the Act. Nothing in the definition of Health Care Plan, however, affects the total medical services available to persons eligible for medical assistance under the Illinois Public Aid Code.

"*Health Care Services" means any services included in the furnishing to any individual of medical or dental care, or the hospitalization or incident to the furnishing of such care or hospitalization as well as the furnishing to any person of any and all other services for the purpose of preventing, alleviating, curing or healing human illness or injury* (Section 1-2(8) of the Act).

"HMO" means Health Maintenance Organization.

"Individual Contract" means a contract for health care services issued to and covering an individual. The individual contract may include dependents of the subscriber.

"Limited Insurance Representative" means an individual appointed by an HMO to represent the HMO in the enrollment of recipients of Medicaid or Medicare in the HMO.

"Managed Care Organization" or "MCO" means a partnership, association, corporation or other legal entity, including but not limited to individual practice associations (IPAs) and Physician Hospital Organizations (PHOs), that delivers or arranges for the delivery of health care services through providers it has contracted with or otherwise made arrangements with to furnish those health care services.

"Notice of Availability of the Department", as required by this Part, shall be no less informative than the following:

> The regulations of the Illinois Department of Insurance (50 Ill. Adm. Code 5421.110(n)) require that we advise you that if you wish to take this matter up with the Illinois Department of Insurance it maintains a Consumer Division in Chicago at 122 S. Michigan Avenue, 19th Floor, Chicago, Illinois 60603 and in Springfield at 320 West Washington Street, Springfield, Illinois 62767-0001.

"Nursing Home" means a skilled nursing or intermediate care facility that is subject to licensure by the Illinois Department of Public Health under the Nursing Home Care Act [210 ILCS 45] or the ID/DD Community Care Act [210 ILCS 47].

"Point of Service Plan" means a plan in which an eligible enrollee is covered under both an HMO evidence of coverage and an indemnity insurance policy or certificate and may select, on a point of service basis, between using the HMO or the indemnity benefit program.

"Primary Care Physician" means a provider who has contracted with an HMO to provide primary care services as defined by the contract and who is:

> a physician licensed to practice medicine in all of its branches who spends a majority of clinical time engaged in general practice or in the practice of internal medicine, pediatrics, gynecology, obstetrics or family practice;
>
> a chiropractic physician licensed to treat human ailments without the use

of drugs or operative surgery.

"Producer" means a person directly or indirectly associated with a health care plan who engages in solicitation or enrollment (see Section 1-2(13) of the Act).

"Provider" means any physician, hospital facility, or other person which is licensed or otherwise authorized to furnish health care services and also includes any other entity that arranges for the delivery or furnishing of health care services (Section 1-2(12) of the Act). For purposes of Section 5421.50, "provider" shall also mean an MCO or a nursing home.

"Renewal" means the issuance and delivery by an HMO of a group contract or individual contract superseding at the end of the contract period a contract previously issued and delivered by the same HMO or the issuance and delivery of a certificate or notice extending the term of the group or individual contract beyond its contract term.

"Solicitation" means any method by which information relative to an HMO is made known to the public for the purpose of informing or influencing potential enrollees to enroll in a Health Care Plan, regardless of the media or technique used.

"State" means any governing body, department or agency of the State of Illinois that has regulatory authority under the Act.

"Subscriber" means a person who has entered into a contractual relationship with the HMO for the provision of or arrangement of at least Basic Health Care Services to the beneficiaries of such contract (Section 1-2(15) of the Act).

"Supplemental Health Care Services" means any health care service other than basic health care services.

"Usual and Customary Fee" means the fee, as reasonably determined by the HMO, that is based on the fee the provider who renders the service usually charges its patients for the same service. The fee shall be within the range of usual fees other providers of similar type, training and experience in a similar geographic area charge their patients for the same service, under similar or comparable circumstances.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 5421.130 Basic Health Care Services

The provision of Basic Health Care Services shall not discriminate against any class of physician. The following minimum standards shall meet the requirements for Basic Health Care Services, provided that services are medically necessary as determined by the enrollee's primary care physician and, if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director:

a) Physician services, including primary care, consultation, referral, surgical, anesthesia or other as needed by the enrollee in any level of service delivery. Physician services need not include organ transplants unless specifically authorized by a primary care physician and approved by the HMO's Medical Director;

b) Outpatient diagnostic imaging, pathology services and radiation therapy;

c) Non-mental~~120 days of non-mental~~ health inpatient services~~ per year~~, including all professional services, medications, surgically implanted devices and supplies used by the enrollee while an inpatient;

d) Emergency services for accidental injury or emergency illness 24 hours per day, and 7 days per week. Emergency services are covered benefits inside and out of the plan's service area. Emergency treatment shall include outpatient visits and referrals for emergency mental health problems;

e) Maternity care, including prenatal and post-natal care and care for complication of pregnancy of mother and care with respect to a newborn child from the moment of birth, which shall include the care and treatment of illness, injury, congenital defects, birth abnormalities and premature birth;

f) Blood transfusion services, processing and the administration of whole blood and blood components and derivatives;

g) Preventive health services as appropriate for the patient population, including a health evaluation program and immunizations to prevent or arrest the further manifestation of human illness or injury including but not limited to allergy injections and allergy serum. A health evaluation program shall include at least

periodic physical examinations and medical history, hearing and vision testing or screening, routine laboratory testing or screening, blood pressure testing, and uterine cervical cytological testing, and low dose mammography testing as required by Section 4-6.1 of the Act;

h) 45~~Ten~~ days inpatient mental health care per year. Care in a day hospital, residential non-hospital or intensive outpatient mode may be substituted on a two-to-one basis for inpatient hospital services as deemed appropriate by the primary care physician. 60~~Twenty~~ individual outpatient mental health care visits per enrollee per year, as appropriate for evaluation, short-term treatment and crisis intervention services. Group outpatient mental health care visits may be substituted on a two-to-one basis for individual mental health care visits as deemed appropriate by the primary care physician;

i) Alcoholism and Drug Abuse

1) Diagnosis, detoxification and treatment of the medical complications of the abuse of or addiction to alcohol or drugs on either an inpatient or outpatient basis.~~ Inpatient hospital services are subject to subsection (c).~~

2) Rehabilitation services on an inpatient basis, for up to 45~~10~~ days inpatient care per year. Care in a day hospital, residential non-hospital or intensive outpatient treatment mode may be substituted on a two-to-one basis for inpatient hospital services as deemed appropriate by the primary care physician. 60~~Twenty~~ individual outpatient care visits per enrollee per year as appropriate for evaluation, short-term treatment, and crisis intervention services. Group outpatient care visits may be substituted on a two-to-one basis for individual outpatient visits as deemed appropriate by the primary care physician. Prolonged rehabilitation services in a specialized inpatient or residential facility need not be a part of Basic Health Care Services;

j) Outpatient Rehabilitative therapy (including but not limited to: speech therapy, physical therapy, and occupational therapy directed at improving physical functioning of the member) up to 60 treatments per year for conditions which are expected to result in significant improvement within two months as determined by the primary care physician and if required by the HMO, are authorized on a prospective and timely basis by the HMO's Medical Director;

k) Preventive services required pursuant to 42 USC 300gg-13;

l) Essential health benefits as provided in 50 Ill. Adm. Code 2001.11;~~.~~

m) Additional minimum standards may apply under the ACA, including but not limited to plans required to provide Essential Health Benefits under sections 1302(a) and (b) and the Mental Health Parity and Addiction Equity Act (P.L. 110-343).

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Health Carrier External Review

2) Code Citation: 50 Ill. Adm. Code 5430

3)

Section Numbers:	Proposed Action:
5430.30	Amendment
5430.40	Amendment
5430.50	Amendment
5430.90	New Section
5430.APPENDIX A	Repeal
5430.APPENDIX B	Amendment
5430.APPENDIX C	Amendment
5430.APPENDIX D	Amendment
5430.APPENDIX E	Amendment

4) Statutory Authority: Implementing the Health Carrier External Review Act [215 ILCS 180] and authorized by Section 50(h) of the Act [215 ILCS 180/50(h)] and Section 401 of the Illinois Insurance Code [215 ILCS 5/401]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking will update Part 5430 to conform with changes to the Health Carrier External Review Law pursuant to PA 97-574.

6 Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Simone Arthur Assistant General Counsel Illinois Department of Insurance 122 S. Michigan Ave, 19th Fl Chicago IL 60603	or	Susan Anders Rules Coordinator Illinois Department of Insurance 320 W. Washington St. Springfield IL 62767
312/814-8580 fax: 312/814-2862		217/558-0957

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: External review procedures regarding adverse insurance coverage determinations

C) Types of professional skills necessary for compliance: Insurance

14) Regulatory Agenda on which this rulemaking was summarized: January 2014

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

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF INSURANCE
SUBCHAPTER kkk: HEALTH CARE SERVICE PLANS

PART 5430
HEALTH CARRIER EXTERNAL REVIEW

Section
5430.10 Purpose
5430.20 Applicability and Scope
5430.30 Definitions
5430.40 Health Carrier Obligations
5430.50 Independent Review Organization Obligations
5430.60 Registration of Independent Review Organizations
5430.70 Operational Requirements
5430.80 Examination
5430.90 Random Selection of IROs by Director

5430.APPENDIX A External Review Annual Report Form (Repealed)
5430.APPENDIX B IRO Notice of Decision Template – Non-Experimental and Investigational
5430.APPENDIX C IRO Notice of Decision Template – Experimental and Investigational
5430.APPENDIX D Independent Review Organizations – Application for Registration
5430.APPENDIX E Independent Review Organizations – Application for Reapproving Independent Review Organizations
5430.APPENDIX F Illinois or NAIC Biographical Affidavit

AUTHORITY: Implementing the Health Carrier External Review Act [215 ILCS 180] and authorized by Section 50(h) of the Act [215 ILCS 180/50(h)] and Section 401 of the Illinois Insurance Code [215 ILCS 5/401].

SOURCE: Adopted at 34 Ill. Reg. 10741, effective July 19, 2010; amended at 38 Ill. Reg. _____, effective _____.

Section 5430.30 Definitions

"Act" means the Health Carrier External Review Act [215 ILCS 180].

"Adverse Determination" means:

A~~a~~ determination by a health carrier or its designee utilization review organization that, based upon the information provided, a request for a benefit under the health carrier's health benefit plan, upon application of any utilization review technique, ~~an admission, availability of care, continued stay, or other health care service that is a covered benefit has been reviewed and, based upon the information provided,~~ does not meet the health carrier's requirements for medical necessity, appropriateness, health care setting, level of care, or effectiveness or is determined to be experimental or investigational, and the requested benefit ~~service or payment for the service~~ is therefore denied, reduced~~,~~ or terminated, or payment is not provided or made, in whole or part, for the benefit;~~.~~

The denial, reduction or termination of, or failure to provide or make payment, in whole or in part, for, a benefit based on a determination by a health carrier or its designee utilization review organization that a preexisting condition was present before the effective date of coverage; or

A rescission of coverage determination, which does not include a cancellation or discontinuance of coverage that is attributable to a failure to timely pay required premiums or contributions towards the cost of coverage.

"Authorized Representative" means:

A person to whom a covered person has given express written consent to represent the covered person for purposes of the Act~~in an external review, including the covered person's health care provider~~;

A person authorized by law to provide substituted consent for a covered person;~~ or~~

A family member of the covered person or the~~The~~ covered person's treating health care professional~~provider~~ when the covered person is unable to provide consent;~~.~~

A health care provider when the covered person's health benefit plan requires that a request for a benefit under the plan be initiated by the health care provider; or

In the case of an urgent care request, a health care provider with knowledge of the covered person's medical condition.

"Best Evidence" means evidence based on:

Randomized clinical trials;

If randomized clinical trials are not available, then cohort studies or case-control studies;

If the prior two items are not available, then case-series; or

If the prior three items are not available, then expert opinion.

"Case-control Study" means a retrospective evaluation of two groups of patients with different outcomes to determine which specific interventions the patients received.

"Case-series" means an evaluation of a series of patients with a particular outcome, without the use of a control group.

"Clinical Review Criteria" means the written screening procedures, decision abstracts, clinical protocols, and practice guidelines used by a health carrier to determine the necessity and appropriateness of health care services.

"Cohort Study" means a prospective evaluation of 2 groups of patients with only one group of patients receiving specific intervention.

"Code" means the Illinois Insurance Code [215 ILCS 5].

"Concurrent Review" means a review conducted during a patient's stay or course of treatment in a facility, the office of a health care professional, or other inpatient or outpatient health care setting.

"Covered Benefits" or "Benefits" means those health care services to which a covered person is entitled under the terms of a health benefit plan.

"Covered Person" means a policyholder, subscriber, enrollee, or other individual participating in a health benefit plan.

"Director" means the Director of the Illinois Department of Insurance.

"Emergency Medical Condition" means a medical condition manifesting itself by acute symptoms of sufficient severity, including, but not limited to, severe pain, such that a prudent layperson who possesses an average knowledge of health and medicine could reasonably expect the absence of immediate medical attention to result in:

placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

serious impairment to bodily functions; or

serious dysfunction of any bodily organ or part.

"Evidence-based Standard" means the conscientious, explicit and judicious use of the current best evidence based on an overall systematic review of the research in making decisions about the care of individual patients.

"Expert Opinion" means a belief or an interpretation by specialists with experience in a specific area about the scientific evidence pertaining to a particular service, intervention, or therapy.

"Facility" means an institution providing health care services or a health care setting.

"Final Adverse Determination" means an adverse determination involving a covered benefit that has been upheld by a health carrier, or its designee utilization review organization, at the completion of the health carrier's internal grievance process procedures as set forth by the Managed Care Reform and Patient Rights Act [215 ILCS 134].

"Health Benefit Plan" means a policy, contract, certificate, plan, or agreement offered or issued by a health carrier to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services.

"Health Care Provider" or "Provider" means a physician, hospital facility, or other health care practitioner licensed, accredited, or certified to perform specified health care services consistent with State law, responsible for recommending health care services on behalf of a covered person.

"Health Care Services" means services for the diagnosis, prevention, treatment, cure, or relief of a health condition, illness, injury, or disease.

"Health Carrier" means an entity subject to the insurance laws and regulations of this State, or subject to the jurisdiction of the Director, that contracts or offers to contract to provide, deliver, arrange for, pay for, or reimburse any of the costs of health care services, including a sickness and accident insurance company, a health maintenance organization, or any other entity providing a plan of health insurance, health benefits, or health care services. "Health carrier" also means Limited Health Service Organizations (LHSO) and Voluntary Health Service Plans.

"Health Information" means information or data, whether oral or recorded in any form or medium, and personal facts or information about events or relationships that relate to:

The past, present, or future physical, mental, or behavioral health or condition of an individual or a member of the individual's family;

The provision of health care services to an individual; or

Payment for the provision of health care services to an individual.

"Independent Review Organization" or "IRO" means an entity that conducts independent external reviews of adverse determinations and final adverse determinations.

"Medical Necessity" means health care services and supplies provided by a health care provider, appropriate to the evaluation and treatment of a disease, condition, illness or injury and consistent with the applicable standard of care, including the evaluation of experimental and/or investigational services, procedures, drugs or devices.

"Medical or Scientific Evidence" means evidence found in the following sources:

Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

Peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia, and other medical literature that meets the criteria of the National Institutes of Health's Library of Medicine for indexing in Index Medicus (Medline) and Elsevier Science Ltd. for indexing in Excerpta Medicus (EMBASE);

Medical journals recognized by the Secretary of Health and Human Services under section 1861(t)(2) of the federal Social Security Act (42 USC 1861(t)(2));

The following standard reference compendia:

The American Hospital Formulary Service Drug Information;

Drug Facts and Comparisons;

The American Dental Association Accepted Dental Therapeutics; and

The United States Pharmacopoeia Drug Information;

Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including:

The federal Agency for Healthcare Research and Quality;

The National Institutes of Health;

The National Cancer Institute;

The National Academy of Sciences;

The Centers for Medicare & Medicaid Services;

The federal Food and Drug Administration; and

Any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health care services; or

Any other medical or scientific evidence that is comparable to the sources listed in this definition.

Medical necessity determinations for substance use disorders shall be made in accordance with appropriate patient placement criteria established by the American Society of Addiction Medicine [215 ILCS 5/370c(b)(3)].

"Person" means an individual, a corporation, a partnership, an association, a joint venture, a joint stock company, a trust, an unincorporated organization, any similar entity, or any combination of the foregoing.

"Prospective Review" means a review conducted prior to an admission or the provision of a health care service or a course of treatment in accordance with a health carrier's requirement that the health care service or course of treatment, in whole or in part, be approved prior to its provision.

"Protected Health Information" means health information that identifies an individual who is the subject of the information, or with respect to which there is a reasonable basis to believe that the information could be used to identify an individual.

"Randomized Clinical Trial" means a controlled, prospective study of patients that have been randomized into an experimental group and a control group at the beginning of the study with only the experimental group of patients receiving a specific intervention, which includes study of the groups for variables and anticipated outcomes over time.

"Retrospective Review" means any review of a request for a benefit that is not a concurrent or prospective review request. "Retrospective Review" does not

include the review of a claim that is limited to veracity of documentation or accuracy of coding~~a review of medical necessity conducted after services have been provided to a patient, but does not include the review of a claim that is limited to an evaluation of reimbursement levels, veracity of documentation, accuracy of coding, or adjudication for payment~~.

"Utilization Review" means the evaluation of the medical necessity, appropriateness, and efficiency of the use of health care services, procedures, and facilities.

"Utilization Review Organization" means a utilization review program as defined in the Managed Care Reform and Patient Rights Act.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 5430.40 Health Carrier Obligations

a) Each health carrier shall maintain written records in the aggregate, by state, and for each type of health benefit plan offered by the health carrier on all requests for external review for which the health carrier received notice from the Director for each calendar year. The health carrier shall~~and~~ submit a report to the Director in the format specified by the Director~~in Appendix A~~ by March 1 of each year.

b) A health carrier must file with the Director for approval sample copies of:

1) All notices~~Notices~~ and forms that carriers must provide to covered persons under~~required to file for a right to external review as set forth within~~ Sections~~Section~~ 20, 25,~~ and Section~~ 35, 40 and 42 of the Act. In addition to those statutory requirements, the following information must be included on notices sent to members in response to member appeals:

A) All notices and forms must prominently display the name, address, toll-free phone number, fax number and appeal email address of the carrier or administrator that handles appeals;

B) All notices and forms shall be specific and limited to information regarding appeals and external review procedures for the member's plan;

C) All notices shall state the number of levels of appeals available (no more than two levels for group and one level for individual) under the plan and will state which level of appeal is applicable to the adverse determination within the notice;

D) All notices shall inform covered persons that the deadlines for filing an appeal or external review request are not postponed or delayed by health care provider appeals unless the health care provider is acting as an authorized representative for the covered person; i.e., the covered person should be filing internal appeals independently and concurrently unless the health care provider has been designated in writing as the authorized representative;

E) All notices shall indicate whether the adverse determination relates to a member appeal (filed by the member or authorized representative who may be the health care provider) or a provider appeal (pursuant to the provider contract) and shall explain timeframes remaining for a member to appeal and to file an external review;

F) Upon exhaustion of provider appeals, the notice (which is copied to the member) shall specify timeframes remaining for the member to file an appeal or file an external review;

G) Upon exhaustion of internal appeals by the member, the final adverse determination notice shall clearly state that it is the final adverse determination, that all internal appeals have been exhausted, and that the member has 4 months from the date of the letter to file an external review;

H) All notices shall include the following contact information for the Department of Insurance:

Illinois Departments of Insurance
Office of Consumer Health Insurance
External Review Unit
320 W. Washington Street
Springfield IL 62767
Toll-free Telephone: (877) 850-4740

Fax: (217) 557-8495
Email: doi.externalreview@illinois.gov
Website: https://mc.insurance.illinois.gov/messagecenter.nsf

2) Descriptions for both the required standard external review and expedited external review procedures as set forth within Section 20 of the Act.

3) Statements informing the covered person and any authorized representative that a standard external review request deemed to be ineligible for review by the plan or its representative may be appealed to the Director by filing a complaint with the Director. The health carrier shall use the following address and provide the following contact information when directing the covered person or authorized representative to appeal initial determinations of ineligibility for standard external review:

The Illinois Department of Insurance
Office of Consumer Health Insurance
External Review Unit~~Standard External Review~~
320 West Washington Street
Springfield IL~~Illinois~~ 62767
Toll-free~~Toll Free~~ Telephone: (877) 527-9431
Fax: (217) 557-8495
Email: doi.externalreview@illinois.gov
~~http://insurance.illinois.gov/Complaints/file_complaint.asp (E-mail)~~
Website: https://mc.insurance.illinois.gov/messagecenter.nsf

4) Statements informing the covered person and any authorized representative that an expedited external review request deemed to be ineligible for review by the plan or its representative may be appealed to the Director by filing a complaint with the Director. The health carrier shall use the following address when directing the covered person or authorized representative to appeal initial determinations of ineligibility for expedited external review:

The Illinois Department of Insurance
Office of Consumer Health Insurance
External Review Unit~~Expedited External Review~~

320 West Washington Street
Springfield IL~~, Illinois~~ 62767
Toll-free Telephone: (877) 850-4740~~Toll Free Telephone: (877) 527-9431~~
Fax: (217) 557-8495
Email: doi.externalreview@illinois.gov
~~http://insurance.illinois.gov/Complaints/file_complaint.asp (E-mail)~~
Website: https://mc.insurance.illinois.gov/messagecenter.nsf

~~5) Notification (until July 1, 2013) that if an external independent review decision made pursuant to the Act upholds a determination adverse to the covered person, the covered person has the right to appeal the final decision to the Department. The Director may overturn the external review decision and require the health carrier to pay for the health care service or treatment. If an external review decision is overturned by the Director and the health carrier so requests, then the Director shall assign a new independent review organization to reconsider the overturned decision. The health carrier shall use the following address when directing the covered person to appeal the final decision to the Department:~~

~~The Illinois Department of Insurance~~
~~Office of Consumer Health Insurance~~
~~Illinois Health Carrier External Review – Director Appeals~~
~~320 West Washington Street~~
~~Springfield, Illinois 62767~~
~~http://insurance.illinois.gov/Complaints/file_complaint.asp (E-mail)~~
~~Toll Free Telephone: (877) 527-9431~~

5) Special Rules for Multi-State Plans Under the Marketplace
Pursuant to the U.S. Office of Personnel Management's (OPM) Multi-State Plan Program regulation at 45 CFR 800.5023, OPM administers the External Review Process for disputed adverse benefit determinations submitted by enrollees in Multi-State Plan health insurance options.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 5430.50 Independent Review Organization Obligations

a) An independent review organization may not conduct external independent reviews of adverse determinations for persons subject to Section 15 of the Act unless the independent review organization has first registered with the Director. An application for registration shall be in the format set forth in Appendix D.

b) An independent review organization must secure and maintain a current certificate of accreditation by the American Accreditation Healthcare Commission (URAC) under applicable standards for Independent Review Organizations.

c) Each independent review organization shall provide a written notice as set forth in Appendix B and Appendix C, explaining its decision to uphold or reverse adverse or final adverse determinations to the health carrier, the covered person, and, if applicable, the covered person's authorized representative.

d) Each independent review organization shall maintain written records in the aggregate, by state, and by health carrier on all requests for external review for which it conducted an external review during a calendar year and submit a report in the format specified by the Director by March 1 of each year. The independent review organization shall retain the written records required under the Act for at least three years.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 5430.90 Random Selection of IROs by Director

The assignment by the Director of an approved independent review organization to conduct an external review in accordance with the Act shall be done on a random basis among those independent review organizations approved by the Director. Random selection shall be done on a computerized rotation basis; notwithstanding special circumstances in which an expedited review is requested and location of the independent review organization (time zones) may be taken into account to facilitate the review process.

(Source: Added at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 5430.APPENDIX A External Review Annual Report Form (Repealed)

~~External Review Annual Report Form~~
~~Due on or before March 1~~

~~Health Carrier:~~ _____ ~~Filing Date:~~ _____

~~FEIN:~~ _____

~~Address:~~ _____

~~City:~~ _____ ~~State:~~ _____ ~~Zip Code:~~ _____

~~IRO Website:~~ _____

~~Name of Person Completing this Form:~~ _____

~~Phone Number:~~ _____ ~~Fax Number:~~ _____

~~Email:~~ _____

~~Address:~~ _____

~~City:~~ _____ ~~State:~~ _____ ~~Zip Code:~~ _____

~~Name and title of person responsible for regulatory compliance and quality of external reviews:~~

~~Name:~~ _____ ~~Title:~~ _____

~~FOR PERSONS COVERED UNDER CONTRACTS ISSUED OR SITUSED IN THE STATE OF ILLINOIS:~~

~~1. Total number of requests for external review~~ _____

~~2. Total number of requests for expedited external review~~ _____

~~3. Total number of requests for expedited external review denied~~ _____

~~4. Total number of requests for expedited external review resolved~~ _____

~~a. Total number of requests for external review resolved upholding the adverse determination or final adverse determination~~ _____

~~b. Total number of requests for external review resolved reversing the adverse determination or final adverse determination~~ _____

~~c. Total number of requests for expedited external review resolved upholding the adverse determination or final adverse determination~~ _____

~~d. Total number of requests for expedited external review resolved reversing the adverse determination or final adverse determination~~ _____

~~5. The average length of time for resolution for an external review~~ _____

~~6. The average length of time for resolution for an expedited external review~~ _____

~~7. A summary of the types of coverages or cases for which an external review was sought, as specified below:~~

~~a. Denial of care or treatment (dissatisfaction regarding prospective non-authorization of a request for care or treatment recommended by a provider excluding diagnostic procedures and referral requests; partial approvals and care terminations are also considered to be denials)~~ _____

~~b. Denial of diagnostic procedure (dissatisfaction regarding prospective non-authorization of a request for a diagnostic procedure recommended by a provider; partial approvals are also considered to be denials)~~ _____

~~c. Denial of referral request (dissatisfaction regarding non-authorization of a request for a referral to another provider recommended by a PCP)~~ _____

~~d.~~ ~~Claims and utilization review (dissatisfaction regarding the concurrent or retrospective evaluation of the coverage, medical necessity, efficiency or appropriateness of health care services or treatment plans; prospective "Denials of care or treatment", "Denials of diagnostic procedures" and "Denials of referral requests" should not be classified in this category, but the appropriate one above)~~ _____

~~8.~~ ~~The number of external reviews that were terminated as the result of a reconsideration by the health carrier of its adverse determination or final adverse determination after the receipt of additional information from the covered person or the covered person's authorized representative~~ _____

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 5430.APPENDIX B IRO Notice of Decision Template – Non-Experimental and Investigational

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[Independent Review Organization Letterhead]

Notice of Independent Review Decision

[Date of the Notice of the Decision]

Re: IRO Case #:
[Name of Patient]

[Name of IRO] has been certified, by the Illinois Department of Insurance (DOI) as an Independent Review Organization (IRO). The Illinois Department of Insurance~~[Name of Health Carrier]~~ has assigned this case to us for independent review in accordance with the Illinois Insurance Code and applicable regulations.

The IRO has performed an independent review of the proposed/rendered care to determine if the adverse determination was appropriate. In the performance of the review, the IRO reviewed the medical records and documentation provided to the IRO by involved parties.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

IRO NOTICE OF DECISION TEMPLATE

This case was reviewed by a [Specialty of Reviewing Physician or Health Care Provider]. The reviewer has made a good faith effort to check for the existence of any potential conflicts of interest and has signed a certification stating that no known conflicts of interest exist between the reviewer and the patient, the patient's insurance carrier, the utilization review agent (URA), any of the treating physicians or health care providers who provided care to the patient, or the URA or insurance carrier health care providers who reviewed the case for a decision regarding medical necessity before referral to the IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

As an officer of [Name of IRO] I certify that:

1. there is no known conflict between the reviewer, the IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute, and

2. a copy of this IRO decision was sent to the covered person and, if applicable, his or her authorized representative on [Date].

Sincerely,

[Name of IRO Representative]
[Title]

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

IRO REVIEWER REPORT TEMPLATE
GENERAL

Date that the IRO Received the Assignment:

Date of Review:

Date of IRO's Decision:

Time Period for which the Review Was Conducted:

IRO Case #:

A General Description of the Reason for the Request for External Review:

A Description of the Qualifications for Each Physician or Other Health Care Provider Who Reviewed the Decision:

Review Outcome:

Upon independent review the reviewer finds that the previous adverse determination/adverse determinations should be:

☐ Upheld (Agree)

☐ Overturned (Disagree)

☐ Partially Overturned (Agree in part/Disagree in part)

Provide a description of the review outcome that clearly states whether or not medical necessity exists for each of the health care services in dispute.

Information Provided to the IRO for Review:

Description of the Covered Person's History (Summary):

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Principal Reason or Reasons for its Decision, Including Clinical Basis, Findings and Conclusions Used to Support the Decision:

Rationale for Decision:

A Description and the Source of the Screening Criteria or Other Clinical Basis Used to Make the Decision:

☐ Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

☐ Peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia, and other medical literature that meets the criteria of the National Institutes of Health's Library of Medicine for indexing in Index Medicus (Medline) and Elsevier Science Ltd. for indexing in Excerpta Medicus (EMBASE);

☐ Medical journals recognized by the Secretary of Health and Human Services under section 1861(t)(2) of the federal Social Security Act;

☐ The following standard reference compendia:

a. The American Hospital Formulary Service Drug Information;
b. Drug Facts and Comparisons;
c. The American Dental Association Accepted Dental Therapeutics; and
d. The United States Pharmacopoeia Drug Information;

☐ Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including:

a. The federal Agency for Healthcare Research and Quality;
b. The National Institutes of Health;
c. The National Cancer Institute;

d. The National Academy of Sciences;
e. The Centers for Medicare & Medicaid Services;
f. The federal Food and Drug Administration; and
g. Any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health care services; or

☐ Any other medical or scientific evidence that is comparable to the sources listed above (Provide a Description).

Medical necessity determinations for substance use disorders shall be made in accordance with appropriate patient placement criteria established by the American Society of Addiction Medicine pursuant to Section 370(b)(3) of the Illinois Insurance Code [215 ILCS 5].

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 5430.APPENDIX C IRO Notice of Decision Template – Experimental and Investigational

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[Independent Review Organization Letterhead]

Notice of Independent Review Decision

[Date of the Notice of the Decision]

RE: IRO Case #:
[Name of Patient]

[Name of IRO] has been certified, by the Illinois Department of Insurance (DOI) as an Independent Review Organization (IRO). Illinois Department of Insurance~~[Name of Health Carrier]~~ has assigned this case to us for independent review in accordance with the Illinois Insurance Code and applicable regulations.

The IRO has performed an independent review of the proposed/rendered care to determine if the adverse determination was appropriate. In the performance of the review, the IRO reviewed the medical records and documentation provided to the IRO by involved parties.

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

IRO NOTICE OF DECISION TEMPLATE

This case was reviewed by a [Specialty of Reviewing Physician or Health Care Provider]. The reviewer has made a good faith effort to check for the existence of any potential conflicts of interest and has signed a certification stating that no known conflicts of interest exist between the reviewer and the patient, the patient's insurance carrier, the utilization review agent (URA), any of the treating physicians or health care providers who provided care to the patient, or the URA or insurance carrier health care providers who reviewed the case for a decision regarding medical necessity before referral to the IRO. In addition, the reviewer has certified that the review was performed without bias for or against any party to the dispute.

As an officer of [Name of IRO] I certify that:

1. there is no known conflict between the reviewer, the IRO and/or any officer/employee of the IRO with any person or entity that is a party to the dispute, and

2. a copy of this IRO decision was sent to all of the parties via U.S. Postal Service or otherwise transmitted in the manner indicated above on [Date].

Sincerely,

[Name of IRO Representative]
[Title]

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

IRO REVIEWER REPORT TEMPLATE
EXPERIMENTAL OR INVESTIGATIONAL

Date that the IRO Received the Assignment:

Date of Review:

Date of IRO's Decision:

Time Period for which the Review Was Conducted:

IRO Case #:

A General Description of the Reason for the Request for External Review:

A Description of the Qualifications for Each Physician or Other Health Care Provider Who Reviewed the Decision:

Review Outcome:

Upon independent review the reviewer finds that the previous adverse determination/adverse determinations should be:

☐ Upheld (Agree)

☐ Overturned (Disagree)

☐ Partially Overturned (Agree in part/Disagree in part)

Provide a description of the review outcome that clearly states whether or not medical necessity exists for each of the health care services in dispute.

Information Provided to the IRO for Review:

Description of the Covered Person's History (Summary):

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Principal Reason or Reasons for its Decision Including Clinical Basis, Findings and Conclusions Used to Support the Decision:

Rationale for Decision:

A Description and the Source of the Screening Criteria or Other Clinical Basis Used to Make the Decision:

☐ Peer-reviewed scientific studies published in or accepted for publication by medical journals that meet nationally recognized requirements for scientific manuscripts and that submit most of their published articles for review by experts who are not part of the editorial staff;

☐ Peer-reviewed medical literature, including literature relating to therapies reviewed and approved by a qualified institutional review board, biomedical compendia, and other medical literature that meets the criteria of the National Institutes of Health's Library of Medicine for indexing in Index Medicus (Medline) and Elsevier Science Ltd. for indexing in Excerpta Medicus (EMBASE);

☐ Medical journals recognized by the Secretary of Health and Human Services under section 1861(t)(2) of the federal Social Security Act;

☐ The following standard reference compendia:

a. The American Hospital Formulary Service Drug Information;
b. Drug Facts and Comparisons;
c. The American Dental Association Accepted Dental Therapeutics; and
d. The United States Pharmacopoeia Drug Information;

☐ Findings, studies, or research conducted by or under the auspices of federal government agencies and nationally recognized federal research institutes, including:

a. The federal Agency for Healthcare Research and Quality;
b. The National Institutes of Health;
c. The National Cancer Institute;
d. The National Academy of Sciences;
e. The Centers for Medicare & Medicaid Services;
f. The federal Food and Drug Administration; and
g. Any national board recognized by the National Institutes of Health for the purpose of evaluating the medical value of health care services; or

☐ Any other medical or scientific evidence that is comparable to the sources listed above (Provide a Description).

Medical necessity determinations for substance use disorders shall be made in accordance with appropriate patient placement criteria established by the American Society of Addiction Medicine pursuant to Section 370(b)(3) of the Illinois Insurance Code [215 ILCS 5].

Description of the Covered Person's Medical Condition:

Description of the Indicators Relevant to Whether There Is Sufficient Evidence to Demonstrate That the Recommended or Requested Health Care Service or Treatment Is More Likely To Be More Beneficial to the Covered Person Than Any Available Standard Health Care Services or Treatments and the Adverse Risks of the Recommended or Requested Health Care Service or Treatment Would Not Be Substantially Increased Over Those of Available Standard Health Care Services or Treatments:

Description and Analysis of Any Medical or Scientific Evidence Considered in Reaching the Opinion:

Description and Analysis of Any Evidence-based Standards:

Whether the Recommended or Requested Health Care Service or Treatment Has Been Approved by the Federal Food and Drug Administration for the Condition:

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Whether Medical or Scientific Evidence or Evidence-based Standards Demonstrate That the Expected Benefits of the Recommended or Requested Health Care Service or Treatment Is More Likely To Be More Beneficial to the Covered Person Than Any Available Standard Health Care Service or Treatment and the Adverse Risks of the Recommended or Requested Health Care Service or Treatment Would Not Be Substantially Increased Over Those of Available Standard Health Care Services or Treatments:

The Written Opinion of the Clinical Reviewer, Including the Reviewer's Recommendation as to Whether the Recommended or Requested Health Care Service or Treatment Should Be Covered and the Rationale for the Reviewer's Recommendation:

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 5430.APPENDIX D Independent Review Organizations – Application for Registration

INDEPENDENT REVIEW ORGANIZATION
Registration Form

[Today's Date]

1. Name of Independent Review Organization _____

DBA _____

Type of Applicant (check one):

☐ Corporation

☐ Partnership

☐ Limited Liability

☐ Other (Describe)_____

FEIN: _____

Contact Person:_____

Business Telephone Number: ( ) _____

Fax Number: ( ) _____

Email Address: _____

2. Business Address:

Street (Do Not Use P.O. Box): _____

City: _____

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

State: _____ Zip: _____

Telephone Number: ( ) _____

Website: _____

3. Mailing Address (If Different from Business Address):

Street (Do Not Use P.O. Box): _____

City: _____

State: _____ Zip: _____

4. Contact Information To Be Used on the Department's Website of Approved Independent Review Organizations:

Contact Person: _____

Business Telephone Number: ( ) _____

Fax Number: ( ) _____

Street (Do Not Use P.O. Box): _____

City: _____

State: _____ Zip: _____

5. Agent for Service of Process in Illinois Department of Insurance:

Name _____

Street (Do Not Use P.O. Box): _____

City: _____

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

State: _____ Zip: _____

6. For Each Independent Review Program supply the following information:

a. The name, address, telephone number and hours of operation for the independent review program.

b. The organization and governing structure of the independent review program.

c. The number of reviews in Illinois for which an independent review is conducted by each independent review program for the current year.

d. Number of reviews in Illinois for which an independent review was conducted for the previous calendar year for each independent review program.

e. A copy of your most recent certificate from American Accreditation Healthcare Commission (URAC) Standards for Independent Review Organizations, if applicable.

f. Written policies and procedures for protection of confidential information according to applicable State and federal laws for each independent review program.

g. Biographical information for organization officers and directors. Biographical affidavits shall be stamped "confidential" by the independent review organization (form required by Appendix F).

h. A list of all contracted reviewers, the physician's license number of each reviewer and his or her contact information and area of clinical expertise.

i. All information required in 7 below.

7. Minimum Qualifications for Independent Review Organizations:

a. To be approved to conduct external reviews, an independent review organization shall have and maintain written policies and procedures that govern all aspects of

both the standard external review process and the expedited external review process set forth in the Act that include, at a minimum:

i. A quality assurance mechanism that ensures that:

A. External reviews are conducted within the specified timeframes and required notices are provided in a timely manner;

B. Selection of qualified and impartial clinical reviewers to conduct external reviews on behalf of the IRO and suitable matching of reviewers to specific cases and that the independent review organization employs or contracts with an adequate number of clinical reviewers to meet this objective;

C. For adverse determinations involving experimental or investigational treatments, in assigning clinical reviewers, the independent review organization selects physicians or other health care professionals who, through clinical experience in the past 3 years, are experts in the treatment of the covered person's condition and knowledgeable about the recommended or requested health care service or treatment;

D. The health carrier, the covered person, and the covered person's authorized representative shall not choose or control the choice of the physicians or other health care professionals to be selected to conduct the external review;

E. Confidentiality of medical and treatment records and clinical review criteria;~~ and~~

F. Any person employed by or under contract with the independent review organization adheres to the requirements of the Act;

ii. A toll-free telephone service and email address operating~~operating~~ on a 24 hours/day, 7 days/week basis that accepts, receives, and records information related to external reviews and provides appropriate instructions;~~ and~~

iii. Name, phone number and direct email address of contact persons who will be responsible for handling assignments of external reviews; and

iv~~iii~~. An agreement to maintain and provide to the Director the information set out in Section 65 of the Act.

b. All clinical reviewers assigned by an independent review organization to conduct external reviews shall be physicians or other appropriate health care providers who meet the following minimum qualifications:

i. Be an expert in the treatment of the covered person's medical condition that is the subject of the external review;

ii. Be knowledgeable about the recommended health care service or treatment through recent or current actual clinical experience treating patients with the same or similar medical condition as the covered person;

iii. Hold a non-restricted license in a state of the United States and, for physicians, a current certification by a recognized American medical specialty board in the area or areas appropriate to the subject of the external review; and

iv. Have no history of disciplinary actions or sanctions, including loss of staff privileges or participation restrictions, that have been taken or are pending by any hospital, governmental agency or unit, or regulatory body that raise a substantial question as to the clinical reviewer's physical, mental, or professional competence or moral character.

c. In addition to the requirements set forth in subsection (a), an independent review organization may not own or control, be a subsidiary of, or in any way be owned or controlled by, or exercise control with, a health benefit plan, a national, State, or local trade association of health benefit plans, or a national, State, or local trade association of health care providers.

d. Conflicts of interest are prohibited. In addition to the requirements set forth in 7a, 7b and 7c of this Section, to be approved pursuant to the Act to conduct an external review of a specified case, neither the independent review organization selected to conduct the external review nor any clinical reviewer assigned by the

IRO to conduct the external review may have a material professional, familial or financial conflict of interest with any of the following:

i. The health carrier that is the subject of the external review;

ii. The covered person whose treatment is the subject of the external review or the covered person's authorized representative;

iii. Any officer, director or management employee of the health carrier that is the subject of the external review;

iv. The health care provider, the health care provider's medical group or independent practice association recommending the health care service or treatment that is the subject of the external review;

v. The facility at which the recommended health care service or treatment would be provided; or

vi. The developer or manufacturer of the principal drug, device, procedure, or other therapy being recommended for the covered person whose treatment is the subject of the external review.

e. An independent review organization shall be unbiased. An IRO shall establish and maintain written procedures to ensure that it is unbiased in addition to any other procedures required under this Section.

f. Nothing in this Section precludes or shall be interpreted to preclude a health carrier from contracting with approved independent review organizations to conduct external reviews assigned to it from the health carrier.

g. An independent review organization that meets or exceeds the accreditation standards for Independent Review Organizations set forth by the American Accreditation Healthcare Commission (URAC) and otherwise meets the qualifications of this Section shall be presumed to be in compliance with this Section and shall be eligible for approval.

8. Check Enclosed (Please make checks payable to Director of Insurance)

a. Accredited entity fee of $1000 biennially.

b. Unaccredited entity fee of $1500 biennially in the event that the Director determines that there are no acceptable nationally recognized private accrediting entities providing independent review organization accreditation.

9. Affirmation (to be signed by an officer or director of the independent review organization only):

I, _____ do hereby certify that
(Typed name, title)

_____
(Independent Review Organization)

complies with the Independent Review Organization Standards of the American Accreditation Healthcare Commission (URAC) and has submitted evidence of accreditation by URAC for Independent Review, and that the persons responsible for the conduct of _____
(Independent Review Organization)

are competent, trustworthy, and possess good reputations, and have appropriate experience, training or education and do hereby affirm that all of the information presented in this application is true and correct.

_____ _____
(Signature) (Date)

Please mail completed application to:
Illinois Department of Insurance
Utilization Review Unit
320 West Washington Street
Springfield IL 62767-0001
(217) 558-2309

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

Section 5430.APPENDIX E Independent Review Organizations – Application for Reapproving Independent Review Organizations

INDEPENDENT REVIEW ORGANIZATION
Renewal Registration Form

[Today's Date]

Company Name: _____

FEIN: _____

Contact Person: _____

Telephone: ( ) _____

Email Address: _____

Street Address: _____

City, State, Zip: _____

Renewal registration for Independent Review Organization covering period __/__/__ through __/__/__.

Instructions for completing renewal registration:

1. Please verify all information regarding company name, contact person and address to be complete and accurate; ~~and~~

2. Submit a current copy of the applicable accreditation certificate from the American Accreditation Healthcare Commission (URAC) if applicable; ~~and~~

3. Submit any material changes to the information filed under your prior registration:; ~~and~~

   a. Verify toll-free telephone service and email address operating on a 24 hours/day, 7 days/week basis that accepts, receives and records

information related to external reviews and provides appropriate instructions;

b. Verify name, phone number and direct email address of contact persons who will be responsible for handling assignments of external reviews;

4. Submit a check for renewal registration: $1000 if your company is accredited by URAC. In the event that the Director determines that there are no acceptable nationally recognized private accrediting entities providing independent review organization accreditation, a renewal fee of $1500; and

5. Affirmation (to be signed by an officer or director of the independent review organization only):

I, _____ do hereby certify that
(Typed name, title)

_____
(Independent Review Organization)

complies with the Independent Review Organization Accreditation Standards of the American Accreditation Healthcare Commission (URAC) and has submitted evidence of accreditation by URAC for Independent Review, and that the persons responsible for the conduct of _____
(Independent Review Organization)

are competent, trustworthy, and possess good reputations, and have appropriate experience, training or education and do hereby affirm that all of the information presented in this application is true and correct.

_____ _____
(Signature) (Date)

Please mail completed renewal application to:
Illinois Department of Insurance
Utilization Review Unit
320 West Washington Street
Springfield IL 62767-0001
(217) 558-2309

DEPARTMENT OF INSURANCE

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 38 Ill. Reg. _____, effective _____)

ILLINOIS LIQUOR CONTROL COMISSION

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: The Illinois Liquor Control Commission

2) Code Citation: 11 Ill. Adm. Code 100

3)

Section Numbers:	Proposed Action:
100.15	New Section
100.90	Amendment
100.250	Amendment
100.255	New Section
100.270	Amendment
100.275	New Section
100.285	New Section
100.325	New Section
100.326	New Section
100.410	New Section
100.420	New Section
100.430	New Section
100.460	New Section
100.480	New Section

4) Statutory Authority: Implementing and authorized by Section 3-12(a)(2) of the Liquor Control Act [235 ILCS 5/3-12(a)(2)]

5) A Complete Description of the Subjects and Issues Involved: The proposed rules define "alcoholic liquor" and the scope of the Illinois Liquor Control Act as it pertains to products and persons. (15)

The proposed rules will modify the current rule on Credit to Retail Licensees by clarifying certain definitions, introducing new provisions for checks that do not have sufficient funds when cashed, and modifying privileges pertaining to electronic transfers. (90)

The proposed rules will clarify the intention of the legislature behind the "Three-Tier" system that retailers must purchase alcoholic liquor from licensed distributors only. Retailers may not purchase alcoholic liquors from other retailers or manufacturers unless exempt. Retailers also may not sell alcoholic liquor for future or subsequent resale. (250)

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The proposed rules prohibit the storage of alcoholic liquor at any location other than the retail licensed premises. This prohibits distributors from delivering to alternate delivery sites or for alternate retail locations. (255)

The proposed rules remove the requirement for multi-use facilities to invoice and store their alcoholic liquor separately within one central location by State liquor license number for investigative purposes. (270)

The proposed rules clarify the requirements for hotels/motels to be permitted to sell alcohol via mini bars and room service. (275)

The proposed rules will outline guidelines to regulate product tastings, samplings, and test marketing with regards to serving amounts, entrance fees, tracking, extraneous materials, licenses, and general operation. (285)

The proposed rules delineate the jurisdictions of state and local regulative bodies as they pertain to boat licenses and establish requirements of boat liquor license holders. (325)

The proposed rules define an "auction liquor license" and delineate the privileges it grants. (326)

Per the Open Meetings Act [5 ILCS 120] and the proposed rules, Commissioners may attend meetings through audio or video teleconferencing under certain conditions noted in the rule. Furthermore, the proposed rules will permit public attendance and comment at Commission meetings. (410)

The proposed rules list the conditions that must be met before in-state and out-of-state makers of wine can be permitted to sell their own manufactured wine direct to retail license holders. (420)

The proposed rules list the conditions that must be met before in-state and out-of-state makers of beer can be permitted to sell their own manufactured beer direct to retail license holders. (430)

The proposed rules will remove the ambiguity of the Illinois Liquor Control Act's license eligibility statute by stating that the owners/officers/members of a revoked corporation, limited liability company, etc., are considered revoked persons in the same capacity as the revoked business entity. (460)

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The proposed rules prohibit the importation of alcoholic liquor into Illinois for a non-personal or commercial use without first obtaining a license to import issued by the Commission, and these proposed rules list the conditions under which this may be permitted. (480)

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace an emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking does not adversely affect units of local government. It simply authenticates trade practices that are already in place.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: A 45-day written comment period will begin on the day the Notice of Proposed Amendment appears in the *Illinois Register*. Please mail written comments on this rulemaking to the attention of:

Richard Haymaker
Liquor Control Commission
100 W. Randolph, Suite 7-801
Chicago IL 60601

312/814-1804

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking will affect holders of retail liquor licenses.

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

C) Types of Professional skills necessary for compliance: None

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14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

ILLINOIS LIQUOR CONTROL COMISSION

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, ~~AND~~ LOTTERY, AND VIDEO GAMING
SUBTITLE A: ALCOHOL
CHAPTER I: ILLINOIS LIQUOR CONTROL COMMISSION

PART 100
THE ILLINOIS LIQUOR CONTROL COMMISSION

Section	
100.5	Penalties
100.10	Definitions
100.15	Regulation of Low Alcoholic Content Products
100.20	Employment of Minors
100.30	Violation of Federal Law, State Statute or City, Village or County Ordinance or Regulation
100.40	Registration of Tasting Representatives
100.50	Advertising
100.60	Geographical Territories
100.70	Labels
100.80	Bonds (Repealed)
100.90	Credit to Retail Licensees
100.100	Internal Changes Within Corporations
100.110	Application Forms
100.120	Railroad Licenses
100.130	Books and Records
100.140	Miniatures (Repealed)
100.150	Salvaged Alcoholic Liquors
100.160	Sanitation
100.170	Taps
100.180	Procedure Before Commission on Citations
100.190	Procedure Before Commission on Request for Continuance of Any Hearing
100.200	Wagering Stamps (Repealed)
100.210	Inducements
100.220	Retail Licensee Clubs (Repealed)
100.230	Resumption of Business on Appeal
100.240	Transactions Involving Use of Checks and Their Equivalent (Repealed)
100.250	Transfer of Alcohol
100.255	Off-Premises Retail Warehousing Prohibited
100.260	Uniform Systems of Accounts
100.270	Multi-Use Facilities

ILLINOIS LIQUOR CONTROL COMISSION

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100.275	Hotel/Motel Mini Bars and Room Service
100.280	Giving Away of Alcoholic Liquors
100.285	Tastings, Product Samplings and Test Marketing
100.290	Refilling
100.300	Authorization to Remove Bottles
100.310	Food Service at Park Districts
100.320	Airplanes
100.325	Boats/Riverboat Gaming
100.326	Auction Liquor Licenses
100.330	Advertising
100.340	Petitions for the Adoption, Amendment or Repeal of a Rule
100.350	Procedures For Filing Appeals From an Order of the Local Liquor Control Commissioner
100.360	Review on Record – Certification of Ordinance
100.370	Procedures Before the Commission
100.380	Ex Parte Consultations
100.390	Transcripts – Administrative Review
100.400	Procedures Before the Commission on Disputes under Section 35 of the Illinois Wine and Spirits Industry Fair Dealing Act (Repealed)
100.410	Commission Meetings~~Representation of Licensees Before the Commission (Repealed)~~
100.420	Wine Maker Self-Distribution
100.430	Craft Brewer Self-Distribution
100.460	Revoked License
100.480	Importation of Alcoholic Liquor

AUTHORITY: Implementing and authorized by Section 3-12(a)(2) of the Liquor Control Act [235 ILCS 5/3-12(a)(2)].

SOURCE: Rules and Regulations of the Illinois Liquor Commission, amended March 31, 1977; amended July 7, 1977; amended at 3 Ill. Reg. 12, p. 65, effective March 22, 1979; codified at 5 Ill. Reg. 10706; amended at 8 Ill. Reg. 6041, effective April 19, 1984; amended at 12 Ill. Reg. 19387, effective November 7, 1988; amended at 18 Ill. Reg. 4811, effective March 9, 1994; amended at 20 Ill. Reg. 834, effective January 2, 1996; expedited correction at 20 Ill. Reg. 4469, effective January 2, 1996; amended at 21 Ill. Reg. 5542, effective May 1, 1997; amended at 23 Ill. Reg. 3787, effective March 15, 1999; emergency amendment at 23 Ill. Reg. 8687, effective July 13, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13609, effective October 28, 1999; amended at 25 Ill. Reg. 13596, effective October 15, 2001; amended at 26 Ill. Reg. 17966,

effective December 9, 2002; amended at 27 Ill. Reg. 17386, effective November 10, 2003; amended at 38 Ill. Reg. _____, effective _____.

Section 100.15 Regulation of Low Alcoholic Content Products

a) *"Alcoholic liquor" 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. The provisions of the Act shall not apply to alcohol used in the manufacture of denatured alcohol produced in accordance with Acts of Congress and regulations promulgated* under those Acts, *nor to any liquid or solid containing .5% or less of alcohol by volume.* [235 ILCS 5/1-3.05]

b) No person solely engaged in the manufacture, importation, distribution or sale of products containing .5% or less of alcohol by volume is subject to the provisions of the Liquor Control Act.

c) A person engaged in the manufacture, importation, distribution or sale of both alcoholic liquor and non-alcoholic liquor products will be subject to the provisions of the Act with respect to the manufacture, sale and distribution of alcoholic liquor. The Commission has no authority to regulate with respect to the manufacture, distribution or sale of non-alcoholic liquor unless the person uses the non-alcoholic liquor products in a manner that violates the Act.

d) Frozen Products – Frozen products that could be consumed as a beverage in their natural unfrozen state and contain more than .5% alcohol by volume are included in the category of products to be regulated by the Act.

e) Confectionary Products – Confectionary products that contain more than .5% alcohol by volume and are not intended to be consumed as a beverage are not included in the category of products to be regulated by the Act. Confectionary products that contain 5% or more alcohol by volume are considered "adulterated food" under the provisions of the Illinois Food, Drug and Cosmetics Act [410 ILCS 620/10(c)].

f) "Beer" as defined by the Beer Industry Fair Dealing Act [815 ILCS 720] includes "beer" containing .5% or less of alcohol by volume and is marketed for adult consumption as an alternative beverage to beer. Per the definition of "alcoholic

liquor" in the Act, beer containing .5% alcohol by volume or less is not subject to the Act.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 100.90 Credit to Retail Licensees

The following rule shall govern in the application of the provisions of Section 6-5 of the Act [235 ILCS 5/6-5] relating to extension of credit to retail licensees by manufacturers, distributors and manufacturers with limited self-distribution privileges~~importing distributors~~:

a) When~~Where~~ two or more retail licensees are controlled by common ownership and one or more of the retail licensees becomes delinquent, all retail licensees under the common ownership shall be deemed delinquent. "Common ownership" shall be any ownership interest of more than 5% of the total ownership interests in each retailer.

b) In totaling the 30 day period for the purpose of determining the delinquency of a retailer~~retail licensee~~, the first day shall be the day immediately following the date of the invoice of the purchase in question, if the invoice date and delivery are the same, and on the delivery date if the invoice is dated before the date of delivery, and all successive days shall be included, Sunday as well as holidays, up to and including the thirtieth successive day.

~~c) Payment by check on or before the thirtieth day following the date of the invoice shall be considered payment, providing the check is deposited and cleared within the period prescribed by the ordinary course of business.~~

c)~~d)~~ When~~Where~~ a bona fide sale of a retail business occurs, the purchaser shall not be deemed delinquent because of the delinquency of the purchaser's predecessor in interest; however, in the event there is a continuity of interest, direct or indirect, between the seller and the purchaser, including, but not limited to, a change in control of the retailer licensee that requires notification to be filed with either the Commission or any local liquor control commissioner, the latter shall be deemed delinquent in the same manner, and to the same extent, as was the seller. In the event any bankruptcy proceeding is instituted by or against a retail liquor licensee, the "automatic stay" provision of the federal bankruptcy law mandates that the retail liquor licensee not be reported as "delinquent" pursuant to Section 6-5 of the Act. In order for that retail liquor licensee to continue to purchase alcoholic

liquors, although not on credit, the properly filed bankruptcy petition must be served upon the Commission and the Wine and Spirits Distributors of Illinois (WSDI). Upon service of the filed petition on the Commission and WSDI, that retailer shall be automatically suspended from the delinquency list, if the retail liquor licensee was on the list. Additionally, proper service shall automatically suspend the application of the Illinois 30-day credit law (Section 6-5 of the Act) to any importing distributor, distributor or self-distributing manufacturer as to that retailer during the pendency of the bankruptcy petition. Nothing in this Section shall limit or foreclose importing distributors, distributors or self-distributing manufacturers from requiring retailers with pending bankruptcy actions to remit payment for wine and distilled spirits products on a COD or pre-payment prior to delivery basis.

d)~~e)~~ When~~Where~~ there exists a bona fide dispute between the retailer~~retail licensee~~ and the importing distributor, distributor or manufacturer~~wholesale licensee~~ as to the fact of payment for a given sale, the sale in itself shall not be deemed sufficient grounds for considering the retailer~~retail licensee~~ delinquent. Bona fide disputes shall be submitted to the Commission for hearing, which shall be expedited and heard at the next regularly scheduled meeting of the Commission.

e)~~f)~~ When~~Where~~ a retailer~~retail licensee~~ pays a salesman, or other agent of the importing distributor, distributor or manufacturer, ~~wholesaler,~~ the payment shall be deemed effective upon the receipt of the money or check by the salesman or other agent.

f)~~g)~~ When~~Where~~ a retail licensee is deemed delinquent and, therefore, not able to purchase for cash, or otherwise, any alcoholic liquors, the retail licensee may, nevertheless, purchase beer for cash.

g)~~h)~~ Payment received from a delinquent retailer after the first business day of the calendar week and before a verified written statement of delinquency has been submitted to the Commission will entitle the manufacturer, importing distributor or distributor submitting the list to delete that retailer's name from the list.

h)~~i)~~ Determinations of delinquency or non-delinquency shall be made by the Chairman, Executive Director or any individual so authorized by the Chairman or Executive Director on the basis of the verified report of delinquency and any affidavits or counter-affidavits before him or her. Any retail licensee objecting to the~~such~~ determination may request the Commission in writing for a hearing

that~~which~~ will be set at the next regularly scheduled meeting of the Commission.

i)~~j)~~ A copy of any verified written list of delinquencies shall be simultaneously caused to be forwarded to listed~~those~~ retail licensees ~~listed therein~~ by the manufacturer, importing distributor or distributor submitting the list.

j)~~k)~~ Payment in cash by the retail licensee shall mean payment in legal tender as provided by the United States Code, checks (including certified checks, cashier's checks, teller's checks or traveler's checks), debit cards, drafts and electronic transfer of funds, provided the transfer of funds is initiated by an irrevocable payment order on or before the date payment is due~~delivery of the alcoholic liquor~~.

k) Checks are the equivalent of payment in cash so long as they are not post-dated and are deposited by the importing distributor, distributor or manufacturer in the ordinary course of business. For purchases of wine and spirits, a post-dated check cleared prior to the end of the 30-day credit period, including any properly disclosed finance, delivery or other usual and customary charges in the industry, is considered to be a valid payment. An "NSF", void or stop payment check for purchases of wine and spirits that is properly replaced with cash or cash equivalent before the end of the 30-day period, including any properly disclosed usual and customary charges in the industry, is considered a valid payment.

l) Manufacturers, importing distributors or distributors may include finance, delivery and any and all usual and customary charges in the industry on credit issued and not paid and may charge usual and customary charges for NSF, void or stop-payment checks, provided a statement is printed on the original invoice delivered to the retailer at the time the merchandise is received indicating that the usual and customary charges will be assessed, with a statement specifying the terms and amounts of charges imposed. The charges, properly disclosed to the retailer, are considered to be part of the cost of the merchandise sold as of the invoice date and, therefore, the entire amount, including any usual and customary charges, must be paid before the retailer can be considered to be non-delinquent. All such usual and customary charges must be applied uniformly to all retailers.

m) A retailer may not charge a distributor, importing distributor or manufacturer for the costs of electronic transfers, nor may a distributor, importing distributor or manufacturer charge a retailer for the costs of electronic transfers. A retailer may not require a distributor, importing distributor or manufacturer to purchase or

lease any software necessary to effectuate electronic transfers, nor may a distributor, importing distributor or manufacturer require a retailer to purchase or lease software necessary to effectuate electronic transfers. The use of the system must be available, but cannot be mandated as a requirement for conducting business, to all distributors, importing distributors, manufacturers and retailers. The use of a specific Value Added Network (VAN) cannot be mandated; all users of the system must be allowed to transmit information through any VAN. The users of the system must continue to maintain all required records of alcoholic beverage purchases and sales. The Commission shall have access, upon reasonable notice, to the systems for the purpose of inspection and review.

n) The use of electronic fund transfers shall be allowed so long as the transfer of funds is initiated by an irrevocable payment order on or before delivery of the alcoholic liquor and the transfer is supported by appropriate documentation.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 100.250 Transfer of Alcohol

The holder of a retail license for the privilege of selling alcoholic liquors at retail on the premises specified in the license, for use or consumption, is hereby restricted to such sale from the licensed premises only and is not permitted to sell to, purchase from or transfer such alcoholic liquor to any other retail licensee or licensed premises. Unless otherwise permitted under the express approval of the Commission, a retail licensee is strictly limited to purchasing alcoholic liquor from a distributor or person holding a self-distribution exemption in which there is a bona fide transfer of title. This Section does not apply to transactions not in the ordinary course of business, such as a business closure, if prior approval is given by the Commission.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 100.255 Off-Premises Retail Warehousing Prohibited

a) A licensed retailer shall not be permitted to store alcoholic liquor at any location other than the retail licensed premises. For the purposes of the identification of storage areas only, a retail licensed location includes areas that are directly contiguous to the public consumption and/or purchasing areas of the licensed business, including basement areas.

b) Distributors shall not deliver alcoholic liquor to unlicensed locations or to alternate delivery sites.

c) Distributors shall not deliver alcoholic liquor to a retailer for sale by a different retailer or for sale at a different retail location.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 100.270 Multi-Use Facilities

A multi-use facility, such as a hotel, conference center, stadium, or theater, that~~which~~ has been issued more than one local and State liquor license but has an identical Illinois Business Retailer's Occupational Tax number may store alcoholic liquor at one central location within the multi-use facility.~~ The alcoholic liquor shall be invoiced and stored separately within the central location by State liquor license number for investigative purposes.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 100.275 Hotel/Motel Mini Bars and Room Service

To sell alcoholic liquor from mini bars in hotels and motels, the hotel/motel:

a) Shall possess a valid local and State retail liquor license for the entire hotel/motel or as the local commission deems necessary;

b) Shall establish a method of control to prevent the use of the mini bar as a means of over-service or consumption of alcohol by a person under the age of 21;

c) Shall comply with all provisions of the Act, this Part and local liquor control ordinances.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 100.285 Tastings, Product Samplings and Test Marketing

a) "Product Sampling" or "tastings" mean a supervised presentation of alcoholic liquor products to the public at a retailer location for the purpose of disseminating product information and education, with consumption of alcoholic liquor products being an incidental part of the presentation.

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b) Alcoholic liquor product sampling and tastings may be conducted by a manufacturer, non-resident dealer, foreign importer, importing distributor, distributor or retailer or a non-licensee, that complies with Section 100.40 and registers as a tasting representative at retail licensed premises. Only alcoholic liquor products registered with the Commission may be tasted or sampled. Tastings and product sampling may be advertised. The conditions and limitations contained in Section 100.330 and Commission event sponsorship rules shall apply to any manufacturer, non-resident dealer, foreign importer, importing distributor or distributor sponsored tastings or product samplings.

c) Retail premise alcoholic liquor tastings and product samplings, for which there is no charge to the consumer, may be provided in the following amounts: distilled spirits ¼ oz., wine 1 oz. and beer 2 oz.

d) A licensee may not conduct alcoholic liquor tastings or product sampling at a non-licensed premise. Licensed premises include those premises for which a Special Use or Special Event License has been issued by the unit of local government having regulatory authority over the premises pursuant to the Act and the Commission.

e) Cups, napkins, glassware, coasters and trays shall not be deemed to be inside signs or advertising materials and may only be sold to retailers by a manufacturer, non-resident dealer, foreign importer, importing distributor or distributor.

f) If a retailer previously purchased the alcoholic liquor product to be tasted or sampled, a manufacturer, non-resident dealer, foreign importer, importing distributor or distributor may pay for the product at the retailer's original cost. If the manufacturer, non-resident dealer, foreign importer, importing distributor or distributor supplies the alcoholic liquor product for the tasting or sampling, the product remaining after the tasting or sampling must be returned to the manufacturer, non-resident dealer, foreign importer, importing distributor or distributor.

g) Alcoholic liquor product samplings or tastings in which the consumer pays a reasonable entrance fee in relation to the amount of alcoholic liquor available for tasting or sampling is permitted, subject to the following conditions and limitations:

1) The retailer must charge a uniform admission price and is prohibited from treating patrons differently.

2) The retailer must use tickets, punch cards or other such reliable means of tracking the amount of alcoholic liquor purchased and consumed by each attendee.

3) Retailer's legal responsibility service duties remain unchanged with tasting or product sampling events.

4) The retailer must hold an on-premise consumption license issued by both the local governmental unit and the State. However, the license or permit may be a special use or special event license.

h) "Test Marketing" means the testing of new alcoholic liquor products or alcoholic liquor products unfamiliar to the sampler through a marketing firm, or the like. The Commission will grant approval for the test marketing of alcoholic liquor on a case-by-case basis, only upon written request. Requests shall state with specificity the parameters of the testing and shall include, at a minimum, the following information:

1) The name and address of the marketing firm conducting the test marketing.

2) The location where the test marketing will be conducted.

3) The number of participants involved.

4) Representation that the age of the participants is 21 years or older.

5) The duration of the test marketing.

6) The total amount of alcoholic liquor involved in the test marketing and the total amount of alcoholic liquor to be given or furnished to each participant.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 100.325 Boats/Riverboat Gaming

a) *A boat license shall allow the sale of alcoholic liquor in individual drinks on any passenger boat regularly operated as a common carrier on navigable waters in this State or on any riverboat operated under the Riverboat Gambling Act* [230 ILCS 10], if the *boat or riverboat maintains a public dining room or restaurant.* [235 ILCS 5/5-1(g)]

b) The issuance of liquor licenses to navigable boats or to boats licensed under the Riverboat Gambling Act shall be the exclusive right of the Commission.

c) The issuance of liquor licenses to boats permanently attached to a dock or land, except for boats licensed under the Riverboat Gambling Act, shall be subject to local and State dual licensing requirements.

d) The establishment of hours of operation for the sale of alcoholic liquor for boats licensed under the Riverboat Gambling Act shall be the exclusive jurisdiction of the Illinois Gaming Board.

e) All boat liquor license holders, including boats licensed under the Riverboat Gambling Act, shall comply with the Illinois happy hour laws (Section 6-28 of the Act) and Section 100.280, which prohibits any person from giving away alcoholic liquor for a commercial purpose.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 100.326 Auction Liquor Licenses

a) "Auction liquor licensee" *means a person who obtains prior written approval from the Commission to sell or offer for sale at auction, on a specified date, wine or spirits for private use or consumption, or for resale by an Illinois liquor licensee in accordance with the Act.* [235 ILCS 5/1-3.32]

b) A person wishing to apply for an auction liquor license must first become licensed pursuant to the Illinois Auction License Act [225 ILCS 407/5].

c) An auction liquor license shall be obtained at least 14 days in advance of the auction date.

d) An auction liquor license allows the licensee to do the following:

1) sell and offer for sale wine and spirits for use or consumption;

2) sell and offer for sale wine and spirits for resale by an Illinois liquor licensee;

3) hold the auction on a specified day;

4) hold the auction anywhere in the State of Illinois.

e) Approved Sales

1) Private sales;

2) Out-of-state sales;

3) Sale to ultimate consumer;

4) Sale to distributor or retailer for resale.

f) Nothing in this Section shall be construed to permit a retailer, outside the context of a validly licensed auction, to purchase from anyone other than a distributor or person with distribution privileges.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 100.410 Commission Meetings~~Representation of Licensees before the Commission (Repealed)~~

a) The Commission holds meetings and hearings at least monthly in accordance with Section 3-11 of the Act and the Open Meetings Act [5 ILCS 120]. The Commission holds closed meetings pursuant to Section 2a of the Open Meetings Act.

b) Final decisions of the Commission may be made only at meetings or hearings at which a quorum of the Commission is present. The presence of a quorum is required at a meeting in order for the Commission to transact any business.

c) Meetings may be held with the Commission members physically present or present telephonically or through video teleconferencing.

d) Per Section 7 of the Open Meetings Act, if a Commissioner attends a meeting through audio or video conferencing, the following rules shall apply:

1) A quorum of the Commission shall be physically present at the location where the meeting is to be conducted; and

2) The Commissioner is physically prevented from attending because of personal illness or disability, employment purposes or the business of the public body, or a family or other emergency.

e) The limitations set forth in subsection (d) do not apply to closed meetings (see Section 7(d) of the Open Meetings Act).

f) Any person may attend a Commission meeting unless that meeting has been closed by vote of the Commission. A person may make comments at a Commission meeting subject to the following conditions:

1) The person offering the comments has given advance notice to the Commission at least 48 hours prior to the meeting or is otherwise permitted to speak by a majority vote of the Commissioners at the meeting.

2) The person's comments are limited to a reasonable time at the discretion of the Commission Chair or Acting Chair.

3) The person's comments are relevant to a subject matter within the jurisdiction of the Commission or relevant to a subject matter of the Commission meeting agenda.

4) The person's comments are not repetitious or disruptive, as determined by the Commission Chair or Acting Chair.

(Source: Old Section repealed at 26 Ill. Reg. 17966, effective December 9, 2002; new Section added at 38 Ill. Reg. _____, effective _____)

Section 100.420 Wine Maker Self-Distribution

An in-state and out-of-state maker of wine may sell its own manufactured wine directly to retail license holders if it:

a) has been issued a federal Basic Permit to make wine by the Tax and Trade Bureau of the US Department of the Treasury;

b) has been issued a valid wine making license by a licensing authority of any state or territory of the United States;

c) does not hold any other manufacturer's license to make any other type of alcoholic liquor;

d) and its officers, managers, partners, owners who own more than 5% of the maker of wine, and any other affiliated entity or individual person annually produce less 25,000 gallons of wine;

e) and its officers, managers, partners, owners who own more than 5% of the maker of wine, and any other affiliated entity or individual person annually sell 5,000 gallons of wine or less direct to retailers;

f) pays all necessary State of Illinois excise taxes for the manufacture and importation of wine.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 100.430 Craft Brewer Self-Distribution

An in-state and out-of-state maker of beer may sell its own manufactured beer directly to retail license holders if it:

a) has been issued a federal Brewer's Notice to make beer by the Tax and Trade Bureau of the US Department of the Treasury;

b) has been issued a valid beer making license by a licensing authority of any state or territory of the United States;

c) has been issued an Illinois Brewer License or an Illinois Non-resident Dealer License;

d) does not hold any other manufacturer's license to make any other type of alcoholic liquor;

e) and any of its officers, managers, partners, owners who own more than 5% of the brewer, and any other affiliated entity or individual person annually produces less than 930,000 gallons (30,000 barrels) of beer;

f) and any of its officers, managers, partners, owners who own more than 5% of the brewer, and any other affiliated entity or individual person annually sells not more than 232,500 gallons (7500 barrels) of beer direct to retailers;

g) pays all necessary State of Illinois excise taxes for the manufacture and importation of beer;

h) in accordance with Section 3-12(a)(18)(B)(3) submits an affidavit demonstrating with specific evidence its efforts to contact distributors for the purpose of establishing distributor relationships.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 100.460 Revoked Licenses

a) In conformance with Section 6-2(7) of the Act, no officer, director, member, managing member, partner, owner of more than 5% of the revoked license holder or any other person with a direct or indirect beneficial interest in a revoked license holder shall be issued a new liquor license or renew a liquor license at the same or any other location.

b) The Commission may, at its discretion, determine that a revoked license holder or any other person with more than a 5% direct or indirect beneficial interest in a prior revoked license has been sufficiently rehabilitated to be issued a new liquor license or renew an existing liquor license. The burden of proof of sufficient rehabilitation shall be on the applicant.

c) The Commission shall solely consider rehabilitation evidence for prior revoked persons seeking licenses in which the Commission has primary jurisdiction or for persons who previously held an interest in a license revoked solely by the Commission.

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(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 100.480 Importation of Alcoholic Liquor

a) Subject to exceptions expressly contained in the Act and this Part, no person shall import alcoholic liquor into this State for a non-personal or commercial use without first obtaining a license to import issued by the Commission.

b) A person is permitted to import alcoholic liquor into the State without first obtaining a license to import under the following conditions:

1) Imported alcoholic liquor is for personal use and the total volume to be imported is less than 1 gallon or alcoholic liquor is for personal use and the inventory has been reviewed and expressly approved by the Commission;

2) The person importing alcoholic liquor shall remit all State Use Taxes to the Illinois Department of Revenue according to its requirements;

3) The person importing alcoholic liquor shall abide by all federal importing statutes and rules, which include, but are not limited to, rules promulgated by the US Customs and Border Protection (Department of Homeland Security) and the Tax and Trade Bureau (US Department of the Treasury).

(Source: Added at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: The Taking of Reptiles and Amphibians Under a Sport Fishing License

2) Code Citation: 17 Ill. Adm. Code 880

3)

Section Numbers:	Proposed Action:
880.20	Amendment
880.70	Repeal

4) Statutory Authority: Implementing and authorized by Sections 5/10-30, 10-35, 10-60, 10-115, 20-5 and 20-90 of the Fish and Aquatic Life Code [515 ILCS 5/10-30, 10-35, 10-60, 10-115, 20-5 and 20-90] and the Aquaculture Development Act [20 ILCS 215]

5) A Complete Description of the Subjects and Issues Involved: Section 880.20 is being amended to extend the season date for the taking of bullfrogs and common snapping turtles. Section 880.70 was adopted pursuant to a conservation agreement the Department of Natural Resources entered into with the U.S. Fish and Wildlife Service and the states of Indiana and Kentucky. The agreement prohibited the taking or possession of the copperbelly watersnake (*Nerodia erythrogaster neglecta*) in the Illinois counties of Edwards, Gallatin, Hamilton, Hardin, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne and White. The conservation agreement lapsed in 2001 and was not renewed. The Department has determined this Section should be repealed as the copperbelly watersnake is now thriving in these counties and threatened and endangered species are protected through the Department's incidental take process.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking neither creates, nor expands, any State mandate affecting units of local government.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

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

Felicia Page, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 880
THE TAKING OF REPTILES AND AMPHIBIANS
UNDER A SPORT FISHING LICENSE

Section

880.10 Prohibition of Commercial Use
880.20 Methods of Taking and Capture
880.30 Daily Catch and Possession Limits
880.40 Captive Born Reptiles and Amphibians
880.50 Protection of Habitat
880.60 Areas Closed to the Taking of Reptiles and Amphibians
880.70 Additional Protective Regulations (Repealed)

AUTHORITY: Implementing and authorized by Sections 5/10-30, 10-35, 10-60, 10-115, 20-5 and 20-90 of the Fish and Aquatic Life Code [515 ILCS 5/10-30, 10-35, 10-60, 10-115, 20-5 and 20-90] and the Aquaculture Development Act [20 ILCS 215].

SOURCE: Adopted at 16 Ill. Reg. 109, effective December 20, 1991; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 22 Ill. Reg. 14852, effective August 3, 1998; amended at 37 Ill. Reg. 6757, effective May 1, 2013; amended at 38 Ill. Reg. _____, effective _____.

Section 880.20 Methods of Taking and Capture

a) Only those persons who hold a valid sport fishing license or a valid Sportsmen's Combination License may take or attempt to take turtles and/or frogs (see 515 ILCS 5/20-5).

b) Common snapping turtles (Chelydra serpentia) may be taken only by hand, hook and line or bow and arrow (except in the counties listed in Section 880.60(b) where bowfishing for common snapping turtles is not allowed). The alligator snapping turtle (Macrochelys temminckii) is protected and may not be taken by any method, including, but not limited to, any sport fishing method.

c) Bullfrogs and common snapping turtles may be taken only June 15 through October 15~~August 31~~. Bullfrogs may be taken only by hook and line, gig, pitchfork, spear, bow and arrow, hand or landing net.

d) No person shall take common snapping turtles or bullfrogs by commercial fishing devices, including dip nets, hoop nets, traps or seines, or by the use of firearms, airguns or gas guns.

e) No person shall take or possess any species of reptile or amphibian listed as endangered or threatened in Illinois (17 Ill. Adm. Code 1010), except as provided by 17 Ill. Adm. Code 1070.

f) All other species of reptiles and amphibians may be captured by hand. This shall not restrict the use of legally taken reptiles or amphibians as bait by anglers.

g) Any captured reptiles or amphibians that are not to be retained in the possession of the captor shall be immediately released at the site of capture, unless taken with a lethal method (such as bow and arrow, gig, spear or pitchfork) that does not permit "release with no harm". All common snapping turtles and bullfrogs taken by this method must be kept and counted in the daily catch creel or bag. No culling of these taken species is permitted.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 880.70 Additional Protective Regulations (Repealed)

~~Except as otherwise allowed by statute or administrative rule, taking or possession of the following species of reptiles and amphibians is prohibited: copperbelly watersnake (Nerodia erythrogaster neglecta) in Edwards, Gallatin, Hamilton, Hardin, Johnson, Lawrence, Massac, Pope, Pulaski, Richland, Saline, Wabash, Wayne and White counties.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Construction in Floodways of Rivers, Lakes and Streams

2) Code Citation: 17 Ill. Adm. Code 3700

3) Section Number: 3700.45 — Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Sections 23, 29a, 30 and 35 of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 29a, 30 and 35]

5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to correct the adjustment factor formula used to determine the annual escalation adjustment for permit application fees.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking neither creates, nor expands, any State mandate affecting units of local government.

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

Robert Mool, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Businesses, municipalities and not for profit corporations desiring to perform construction in the floodway of a jurisdictional stream would be required to pay a fee when applying for a floodway construction permit. Of these three types of entities, municipalities that have jurisdictional streams within their borders would most likely be affected.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER h: WATER RESOURCES

PART 3700
CONSTRUCTION IN FLOODWAYS OF RIVERS, LAKES AND STREAMS

Section
3700.10 Purpose
3700.20 Definitions
3700.30 Jurisdiction
3700.40 Permit Application
3700.45 Permit Application Fee
3700.50 Notice to Interested Parties
3700.60 Departmental Standards
3700.70 Special Provisions for Bridges and Culverts
3700.75 Special Provisions for Levees and Floodwalls
3700.80 Statewide Permits
3700.85 General Permits
3700.88 Permits Not Transferrable
3700.90 Denial of Applications
3700.100 Violations and Enforcement
3700.110 Final Administrative Decision

AUTHORITY: Implementing and authorized by Sections 23, 29a, 30 and 35 of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 29a, 30 and 35].

SOURCE: Adopted at 17 Ill. Reg. 4484, effective March 23, 1993; emergency amendment at 18 Ill. Reg. 790, effective January 14, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 8167, effective May 16, 1994; recodified from 92 Ill. Adm. Code 700, Department of Transportation, to the Department of Natural Resources, at 22 Ill. Reg. 7362; amended at 27 Ill. Reg. 7774, effective April 21, 2003; amended at 29 Ill. Reg. 8316, effective May 26, 2005; amended at 34 Ill. Reg. 12875, effective August 20, 2010; amended at 38 Ill. Reg. 934, effective December 27, 2013; amended at 38 Ill. Reg. _____, effective _____.

Section 3700.45 Permit Application Fee

a) If a permit is required for the activity proposed and is not already permitted by a Statewide Permit authorization (see Section 3700.80), permit applicants must pay

a non-refundable permit application review fee. The fee will be determined by the Department, and the applicant shall be notified of that determination immediately after review of the application. When appropriate and when it is in the best interest of the State, the Department may enter into agreements to allow other State agencies to offset the cost of fees by providing in-kind services in lieu of cash payments. As outlined in this subsection (a), the review fee shall be calculated based on the determination of the base review fee, the application of an escalation adjustment factor, and the addition of review fees from any other applicable Parts (see subsection (a)(3)). Further processing of the application will not be initiated until the review fee is received.

1) The base review fee will be as follows:

A) $200 for previously permitted construction activities requiring new permit authorization in accordance with Section 3700.88~~Section 3700.125~~ and not involving any changes from the previously permitted activity; or

B) $500 for construction activities that comply with the terms and conditions of a general permit (in accordance with Section 3700.85); or

C) $1000 for construction activities that the Department determines will not require review of a hydrologic and/or hydraulic analysis to demonstrate compliance with the standards listed in Sections 3700.60, 3700.70 and 3700.75; or

D) $2500 for construction activities such as levees, certain bridge/culvert crossings, and major floodway filling that the Department determines will require review of a hydrologic and/or hydraulic analysis to demonstrate compliance with the standards listed in Sections 3700.60, 3700.70 and 3700.75. The base review fee shall be increased an additional $1500 for applications requiring public notice in accordance with Section 3700.50.

2) Annual Escalation Adjustment

A) The base review fee amounts in subsection (a)(1) shall be adjusted on July 1 each year to account for inflation. The U.S. Bureau of

Labor Statistics' Consumer Price Index Table for all urban consumers (CPI-U), U.S. city average, all items, base period 1982-1984 = 100 (Series ID: CUUR0000SA0) (available on the U.S. Bureau of Labor Statistics' website) shall be used to calculate the adjustment factor. The adjustment factor shall be directly proportional to the change in the CPI index since June 2013 and shall be calculated according to the following formula:

$$\text{Adjustment factor} = \frac{\text{CPI (May of current year)} \cancel{\text{ – CPI (June 2013)}}}{\text{CPI (June 2013)}}$$

B) The base fee amounts in subsection (a)(1) shall be multiplied by this factor and rounded to the nearest $10 to compute the review fee for the coming fiscal year (July 1 through June 30). The review fee shall be capped at $5000. The dollar amounts that result from these calculations will be posted on the Department's website at: www.dnr.illinois.gov.

3) Review Fee for Multiple-Regulation Projects
If the construction activity being applied for also requires authorization under 17 Ill. Adm. Code 3702 and/or 3704, the review fee for each Part shall be added to calculate the total review fee. The total review fee shall be capped at $5000.

b) Submission of Fees

1) Except when possible through electronic fee submittal, the applicant shall submit the required fee amounts in the form of a check or money order made payable to the Illinois Department of Natural Resources.

2) If the review fee is not received within 90 days after the Department's notification of the amount of that fee, the application shall be deemed withdrawn. A new application and review fee will need to be submitted to restart the application process.

3) Insufficient payment or failure of a fee payment to clear the bank it is drawn against will result in the automatic withdrawal of the application.

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

4) All fees shall be deposited into the State Boating Act Fund (see 615 ILCS 5/35).

c) Refund of Permit Application Fees
Except for refunding of overpayments, permit application fees shall not be refunded. Application fees are tendered for consideration of the application only and do not imply any promise of permit issuance by the Department.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Construction and Maintenance of Dams

2) Code Citation: 17 Ill. Adm. Code 3702

3) Section Number: 3702.35 — Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Sections 23 and 23a of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 23a, and 35]

5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to correct the adjustment factor formula used to determine the annual escalation adjustment for permit application fees.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking neither creates, nor expands, any State mandate affecting units of local government.

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

Robert Mool, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Businesses, municipalities and not for profit corporations desiring to construct a dam would be required to pay a fee in order to apply for a permit.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER h: WATER RESOURCES

PART 3702
CONSTRUCTION AND MAINTENANCE OF DAMS

Section
3702.10 Purpose
3702.20 Definitions
3702.30 Applicability
3702.35 Permit Application Fee
3702.40 Requirements for Approval of Permits for Construction of New Dams and Major Modifications of Existing Dams
3702.50 Requirements for Approval of Permits for Removal of Dams
3702.60 Application for Permit to Construct New Dams or Make Major Modifications to Existing Dams – Contents
3702.70 Application for Permit to Remove Dams – Contents
3702.80 Dam Breach Wave Advisories
3702.90 Datum for Dam Elevations
3702.100 Permits Not Transferable
3702.110 Acceptance of Other Agency Permits
3702.120 Use of Joint Permit Forms
3702.130 Permit Application
3702.140 Permit Approval
3702.150 Enforcement, Administrative Order, and Judicial Action
3702.160 Dam Owner Non-Compliance
3702.170 Permit, Enforcement, Dam Classification, Existing Dam Spillway Design Variation, and Non-Compliance Hearing Procedures
3702.180 Assistance Concerning Non-Complying Dams
3702.190 Emergency Procedures
3702.200 Standard Permit Conditions

AUTHORITY: Implementing and authorized by Sections 23 and 23a of the Rivers, Lakes and Streams Act [615 ILCS 5/23, 23a, and 35].

SOURCE: Adopted at 4 Ill. Reg. 37, p. 808, effective September 2, 1980; codified at 7 Ill. Reg. 2753; amended at 11 Ill. Reg. 1941, effective January 13, 1987; recodified from 92 Ill. Adm. Code 702, Department of Transportation, to the Department of Natural Resources at 22 Ill. Reg.

7362; amended at 38 Ill. Reg. 949, effective December 27, 2013; amended at 38 Ill. Reg. _____, effective _____.

Section 3702.35 Permit Application Fee

a) If a permit is required for the activity, permit applicants must pay a non-refundable permit application review fee. The fee will be determined by the Department, and the applicant shall be notified of that determination immediately after review of the application. When appropriate and when it is in the best interest of the State, the Department may enter into agreements to allow other State agencies to offset the cost of fees by providing in-kind services in lieu of cash payments. As outlined in this subsection (a), the review fee shall be calculated based on the determination of the base review fee, the application of an escalation adjustment factor, and the addition of the review fees from any other applicable Parts (see subsection (a)(3)). Further processing of the application will not be initiated until the review fee is received.

1) The base review fee shall be as follows:

Construction of New Dam	
Class I & II	$5000
Class III	$4500
Major Modification of Existing Dam	
Class I & II	$3500
Class III	$2500
Operating Authorization for Existing Dam (as required under Sections 3702.30(c)(1)(E) and 3702.100)	
All classifications	$1500
Removal of Dam	
All classifications	$2500

2) Annual Escalation Adjustment

A) The base review fee amounts in subsection (a)(1) shall be adjusted on July 1 each year to account for inflation. The U.S. Bureau of

Labor Statistics' Consumer Price Index Table for all urban consumers (CPI-U), U.S. city average, all items, base period 1982-1984 = 100 (Series ID: CUUR0000SA0) (available on the U.S. Bureau of Labor Statistics' website) shall be used to calculate the adjustment factor. The adjustment factor shall be directly proportional to the change in the CPI since June 2013 and shall be calculated according to the following formula:

$$\text{Adjustment factor} = \frac{\text{CPI (May of current year)} \cancel{\text{– CPI (June 2013)}}}{\text{CPI (June 2013)}}$$

B) The base fee amounts in subsection (a)(1) shall be multiplied by this factor and rounded to the nearest $10 to compute the review fee for the coming fiscal year (July 1 through June 30). The review shall be capped at $5000. The dollar amounts that result from these calculations will be posted on the Department's website at www.dnr.illinois.gov.

3) Review Fee for Multiple-Regulation Projects
If the construction activity being applied for also requires authorization under 17 Ill. Adm. Code 3700, 3704 and/or 3708, the review fee for each Part shall be added to calculate the total review fee. The total review fee shall be capped at $5000.

b) Submission of Fees

1) Except when possible through electronic fee submittal, the applicant shall submit the required fee amount in the form of a check or money order made payable to the Illinois Department of Natural Resources.

2) If the review fee is not received within 90 days after the Department's notification of the amount of that fee, the application shall be deemed withdrawn. A new application and review fee will need to be submitted to restart the application process.

3) Insufficient payment or failure of a permit application fee payment to clear the bank it is drawn against will result in the automatic withdrawal of the application.

4) All fees shall be deposited into the State Boating Act Fund (see 615 ILCS 5/35).

c) Refund of Permit Application Fees
Except for refunding of overpayments, permit application fees shall not be refunded. Application fees are tendered for consideration of the application only and do not imply any promise of permit issuance by the Department.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Regulation of Public Waters

2) Code Citation: 17 Ill. Adm. Code 3704

3) Section Number: 3704.55 — Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by the Rivers, Lakes and Streams Act [615 ILCS 5]

5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to correct the adjustment factor formula used to determine the annual escalation adjustment for permit application fees.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking neither creates, nor expands, any State mandate affecting units of local government.

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

Robert Mool, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Businesses, municipalities and not for profit corporations desiring to perform construction in a public body of water would be required to pay a fee when applying for a permit. Of these three types of entities, municipalities located near a public body of water would most likely be affected.

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER h: WATER RESOURCES

PART 3704
REGULATION OF PUBLIC WATERS

Section

3704.10 Purpose
3704.20 Definitions
3704.30 Jurisdiction
3704.40 List of Public Waters and Provision For Additions
3704.50 Permit Application
3704.55 Permit Application Fee
3704.60 Notice to Interested Parties
3704.70 Land Conversions and Fill Material Placement
3704.80 Department Evaluation
3704.90 Departmental Standards
3704.100 Emergency Permit
3704.110 Statewide and Regional Permits
3704.120 General Permits
3704.125 Permits Not Transferrable
3704.130 Denial of Applications
3704.140 Violations and Enforcement
3704.150 Final Administrative Decision

3704.APPENDIX A Public Bodies of Water

AUTHORITY: Implementing and authorized by the Rivers, Lakes and Streams Act [615 ILCS 5].

SOURCE: Adopted at 17 Ill. Reg. 4494, effective March 23, 1993; recodified from 92 Ill. Adm. Code 704, Department of Transportation, to the Department of Natural Resources, at 22 Ill. Reg. 7362; amended at 27 Ill. Reg. 7778, effective April 21, 2003; amended at 29 Ill. Reg. 8320, effective May 26, 2005; amended at 34 Ill. Reg. 12879, effective August 20, 2010; amended at 38 Ill. Reg. 966, effective December 27, 2013; amended at 38 Ill. Reg. _____, effective _____.

Section 3704.55 Permit Application Fee

a) If permit is required for the activity proposed and is not already permitted by a Statewide Permit authorization (see Section 3704.110), permit applicants must pay a non-refundable permit application review fee. The fee will be determined by the Department, and the applicant shall be notified of that determination immediately after review of the application. When appropriate and when it is in the best interest of the State, the Department may enter into agreements to allow other State agencies to offset the cost of fees by providing in-kind services in lieu of cash payments. As outlined in this subsection (a), the review fee shall be calculated based on the determination of the base review fee, the application of an escalation adjustment factor, and the addition of review fees from any other applicable Parts (see subsection (a)(3)). Further processing of the application shall not be initiated until the review fee is received.

1) The base principal review fee shall be as follows:

A) $200 for previously permitted activities requiring new permit authorization in accordance with Section 3704.125 and not involving any changes from the previously permitted activity; or

B) $500 for activities that comply with the terms and conditions of a general permit, in accordance with Section 3704.120; or

C) $2500 for activities that the Department determines would not likely have any of the impacts listed in Section 3704.80(a); or

D) $4500 ($5000 for Lake Michigan) for more extensive activities such as new barge terminals, marinas and water level management structures that would likely have one or more of the impacts listed in Section 3704.80(a).

2) Annual Escalation Adjustment

A) The review fee amounts in subsection (a)(1) shall be adjusted on July 1 each year to account for inflation. The U.S. Bureau of Labor Statistics' Consumer Price Index Table for all urban consumers (CPI-U), U.S. city average, all items, base period 1982-1984=100 (Series ID: CUUR0000SA0) (available on the U.S. Bureau of Labor Statistics' website) shall be used to calculate the

adjustment factor. The adjustment factor shall be directly proportional to the change in the CPI index since June 2013 and shall be calculated according to the following formula:

$$\text{Adjustment factor} = \frac{\text{CPI (May of current year)} \cancel{\text{ – CPI (June 2013)}}}{\text{CPI (June 2013)}}$$

B) The base fee amounts in subsection (a)(1) shall be multiplied by this factor and rounded to the nearest $10 to compute the review fee for the coming fiscal year (July 1 through June 30). The review fee shall be capped at $5000. The dollar amounts that result from these calculations will be posted on the Department's website at: www.dnr.illinois.gov.

3) Review Fee for Multiple-Regulation Projects
If the construction activity being applied for also requires authorization under 17 Ill. Adm. Code 3700, 3702 and/or 3708, the review fee for each Part shall be added to calculate the total review fee. The review fee shall be capped at $5000.

b) Submission of Fees

1) Except when possible through electronic fee submittal, the applicant shall submit the required fee amounts in the form of a check or money order made payable to the Illinois Department of Natural Resources.

2) If the review fee is not received within 90 days after the Department's notification of the amount of that fee, the application shall be withdrawn. A new application and review fee will need to be submitted to restart the application process.

3) Insufficient payment or failure of a fee payment to clear the bank it is drawn against will result in the automatic withdrawal of the application.

4) All fees shall be deposited into the State Boating Act Fund (see 615 ILCS 5/35).

c) Refund of Permit Application Fees

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

Except for refunding of overpayments, permit application fees shall not be refunded. Application fees are tendered for consideration of the application only and do not imply any promise of permit issuance by the Department.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Floodway Construction in Northeastern Illinois

2) Code Citation: 17 Ill. Adm. Code 3708

3) Section Number: 3708.115 Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Sections 18g and 35 of the Rivers, Lakes and Streams Act [615 ILCS 5/18g and 35]

5) A Complete Description of the Subjects and Issues Involved: This rule is being amended to correct the adjustment factor formula used to determine the annual escalation adjustment for permit application fees.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? No

11) Statement of Statewide Policy Objective: This rulemaking neither creates, nor expands, any State mandate affecting units of local government.

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

Robert Mool, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: None

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

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER h: WATER RESOURCES

PART 3708
FLOODWAY CONSTRUCTION IN NORTHEASTERN ILLINOIS

Section
3708.10 Purpose
3708.20 Definitions
3708.30 Jurisdiction
3708.40 General Provisions
3708.50 Regulatory Floodway Maps
3708.60 Delineation of the Regulatory Floodway
3708.70 Permitting Appropriate Uses of the Regulatory Floodway
3708.80 Changes to the Regulatory Floodway
3708.90 Delegation to Municipalities and Counties
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3708.110 Permit Application
3708.115 Permit Application Fee
3708.120 Public Notice
3708.130 Public Hearings
3708.140 Time to Permit Issuance; Emergency Authorizations; Duration; Revisions
3708.150 Permit Conditions
3708.160 General Permits
3708.170 Regional Permits and Statewide Permits
3708.175 Permits Not Transferrable
3708.180 Final Administrative Decisions
3708.190 Effective Date

AUTHORITY: Implementing and authorized by Sections 18g and 35 of the Rivers, Lakes and Streams Act [615 ILCS 5/18g and 35].

SOURCE: Adopted at 12 Ill. Reg. 20547, effective November 29, 1988; amended at 13 Ill. Reg. 8667, effective May 23, 1989; amended at 16 Ill. Reg. 194, effective December 19, 1991; amended at 18 Ill. Reg. 11284, effective July 5, 1994; recodified from 92 Ill. Adm. Code 708, Department of Transportation, to the Department of Natural Resources, at 22 Ill. Reg. 7362; amended at 27 Ill. Reg. 7782, effective April 21, 2003; amended at 38 Ill. Reg. 983, effective December 27, 2013; amended at 38 Ill. Reg. _____, effective _____.

Section 3708.115 Permit Application Fee

a) If a permit is required for the activity proposed and is not already permitted by a Regional Permit or Statewide Permit authorization (see Section 3708.170), permit applicants must pay a non-refundable permit application review fee. The fee will be determined by the Department, and the applicant shall be notified of that determination immediately after review of the application. When appropriate and when it is in the best interest of the State, the Department may enter into agreements to allow other State agencies to offset the cost of fees by providing in-kind services in lieu of cash payments. As outlined in this subsection (a), the review fee shall be calculated based on the determination of the base review fee, the application of an escalation adjustment factor, and the addition of review fees from any other applicable regulations. Further processing of the application shall not be initiated until the review fee is received.

1) The base review fee shall be as follows:

A) $200 for appropriate uses that qualify for review by a delegated municipality or county in accordance with Section 3708.90; or

B) $200 for previously permitted appropriate uses requiring new permit authorization in accordance with Section 3708.175 and not involving any changes from the previously permitted activity; or

C) $500 for appropriate uses that comply with the terms and conditions of a general permit in accordance with Section 3708.160; or

D) $1000 for appropriate uses that the Department determines would not require review of a hydrologic and/or hydraulic analysis to demonstrate compliance with the standards listed in Section 3708.70(d); or

E) $3000 for appropriate uses such as certain bridge/culvert crossings, public flood control projects, and other major floodway construction and/or changes to the regulatory floodway that the Department determines will require review of a hydrologic and/or hydraulic analysis to demonstrate compliance with the standards

listed in Section 3708.70(d) and/or Section 3708.80. The base review fee shall be increased an additional $1500 for applications requiring public notice in accordance with Section 3708.120.

2) Annual Escalation Adjustment

A) The review fee amounts in subsection (a)(1) shall be adjusted on July 1 each year to account for inflation. The U.S. Bureau of Labor Statistics' Consumer Price Index Table for all urban consumers (CPI-U), U.S. city average, all items, base period 1982-1984 = 100 (Series ID: CUUR0000SA0) (available on the U.S. Bureau of Labor Statistics' website) shall be used to calculate the adjustment factor. The adjustment factor shall be directly proportional to the change in the CPI index since June 2013 and shall be calculated according to the following formula:

$$\text{Adjustment factor} = \frac{\text{CPI (May of current year)}\cancel{\text{ – CPI (June 2013)}}}{\text{CPI (June 2013)}}$$

B) The base fee amounts in subsection (a)(1) shall be multiplied by the escalation adjustment factor and rounded to the nearest $10 to compute the review fee for the coming fiscal year (July 1 through June 30). The review fee shall be capped at $5000. The dollar amounts that result from these calculations will be posted on the Department's website at: www.dnr.illinois.gov.

3) Review Fee for Multiple-Regulation Projects
If the construction activity being applied for also requires authorization under 17 Ill. Adm. Code 3702 (Rules for Construction and Maintenance of Dams) and/or 17 Ill. Adm. Code 3704 (Regulation of Public Waters), the review fee for each Part shall be added to calculate the total review fee. The review fee shall be capped at $5000.

b) Submission of Fees

1) Except when possible through electronic fee submittal, the applicant shall submit the required fee amounts in the form of a check or money order made payable to the Illinois Department of Natural Resources.

2) If the review fee is not received within 90 days after the Department's notification of the amount of the fee, the application shall be withdrawn. A new application and review fee will need to be submitted to restart the application process.

3) Insufficient payment or failure of a fee payment to clear the bank it is drawn against will result in the automatic withdrawal of the application.

4) All fees shall be deposited into the State Boating Act Fund (see 615 ILCS 5/35).

c) Refund of Permit Application Fees
Except for refunding of overpayments, permit application fees shall not be refunded. Application fees are tendered for consideration of the application only and do not imply any promise of permit issuance by the Department.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Food Service Sanitation Code

2) Code Citation: 77 Ill. Adm. Code 750

3)

Section Numbers:	Proposed Action:
750.10	Amendment
750.555	New Section
750.1810	Amendment
750.1812	New Section
750.1814	New Section
750.1815	Amendment
750.1820	Amendment
750.1830	Amendment
750.1831	Amendment
750.1835	Repeal
750.1836	Repeal
750.1837	Repeal
750.1850	Amendment
750.1855	Repeal
750.1860	Amendment
750.1861	Repeal
750.1862	Repeal
750.1865	Repeal
750.1868	Repeal
750.1870	Repeal
750.1876	Repeal
750.1880	Repeal
750.1890	Amendment
750.1895	Repeal
750.APPENDIX B	Repeal
750.APPENDIX C	Repeal
750.APPENDIX D	Repeal
750.APPENDIX E	Repeal

4) Statutory Authority: Authorized by the Illinois Food, Drug and Cosmetic Act [410 ILCS 620], the Food Handling Regulation Enforcement Act [410 ILCS 625] and the Sanitary Food Preparation Act [410 ILCS 650]

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

5) A Complete Description of the Subjects and Issues Involved: This rulemaking will amend definitions, amend requirements for certification and recertification issuance for Food Service Sanitation Manager Course (FSSMC) Certified Instructors, update course criteria qualifications, the procedure for becoming an instructor and the renewal process, add a new proctor application fee and approval process, and amend enforcement procedures for instructors administering the FSSMC course and exam. Several Sections and Appendices in the Code are being repealed to implement PA 93-566, which reduced the required training hours for an FSSMC from 15 down to seven and eliminated the State FSSMC exam. Clean-up changes are being made in the Section detailing required training hours for the Food Service Sanitation Manager Certification. The outdated number of hours that should have been removed in the amendment effective May 21, 2014 is now being removed.

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

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

7) Will this rulemaking replace any emergency rule currently in effect? No

8) Does this rulemaking contain an automatic repeal date? No

9) Does this rulemaking contain incorporations by reference? No

10) Are there any other proposed rulemakings pending on this Part? Yes

Section Numbers:	Proposed Action:	*Illinois Register* citation:
750.5	Amendment	38 Ill. Reg. 10822; May 23, 2014
750.10	Amendment	38 Ill. Reg. 10822; May 23, 2014
750.570	New Section	38 Ill. Reg. 10822; May 23, 2014
750.3400	New Section	38 Ill. Reg. 10822; May 23, 2014
750.3410	New Section	38 Ill. Reg. 10822; May 23, 2014
750.3420	New Section	38 Ill. Reg. 10822; May 23, 2014
750.3430	New Section	38 Ill. Reg. 10822; May 23, 2014

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand any State mandates on units of local government.

12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written or e-mailed comments may be submitted within 45 days after this issue of the *Illinois Register* to:

Susan Meister
Division of Legal Services
Illinois Department of Public Health
535 W. Jefferson St., 5th floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: FSSMC Certified Instructors and Businesses

B) Reporting, bookkeeping or other procedures required for compliance: There will be no change in the reporting, bookkeeping or other procedures required for compliance.

C) Types of professional skills necessary for compliance: None

14) Regulatory Agenda on which this rulemaking was summarized: July 2013

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER m: FOOD, DRUGS AND COSMETICS

PART 750
FOOD SERVICE SANITATION CODE

SUBPART A: GENERAL PROVISIONS

Section
750.5 Incorporated and Referenced Materials
750.10 Definitions
750.20 Inspections and Inspection Report

SUBPART B: FOOD SUPPLIES

Section
750.100 General
750.110 Special Requirements
750.120 General – Food Protection
750.130 General – Food Storage
750.140 Refrigerated Storage
750.150 Hot Storage
750.151 Ready-to-Eat Potentially Hazardous Food, Date Marking
750.152 Ready-to-Eat Potentially Hazardous Food, Disposition
750.153 Time as a Public Health Control
750.155 Damaged Food Containers
750.160 General – Food Preparation
750.170 Raw Fruits and Raw Vegetables
750.180 Cooking Potentially Hazardous Foods
750.185 Minimum Food Temperature and Holding Time Required Under Section 750.180(a)(2) for Cooking All Parts of Pork and Game Animals, Comminuted Fish and Meats, and Injected Meats
750.186 Oven Parameters Required for Destruction of Pathogens on the Surface of Roasts of Beef and Corned Beef
750.187 Minimum Holding Times Required at Specified Temperatures for Cooking All Parts of Roasts of Beef and Corned Beef
750.188 Plant Food Cooking for Hot Holding
750.189 Microwave Cooking

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

750.190 Dry Milk and Dry Milk Products
750.200 Liquid, Frozen, Dry Eggs and Egg Products
750.208 Preparation for Immediate Service
750.210 Reheating for Hot Holding
750.220 Nondairy Products
750.230 Product Thermometers
750.240 Thawing Potentially Hazardous Foods
750.250 Food Display and Service of Potentially Hazardous Food
750.260 Display Equipment
750.270 Reuse of Tableware
750.280 Dispensing Utensils
750.290 Ice Dispensing
750.300 Condiment Dispensing
750.310 Milk and Cream Dispensing
750.320 Re-Service
750.325 Special Requirements for Highly Susceptible Populations
750.330 General – Food Transportation
750.340 Public Health Protection
750.350 Preventing Health Hazards, Provision for Conditions Not Addressed
750.360 Variances
750.370 Justification for and Documentation of Proposed Variance

SUBPART C: PERSONNEL

Section
750.500 General – Employee Health
750.510 General – Personal Cleanliness
750.512 When to Wash Hands
750.514 Where to Wash Hands
750.516 Hand Antiseptics
750.520 General – Clothing
750.530 General – Employee Practices
750.540 Management Sanitation Training and Certification
750.550 Management Sanitation Certification Examination (Repealed)
750.551 Certification and Recertification Issuance
750.555 Change of Name or Address
750.560 Certificate Revocation or Suspension

SUBPART D: EQUIPMENT AND UTENSILS

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section
750.600 General – Materials
750.610 Solder
750.620 Wood
750.630 Plastics
750.640 Mollusk and Crustacea Shells
750.650 General – Design and Fabrication
750.660 Accessibility
750.670 In-Place Cleaning
750.680 Thermometers
750.690 Non-Food-Contact Surfaces
750.700 Ventilation Hoods
750.710 General – Equipment Installation and Location
750.720 Table-Mounted Equipment
750.730 Portable Equipment
750.740 Floor-Mounted Equipment
750.750 Aisles and Working Spaces

SUBPART E: CLEANING, SANITIZING, AND STORAGE OF EQUIPMENT AND UTENSILS

Section
750.800 Cleaning Frequency
750.810 Wiping Cloths
750.820 Manual Cleaning and Sanitizing
750.830 Mechanical Cleaning and Sanitizing
750.840 Drying
750.850 Equipment, Utensil, and Tableware Handling
750.860 Equipment, Utensil, and Tableware Storage
750.870 Pre-Set Tableware
750.880 Single-Service Articles
750.890 Prohibited Storage Area

SUBPART F: SANITARY FACILITIES AND CONTROLS

Section
750.1000 General – Water Supply
750.1010 Transportation

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

750.1020 Bottled Water
750.1030 Water Under Pressure
750.1040 Steam
750.1050 General – Sewage Disposal
750.1060 General – Plumbing
750.1070 Nonpotable System
750.1080 Backflow
750.1090 Grease Traps
750.1100 Drains
750.1110 General – Toilet Facilities
750.1120 General – Lavatory Facilities
750.1130 Containers – Garbage and Refuse
750.1140 Garbage and Refuse Storage
750.1150 Disposal of Garbage and Rubbish
750.1160 General – Insect and Rodent Control
750.1170 Protection of Openings Against Entrance of Insects and Rodents

SUBPART G: CONSTRUCTION AND MAINTENANCE OF PHYSICAL FACILITIES

Section
750.1200 General – Floors
750.1210 General – Walls and Ceilings
750.1220 General – Cleaning Physical Facilities
750.1230 General – Lighting
750.1240 Protective Light Shielding
750.1250 General – Ventilation
750.1260 Special Ventilation
750.1270 Dressing Areas
750.1280 Lockers
750.1290 Poisonous or Toxic Materials Permitted
750.1300 Labeling of Poisonous or Toxic Materials
750.1310 Storage of Poisonous or Toxic Materials
750.1320 Use of Poisonous or Toxic Materials
750.1330 Personal Medications
750.1340 First-Aid Supplies
750.1350 General – Premises
750.1360 Living Areas
750.1370 Laundry Facilities

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

750.1380 Linens and Clothes Storage
750.1390 Cleaning Equipment Storage
750.1400 Animals

SUBPART H: MOBILE FOOD SERVICE

Section
750.1500 General – Mobile Food Units
750.1510 Restricted Operation
750.1520 Single-Service Articles
750.1530 Water Systems
750.1540 Waste Retention
750.1550 Base of Operations
750.1560 Servicing Area
750.1570 Servicing Operations

SUBPART I: TEMPORARY FOOD SERVICE

Section
750.1600 General – Temporary Food Service Establishments
750.1610 Restricted Operations
750.1620 Ice
750.1630 Equipment
750.1640 Water
750.1650 Wet Storage
750.1660 Waste Disposal
750.1670 Handwashing
750.1680 Floors
750.1690 Walls and Ceilings of Food Preparation Areas
750.1700 Single-Service Articles

SUBPART J: FOOD SERVICE SANITATION MANAGER CERTIFICATION

Section
750.1800 General
750.1810 Instructor Approval
750.1812 Instructor Renewal
750.1814 Proctor Approval
750.1815 Instructor and Proctor Compliance and Enforcement Process~~Denial~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

750.1820 Course Content
750.1830 Course Approval
750.1831 Alternative Training Methods ~~of Training~~
750.1835 Make Up Work (Repealed)
750.1836 Home Study (Repealed)
750.1837 Course Waiver (Repealed)
750.1838 Course Denial
750.1840 Reciprocity
750.1850 Certification Examination
750.1855 Testing Criteria (Repealed)
750.1860 Administration of Examination ~~Notification~~
750.1861 Class Enrollment Form (Repealed)
750.1862 Administration of Examination (Repealed)
750.1865 Monitors (Repealed)
750.1868 Cheating (Repealed)
750.1870 Re-test Class (Repealed)
750.1876 Dictionary (Repealed)
750.1880 Retake Examination (Repealed)
750.1890 Revocation of Certificates
750.1895 Change of Address (Repealed)

SUBPART K: REDUCED OXYGEN PACKAGING

Section
750.2000 General
750.2010 Acceptable Products
750.2020 Employee Training
750.2030 Refrigeration Requirements
750.2031 Labeling – Refrigeration Statements
750.2032 Labeling – "Use By" Dates
750.2040 Safety Barriers
750.2041 Fish and Fishery Products
750.2042 Safety Barrier Verification
750.2050 Hazard Analysis Critical Control Point (HACCP) Program
750.2060 Precautions Against Contamination
750.2070 Disposition of Expired Product
750.2080 Dedicated Area/Restricted Access

SUBPART L: MEAT/POULTRY PROCESSING AND LABELING

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section
750.3000 Exceptions
750.3100 Meat and Poultry Labeling
750.3200 Smoked Meat, Poultry and Other Food Products
750.3300 Curing of Meat and Poultry

750.APPENDIX A Retail Food Sanitary Inspection Report
750.APPENDIX B Examination Date Notification Form (Repealed)
750.APPENDIX C Class Enrollment Form (Repealed)
750.APPENDIX D Permission to Retake Certification Examination Form (Repealed)
750.APPENDIX E Monitor's Agreement Form (Repealed)

AUTHORITY: Implementing the Illinois Food, Drug and Cosmetic Act [410 ILCS 620] and the Sanitary Food Preparation Act [410 ILCS 650] and authorized by Section 21 of the Illinois Food, Drug and Cosmetic Act [410 ILCS 620/21], Section 11.1 of the Sanitary Food Preparation Act [410 ILCS 650/11.1] and the Food Handling Regulation Enforcement Act [410 ILCS 625].

SOURCE: Adopted December 23, 1975; amended at 2 Ill. Reg. 19, p. 180, effective May 13, 1978; old rules repealed, new rules adopted and codified at 7 Ill. Reg. 1336, effective January 25, 1983; amended at 7 Ill. Reg. 16415, effective November 23, 1983; amended at 11 Ill. Reg. 2345, effective February 1, 1987; amended at 11 Ill. Reg. 18735, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 14380, effective September 2, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 17918, effective December 1, 1988; amended at 13 Ill. Reg. 1819, effective January 30, 1989; amended at 13 Ill. Reg. 18888, effective December 1, 1989; amended at 14 Ill. Reg. 19975, effective January 1, 1991; amended at 14 Ill. Reg. 20535, effective January 1, 1991; amended at 16 Ill. Reg. 15995, effective October 1, 1992; amended at 17 Ill. Reg. 18588, effective October 15, 1993; amended at 20 Ill. Reg. 2171, effective January 20, 1996; amended at 20 Ill. Reg. 3210, effective February 5, 1996; amended at 22 Ill. Reg. 19009, effective October 1, 1998; amended at 32 Ill. Reg. 11980, effective July 10, 2008; amended at 37 Ill. Reg. 20365, effective December 6, 2013; amended at 38 Ill. Reg. 11775, effective May 21, 2014; amended at 38 Ill. Reg. _____, effective _____.

SUBPART A: GENERAL PROVISIONS

Section 750.10 Definitions

"Acceptable product list" means a list of foods that are~~,~~ acceptable to the regulatory authority and~~,~~ that, because of their characteristics, will present a

barrier to the growth of Clostridium botulinum.

"Balut" means an embryo inside a fertile egg that has been incubated for a period sufficient for the embryo to reach a specific stage of development, after which it is removed from the incubation before hatching.

"Barrier" means a safety factor of a physical, biological, or chemical nature that inhibits or minimizes the growth of microorganisms, including those that may be infectious or toxigenic.

"Beef pattie mix" (or "beef patties" if in pattie form) means chopped beef with or without the addition of beef fat ~~as such~~ and/or seasonings.

"Beverage" means a liquid for drinking, including water.

"Category I facility" means a food establishment that presents a high relative risk of causing food-borne illness, based on the large number of food handling operations typically implicated in food-borne outbreaks and/or the type of population served by the facility. Category I facilities include those where the following operations occur:

Potentially hazardous foods are cooled, as part of the food handling operation at the facility;

Potentially hazardous foods are prepared hot or cold and held hot or cold for more than 12 hours before serving;

Potentially hazardous cooked and cooled foods must be reheated;

Potentially hazardous foods are prepared for off-premises serving for which time-temperature requirements during transportation, holding and service are relevant;

Complex preparation of foods or extensive handling of raw ingredients with hand contact for ready-to-eat foods occurs as part of the food handling operations at the facility;

Vacuum packaging and/or other forms of reduced oxygen packaging are performed at the retail level; or

Immunocompromised individuals such as the elderly, young children under age four and pregnant women are served, where these individuals compose the majority of the consuming population.

"Category II facility" means a food establishment that presents a medium relative risk of causing food-borne illness, based upon few food handling operations typically implicated in food-borne illness outbreaks. Category II facilities include those where the following operations occur:

Hot or cold foods are held at required temperatures for no more than 12 hours and are restricted to same-day services;

Foods are prepared from raw ingredients, using only minimal assembly; and

Foods that require complex preparation (whether canned, frozen or fresh prepared) are obtained from approved food-processing plants, high-risk food service establishments or retail food stores.

"Category III facility" means a food establishment that presents a low relative risk of causing food-borne illness, based upon few or no food handling operations typically implicated in food-borne illness outbreaks. Category III facilities include those where the following operations occur:

Only pre-packaged foods are available or served in the facility, and any potentially hazardous foods available are commercially pre-packaged in an approved processing plant;

Only limited preparation of non-potentially hazardous foods and beverages, such as snack foods and carbonated beverages, occurs at the facility; or

Only beverages (alcoholic and non-alcoholic) are served at the facility.

"Certification number" means a unique combination of letters and numbers assigned by a shellfish control authority to a molluscan shellfish dealer according to the provisions of the National Shellfish Sanitation Program.

"Certified food service manager or supervisor" means a person certified in compliance with Section 750.540.

"Cold smoke process" is a smoking process used to apply smoke or a smoke flavor at or below ambient temperature to food products not sufficiently darkened in the original smoking operation.

"Commercially prepared sweet baked goods" means an individually portioned and wrapped non-potentially hazardous yeast or cake-type bread, bun, croissant or roll with or without filling and/or icing.

"Commingle" means to combine shellstock harvested on different days or from different growing areas as identified on the tag or label; or to combine shucked shellfish from containers with different container codes or different shucking dates.

"Comminuted" means reduced in size by methods including chopping, flaking, grinding or mincing. It includes fish or meat products that are reduced in size and restructured or reformulated, such as gefilte fish, formed roast beef, gyros, ground beef, and sausage; and a mixture of two or more types of meat that have been reduced in size and combined, such as sausages made from two or more meats.

"Commissary" means a catering establishment, restaurant, or any other place in which food, containers, or supplies are kept, handled, prepared, packaged or stored.

"Consumer" means a person who is a member of the public, takes possession of food, is not functioning in the capacity of an operator of a food establishment or food processing plant, and does not offer the food for resale.

"Controlled atmosphere packaging" or "CAP" means an active packaging system that continuously maintains the desired atmosphere within the package throughout the shelf-life of the product. CAP uses an agent to bind or "scavenge" oxygen permeating the package, or a sachet to emit a gas.

"Cook-chill processing" means a process in which a plastic bag is filled with hot cooked food and the air is expelled while the bag is being sealed before being blast or tumble chilled.

"Corrosion-resistant materials" means those materials that maintain their original surface characteristics under prolonged influence of the food to be contacted, the normal use of cleaning compounds and bactericidal solutions, and other conditions of use environment.

"Critical control point" means any point or procedure in a specific food processing or packaging operation where loss of control may result in an unacceptable health risk.

"Curing" means the placing in or on edible flesh of approved ingredients, such as a solution or mixture containing chloride and nitrite salts of sodium or potassium, water, sodium erythorbate or ascorbate, sodium phosphates, sweeteners (dextrose and cane sugar) and flavorings.

"Dedicated equipment or personnel" means equipment or personnel reserved solely for the use of one food processing operation to prevent cross-contamination.

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health or his or her designee.

"Easily cleanable" means that surfaces are readily accessible and made of material and finish and fabricated so that residue may be effectively removed by normal cleaning methods.

"Egg" means the shell egg of avian species such as chicken, duck, goose, guinea, quail, ratites or turkey. The term does not include a balut; the egg of reptile species such as alligator; or an egg product.

"Egg Product" means all, or a portion of, the contents found inside eggs separated from the shell and pasteurized in a food processing plant, with or without added ingredients, intended for human consumption, such as dried, frozen or liquid eggs. The term does not include food that contains eggs only in a relatively small proportion, such as cake mixes.

"Employee" means individuals having supervisory or management duties, and any other person working in a food service establishment.

"Equipment" means stoves, ovens, ranges, hoods, slicers, mixers, meat blocks, tables, counters, refrigerators, sinks, dishwashing machines, steam tables, and similar items, other than utensils, used in the operation of a food service establishment.

"Extensively remodeled" means conversion of an existing structure for use as a retail food establishment; any structural additions or alterations to existing establishments; changes, modifications and extensions of plumbing systems, excluding routine maintenance.

"Field dressed" means the removal of the visceral organs of an animal following the animal's death in the field.

"Food" means any raw, cooked, or processed edible substance, ice, beverage or ingredient used or intended for use or for sale in whole or in part for human consumption.

"Food-contact surface" means those surfaces of equipment and utensils with which food normally comes in contact, and those surfaces from which food may drain, drip, or splash back to surfaces normally in contact with food.

"Food employee" means an individual working with unpackaged food, food equipment or utensils, or food-contact surfaces.

"Food-processing establishment" means a commercial establishment in which food is manufactured or packaged for human consumption. The term does not include a food service establishment, retail food store, or commissary operation.

"Food service establishment" means any place where food is prepared and intended for, though not limited to, individual portion service, and includes the site at which individual portions are provided. The term includes any such place regardless of whether consumption is on or off the premises and regardless of whether there is a charge for the food. The term also includes delicatessen-type operations that prepare foods intended for individual portion service and retail food stores where food and food products are offered to the consumer and intended for, though not limited to, off-premises consumption. The term does not include lodging facilities serving only a continental breakfast (a continental breakfast is one limited to coffee, tea and juice and commercially prepared sweet

baked goods), private homes or a closed family function where food is prepared or served for individual family consumption, establishments that handle only prepackaged spirits, roadside markets that offer only fresh fruits and fresh vegetables, or the location of food vending machines.

"Full time" means 30 hours per week or the length of time the facility is in operation, whichever is less.

"Game animal" means an animal, the products of which are food, that is not classified as cattle, sheep, swine, or goat in 9 CFR 301 (Mandatory Meat Inspection, Definitions); as poultry in 9 CFR 381 (Mandatory Poultry Products Inspection, Poultry products inspection regulations); as meat in the Meat and Poultry Act; or as fish. Game animal includes wild and not domestically raised animals such as reindeer, elk, deer, antelope, water buffalo, bison, rabbit, squirrel, bear, and muskrat; aquatic and nonaquatic birds such as wild ducks and geese, quail, and pheasant; nonaquatic reptiles such as rattlesnakes; and aquatic mammals. It also includes exotic animals as defined in 9 CFR 1 (Animal Welfare, Definition of Terms), such as lion, tiger, leopard, elephant, camel, antelope, anteater, kangaroo and water buffalo, and species of foreign domestic cattle, such as Ankole, Gayal and Yak.

"Ground beef" means chopped or ground beef with or without seasoning and without the addition of beef fat and shall not contain more than 30 percent fat.

"Hamburger" means chopped beef with or without the addition of beef fat and/or seasoning and shall not contain more than 30 percent fat.

"Hazard" means a biological, chemical, or physical property that may cause an unacceptable consumer health risk.

"Hazard Analysis Critical Control Point Program" or "HACCP" means a comprehensive food safety control plan that includes a step-by-step description of the food processing, packaging and storage procedure, including identification of critical control points (CCPs); the food-contact surface cleaning and sanitizing procedures; lot identification procedure; and training procedures.

"Hermetically sealed container" means a container designed and intended to be secure against the entry of microorganisms and, in the case of low acid canned foods, to maintain the commercial sterility of its content after processing.

"Highly susceptible population" means persons who are more likely than other people in the general population to experience food-borne disease because they:

Are immunocompromised;~~,~~ preschool age children or older adults; and

Obtain food at a facility that provides services such as custodial care, health care, or assisted living (such as a child or adult day care center, kidney dialysis center, hospital or nursing home), or nutritional or socialization services (such as a senior center).

"Injected" means manipulating a meat so that infectious or toxigenic microorganisms may be introduced from its surface to its interior through tenderizing with deep penetration or injecting the meat, such as with juices, which may be referred to as injecting, pinning or stitch pumping.

"Juice" means the aqueous liquid expressed or extracted from one or more fruits or vegetables, purées of the edible portions of one or more fruits or vegetables, or any concentrates of the~~such~~ liquid or puree. The term does not include, for purposes of HACCP, liquids, purées, or concentrates that are not used as beverages or ingredients of beverages.

"Kitchenware" means all multi-use utensils other than tableware.

"Law" includes State and local statutes, ordinances, and regulations.

"Lodging facilities" means any hotel, motel, motor inn, lodge, and inn or other quarters that provide temporary sleeping facilities open to the public.

"Lot" means a unique run of processed or packaged product with a specifically designated date and processing operation.

"Mobile food unit" means a vehicle-mounted food service establishment designed to be readily movable.

"Molluscan shellfish" means any edible species of fresh or frozen oysters, clams, mussels, and scallops or edible portions of the scallop, except when the scallop product consists only of the shucked adductor muscle.

"Official Methods of Analysis" means the Official Methods of Analysis of the Association of Official Analytical Chemists, 18th Edition, or Standard Methods for Examination of Dairy Products, 17th Edition, as incorporated in Section 750.5(b)(1) and (2).

"Operational Supervision" means the on-site supervision and management of the food service facility, operations, and employees.

"Packaged" means bottled, canned, cartoned, or securely wrapped. The term "packaged" does not include a wrapper, carry-out box, or other non-durable container used to containerize food for the purpose of facilitating food protection during service and receipt of the food by the consumer.

"Partially defatted beef fatty tissue" means a beef by-product derived from the low temperature rendering (not exceeding 120°F) of fresh beef tissue. The product shall have a pinkish color and a fresh odor and appearance.

"Pasteurized shell eggs" means eggs still in their shells that have been heat treated to destroy Salmonella enteritidis to the FDA standard of 5-log reduction and, thus, are exempt from the status of a potentially hazardous food because no viable salmonellae exist.

"Person" includes any individual, partnership, corporation, association, or other legal entity.

"Person in charge" means the individual present in a food service establishment who is the apparent supervisor of the food service establishment at the time of inspection. If no individual is the apparent supervisor, then any employee present is the person in charge.

"Potentially hazardous food" means any food that requires time/temperature control for safety that consists in whole or in part of milk or milk products, eggs, meat, poultry, fish, shellfish, edible crustacea, or other ingredients, including synthetic ingredients, in a form capable of supporting rapid and progressive growth of infectious or toxigenic microorganisms; growth and toxin production of Clostridium botulinum; or, in raw shell eggs, the growth of Salmonella enteritidis. "Potentially hazardous food" includes an animal food (a food of animal origin) that is raw or heat treated; a food of plant origin that is heat treated or consists of raw seed sprouts; cut tomatoes; cut melons; and garlic-in-oil mixtures that are not

modified in a way that results in mixtures that do not support the growth of infectious or toxigenic microorganisms. The term does not include foods that:

Have a pH level of 4.6 or below;

Have a water activity (a_w) value of 0.85 or less; or

Are ~~a food,~~ in an unopened hermetically sealed container~~,~~ that is commercially processed to achieve and maintain commercial sterility under conditions of non-refrigerated storage and distribution; or

Are eggs with shell intact that have been pasteurized to destroy all viable salmonellae.

"Preservative" means any curing agent or curing accelerator (specific chemical agent that extends the shelf life of the product) that cures, accelerates color fixing or preserves color in meat or poultry products, including sodium nitrate or potassium nitrate, sodium nitrite or potassium nitrite, ascorbic acid, erythorbic acid, glucono delta lactone, sodium ascorbate, sodium erythorbate, citric acid, sodium citrate or sodium benzoate.

"Processing" means to manufacture, compound, intermix or prepare food products for sale or for customer service.

"Proctor" means a person who is approved by a national examination provider to administer examinations and who monitors students during an examination.

"Pushcart" means a non-self-propelled vehicle limited to serving non-potentially hazardous foods or commissary-wrapped food maintained at proper temperatures, or limited to the preparation and serving of frankfurters.

"Ratite" means a flightless bird such as an emu, ostrich or rhea.

"Ready-to-eat food" means food that is in a form that is edible without washing, cooking, or additional preparation by the food establishment or the consumer and that is reasonably expected to be consumed in that form. Ready-to-eat food includes:

Unpackaged potentially hazardous food that is cooked to the temperature

and time required for specific food under Section 750.180;

Washed and cut raw fruit and vegetables;

Whole raw fruits and vegetables that are intended for consumption without the need for further washing, such as at a buffet, but excluding whole raw fruits and vegetables offered for retail sale; and

Other food presented for consumption for which further washing or cooking is not required and from which rinds, peels, husks, or shells are removed.

"Reconstituted" means dehydrated food products recombined with water or other liquids.

"Reduced-oxygen packaging" means the reduction of the amount of oxygen in a package by removing oxygen; displacing oxygen and replacing it with another gas or combination of gases; or otherwise controlling the oxygen content to a level below that normally found in the atmosphere (approximately 21% at sea level); and a process that involves a food for which the hazards Clostridium botulinum or Listeria monocytogenes require control in the final packaged form. "Reduced oxygen packaging" includes:

Vacuum packaging, in which air is removed from a package of food and the package is hermetically sealed so that a vacuum remains inside the package;

Modified atmosphere packaging, in which the atmosphere of a package of food is modified so that its composition is different from air, but the atmosphere may change over time due to the permeability of the packaging material or the respiration of the food. Modified atmosphere packaging includes reduction in the proportion of oxygen, total replacement of oxygen, or an increase in the proportion of other gases such as carbon dioxide or nitrogen;

Controlled atmosphere packaging, in which the atmosphere of a package of food is modified so that, until the package is opened, its composition is different from air, and continuous control of that atmosphere is maintained, such as by using oxygen scavengers or a combination of total

replacement of oxygen, non-respiring food, and impermeable packaging material;

Cook chill packaging, in which cooked food is hot filled into impermeable bags that have the air expelled and are then sealed or crimped closed. The bagged food is rapidly chilled and refrigerated at temperatures that inhibit the growth of psychotrophic pathogens; or

Sous vide packaging, in which raw or partially cooked food is placed in a hermetically sealed, impermeable bag, cooked in the bag, rapidly chilled, and refrigerated at temperatures that inhibit the growth of psychotrophic pathogens.

"Regulatory authority" means the State and/or local enforcement authority or authorities having jurisdiction over the food service establishment.

"Re-service" means the transfer to another person of food that is unused and returned by a consumer after being served or sold and in the possession of the consumer.

"Safe materials" means articles manufactured from or composed of materials that may not reasonably be expected to result, directly or indirectly, in their becoming a component of or otherwise affecting the characteristics of any food. If materials used are food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act, they are "safe" only if they are used in compliance with regulations established pursuant to section 409 or 706 of the Food, Drug, and Cosmetic Act. Other materials are "safe" only if, as used, they are not food additives or color additives as defined in section 201(s) or (t) of the federal Food, Drug, and Cosmetic Act and are used in compliance with all applicable regulations of the Food, Drug, and Cosmetic Act that are incorporated by reference in Section 750.5 of this Part.

"Sanitization" means the application of cumulative heat or chemicals on cleaned food-contact surfaces that, when evaluated for efficacy, is sufficient to yield a reduction of at least 5 logs, which is equal to a 99.999% reduction, of representative disease microorganisms of public health importance.

"Sealed" means free of cracks or other openings that permit the entry or passage of moisture.

"Shellfish control authority" means a state, federal, foreign, tribal, or other government entity legally responsible for administering a program that includes certification of molluscan shellfish harvesters and dealers for interstate commerce.

"Shellstock" means raw in-shell molluscan shellfish.

"Showering" means a potable water spray with or without liquid smoke in the smoke house that, depending on when the water spray is applied, maintains humidity and flavors, decreases cooking time, promotes rapid cooling or reduces casing shrinkage.

"Shucked shellfish" means molluscan shellfish that have one or both shells removed.

"Single service articles" means cups, containers, lids, closures, plates, knives, forks, spoons, stirrers, paddles, straws, napkins, wrapping materials, toothpicks, and similar articles intended for one-time, one-person use and then discarded.

"Single-use articles" means utensils and bulk food containers designed and constructed to be used once and discarded. "Single-use articles" include items such as wax paper, butcher paper, plastic wrap, formed aluminum food containers, jars, plastic tubs or buckets, bread wrappers, pickle barrels, ketchup bottles, etc., and number 10 cans that do not meet the materials, durability, strength, and cleanability specification under Subpart D~~ of this Part~~, specifically Sections 750.600, 750.630 and 750.650 for multi-use utensils.

"Smoke generator" means a piece of equipment attached or integral to a smoke house that provides smoke to the smoke house, usually by slowly augering sawdust onto a heating element with the resulting smoke being drawn into the smokehouse.

"Smoke house" means a piece of equipment or room sized enclosure used to conduct the smoking process, with a smoke source, adequate ventilation, heat and humidity source if necessary, approved plumbing and waste lines if necessary, support structures for the food products to be smoked and a method to determine internal product temperature.

"Smoking" means the process of subjecting meat cuts and other foods to an

environment of heat and smoke generated from hardwood, hardwood sawdust, corn cobs or natural liquid smoke that has been transformed into a gaseous state by application of direct heat.

"Smooth" means a food-contact surface that is free of pits and inclusions with a cleanability equal to or exceeding that of (100 grit) number 3 stainless steel; a nonfood-contact surface of equipment equal to that of commercial grade hot-rolled steel free of visible scale; and a floor, wall or ceiling having an even or level surface with no roughness or projections that render it difficult to clean.

"Special event" means a unique event at a particular location, such as a celebration, festival or fundraiser that occurs no more than twice a year.

"Tableware" means multi-use eating and drinking utensils.

"Temperature-measuring device" means a thermometer, thermocouple, thermistor, or other device that indicates the temperature of food, air or water.

"Temporary food service establishment" means a food service establishment that operates at a fixed location for a period of time of not more than 14 consecutive days in conjunction with a single event or celebration.

"Utensil" means a food-contact implement or container used in the storage, preparation, transportation, dispensing, sale or service of food, such as kitchenware or tableware that is multi-use, single service or single use; gloves used in contact with food; temperature-sensing probes of food temperature measuring devices; and probe-type or identification tags used in contact with food.

"Variance" means a written document, issued by the regulatory authority, that authorizes a modification or waiver of one or more requirements of this Part if, in the opinion of the regulatory authority, a health hazard or nuisance will not result from the modification or waiver.

"Voluntary inspection" means an inspection of meat or poultry products that are not subject to the federal or State meat or poultry inspection laws, and for which the federal or State mark of inspection is requested.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

SUBPART C: PERSONNEL

Section 750.555 Change of Name or Address

Certificate holders shall inform the Department of any name and address changes. Legal documentation, such as a marriage certificate, divorce decree or court-approved name change, shall be provided for any name change.

(Source: Added at 38 Ill. Reg. _____, effective _____)

SUBPART J: FOOD SERVICE SANITATION MANAGER CERTIFICATION

Section 750.1810 Instructor Approval

a) The Food Service Sanitation Manager's Certification course shall~~must~~ be taught by a Department approved instructor. Employees of the ~~Illinois~~ Department ~~of Public Health~~ are not eligible to teach the Food Service Sanitation Manager Certification course while employed by the Department. Any approved instructor working as a sanitarian for a local health department is restricted from teaching a food service sanitation manager certification course on his or her own time outside of his or her duties as a sanitarian within the jurisdiction of the local health department by which he or she is employed.

b) The minimum qualifications for certification or recertification, renewable every five~~5~~ years, as a Department-approved instructor are all of the following:

1) Possession of a high school diploma or its equivalent;~~.~~

2) Possession of a valid State of Illinois Food Service Sanitation Manager Certificate;~~.~~

3) Minimum experience or education prior to initial application ~~or recertification~~ as an approved instructor consisting of one of the following:

A) Two years experience with a Food Service Sanitation Manager Certification or in an educator role~~as a food service sanitation manager~~ with written verification from the applicant's employer; or

B) Two years experience as a retail food inspector with written verification from the applicant's employer; or

C) An Associate's Degree or higher degree with at least 15 hours of science-related course work in a chemical, physical or biological science or in math verified by the educational institution from which the degree was earned; ~~or~~

~~D) Current certification as a Department approved instructor of a Food Service Sanitation Manager Certification course as of October 1, 1998.~~

4) Completion of a Conference for Food Protection (CFP)~~the Department~~ Food Service Sanitation Manager Certification ~~Instructor's~~ examination with a final score of 75~~90~~% or higher; and~~. An individual can attempt the instructor's examination twice. If a final score of 90% or higher is not received after the second attempt, the applicant must take an approved Food Service Sanitation Manager Certification course again prior to retaking the instructor's examination.~~

5) Payment of a $200 application fee to the Department with the application.~~Effective October 1, 1999, completion of at least 20 hours of continuing education every five years for recertification. The continuing education shall cover food safety and sanitation topics. The following are examples of proof of such attendance:~~

~~A) A college transcript with course description;~~

~~B) A certificate of completion of a course with a course description; or~~

~~C) Documentation of continuing education contact hours for training from a professional.~~

~~6) When the instructor's certificate has expired for more than 90 days, reapplication shall require compliance with subsections (b)(1) through (4) of this Section.~~

c) An instructor does not have to maintain his or her Food Service Sanitation

Manager Certification while he or she has a valid instructor certification. The instructor certification can be used in place of the manager certification, as required in Section 750.540.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 750.1812 Instructor Renewal

a) An instructor shall complete at least 20 hours of continuing education every five years for recertification. The continuing education shall cover food safety and sanitation topics and be completed by the instructor certification expiration date. The following are examples of proof of attendance:

1) A college transcript with course description;

2) A certificate of completion of a course with a course description; or

3) An agenda and certificate of completion/attendance documenting continuing education contact hours for training from a Department-approved organization.

b) A renewal application and certificate fee of $35 are due to the Department by the expiration date of the instructor's certificate. When the instructor's certificate has expired for more than 90 days, reapplication shall require compliance with Section 750.1810(b)(1) through (4).

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 750.1814 Proctor Approval

A proctor, as defined in Section 750.10, is an individual who is not teaching a Food Service Sanitation Manager Certification course, but is acting only as a test administrator/monitor for a Department-approved national examination provider. Each Department-approved national examination provider approves proctors for its examination, and the proctors shall seek approval from the Department to proctor examinations in order for his or her students to be eligible for a Food Service Sanitation Manager Certificate. A proctor is responsible for following the guidelines set forth by the national examination provider, verifying that each examinee has met the training hour requirement, as listed in Section 750.1820, and following the administrative procedures of the Department, as listed in Section 750.1860.

a) An individual who is an approved proctor with a Department-approved national examination provider can be registered with the Department as an approved proctor with the following:

1) Department-provided application and the renewal fee of $50;

2) Proof of approved proctor status with a Department-approved national examination provider; and

3) Attendance at a training by the Department on administrative procedures.

b) Proctor registration is valid for five years from the date of initial registration and shall be renewed every five years.

c) Proctor registrations can be renewed by submitting an application, renewal fee of $50, and proof of current proctor status with a Department-approved national examination provider to the Department prior to the proctor registration expiration date.

(Source: Added at 38 Ill. Reg. _____, effective _____)

Section 750.1815 Instructor and Proctor Compliance and Enforcement Process~~Denial~~

a) The Department will~~shall~~ monitor the performance of all instructors. The instructor shall comply with program changes and administrative procedures provided to the instructors by the Department. The Department will~~shall~~ consider the following in granting and revoking approval of certificates for all instructors:

1) Instructor~~instructor~~ performance, including compliance with administrative procedures when submitting information to the Department, as listed in Section 750.1860;

2) Ability~~inability~~ to effectively communicate information to the course participants; and

3) Compliance with~~violations of~~ this Part.

b) Instructor compliance will be addressed by the following enforcement process:

1) Notification of violation to the instructor/proctor electronically via e-mail;

2) Compliance conference with the instructor/proctor in person with the Department;

3) Suspension of the instructor certification/proctor registration until the compliance issue is resolved; and

4~~b~~) Opportunity~~The holder of said certificate shall be given the opportunity~~ for a hearing before the Department~~regulatory authority~~ pursuant to~~ the Department's Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100).

c) If an approved instructor or proctor is found to have assisted students taking the examination or helping them to cheat in any way, the instructor will be notified to appear at a compliance conference with the Department. Based on the outcome of the conference, the instructor certificate or proctor approval may be suspended indefinitely.

d) If a national examination provider suspends or revokes an instructor/proctor approval, the Department will also suspend that instructor's certificate or proctor registration.

e) An individual found to have cheated on the instructor examination will not be certified as an instructor.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 750.1820 Course Content

a) The minimum course content and eight hours of training, inclusive of the examination, are as follows. The instructor shall consider expanding the number of contact hours when a review of the participants reveals learning disabilities, language barriers or other inhibiting factors to learning. To renew an instructor's certificate, a new syllabus must be submitted using the format outlined in subsection (b).

b) Subject Area – Specific Elements of Knowledge

1) Identify foodborne illness and discuss food allergens (90 minutes).~~Hours 2~~

A) Define terms associated with foodborne illness: outbreak, food infection, food intoxication, communicable disease, pathogens, potentially hazardous foods, temperature danger zone.

B) Recognize the major microorganisms and toxins that can contaminate food and the problems that can be associated with the contamination: bacteria, viruses, parasites, fungi. Define and recognize illnesses that can be associated with chemical and physical contamination.

C) Define and recognize potentially hazardous foods (time/temperature control for food safety).

D) Define and recognize the major factors that contribute to foodborne illness.

E) Identify common food allergens and recognize causes of cross-contact.

2) Identify time/temperature relationship with foodborne illness (60 minutes).~~2~~

A) Recognize the relationship between time/temperature and microorganisms (survival, growth and toxin production) during the following stages: receiving, storing, thawing, cooking, holding/displaying, serving, cooling, storing (post production), reheating, transporting.

B) Describe the use of thermometers in monitoring food temperatures: types of thermometers, techniques and frequency, calibration and frequency.

3) Describe the relationship between personal hygiene and food safety (45 minutes).~~3~~

A) Recognize the association of hand contact and foodborne

illness: hand-washing technique and frequency; proper use of gloves, including replacement frequency and use with food allergens; and minimal hand contact with food.

B) Recognize the association of personal habits and behaviors and foodborne illness: smoking, eating and drinking, wearing clothing that may contaminate food, personal behaviors, including sneezing, coughing, etc.

C) Recognize the association of health of a food handler to foodborne illness: free of symptoms of communicable disease, free of infections, food protected from contact with open wounds.

4) Describe methods for preventing food contamination, from purchasing to serving (135 minutes).~~3~~

A) Define and identify potential hazards prior to delivery and during delivery: contamination, adulteration, damage, approved source, sound and safe condition.

B) Define HACCP and identify potential hazards and methods to minimize or eliminate hazards after delivery: personal hygiene, cross-contamination (food to food and equipment and utensils), contamination (chemical, additives, physical), service/display − customer contamination, storage, re-service.

5) Identify and apply correct procedures for cleaning, sanitizing and facility management (60 minutes).~~2~~

A) Define terms associated with cleaning, and sanitizing.

B) Apply appropriate methods of cleaning and sanitizing: manual ware washing, mechanical ware washing, clean in place (CIP).

C) Identify frequency of cleaning and sanitizing.

D) Identify facility, design and construction suitable for food establishments: refrigeration, heating and hot holding, floors, walls, ceilings, pest control, lighting, plumbing, ventilation, water supply, wastewater disposal, waste disposal.

6) Codes related to food service establishments (30 minutes).

A) Public Health Codes: responsibilities affecting operation:

i) Illinois Food, Drug and Cosmetic Act

ii) Food Service Sanitation Code

iii) Meat and Poultry Inspection Act as those rules pertain to food service establishments

iv) Federal regulations regarding food safety and food allergens

B) Appendix A (Retail Food Sanitary Inspection Report) and its use as a control tool.

7) Examination (minimum 60 minutes or per approved national examination provider).

A) An examination shall be proctored by an approved proctor for an approved national examination provider.

B) Additional time shall be provided for the examination as allowed in the procedures set forth by the approved national examination provider. Additional time is allowed for examination, but shall not be substituted for required training hours.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 750.1830 Course Approval

Course approval by the Department is contingent upon compliance with the following requirements:

a) An approved Food Service Sanitation Manager Certification instructor shall teach the course.

~~b) An approved institution shall sponsor the instructor. Approved institutions are limited to local health departments, community colleges, universities, institutional training programs or nutrition consultation agencies. The Department will approve exceptions only based on the instructor's demonstrated ability to provide a location, textbooks, hand-outs or other references; for example, agreements with bookstores to make references available for sale. The Department will revoke or suspend any sponsorship when the sponsor fails to comply with this Part. Prior to a suspension or revocation, the sponsor shall be given the opportunity for a hearing before the Department pursuant to the Department's Practice and Procedure in Administrative Hearings.~~

b~~c~~) An approved course syllabus shall be used. Each course shall meet the standards for content and length of training (see Section 750.1820). The syllabus shall delineate:

1) Textbook and other teaching materials used;

2) Methods and locations used for instruction~~instructions~~;

3) Course content;

4) Topics and length of class meetings~~meeting~~; and

5) Method used to determine students' participation and presence during the course sessions, for example,~~examples such as~~ sign-up sheets or a~~,~~ roster~~, etc~~.

c~~d~~) Instructors shall submit one copy of the syllabus to the Department and receive approval prior to teaching a State-approved course. Any syllabus content revision shall be sent to the Department for approval.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 750.1831 Alternative Training Methods ~~of Training~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

The Department will approve alternative training~~Alternate~~ methods~~, of training~~ such as interactive computer training courses~~programming~~, interactive video or distance learning ~~may be approved by the Department~~ for purposes of certification or recertification~~,~~ if the training provider/sponsor ~~of the training~~ submits the following information to the Department for approval before use:

a) Documentation that the training course content is:

1) Equivalent~~equivalent~~ to the course content described in Section 750.1820(b) titled~~entitled "~~ Subject Area – Specific Elements of Knowledge~~"~~; and~~or~~

2) Based~~based~~ on a psychometrically valid job analysis developed by personnel who~~that~~ include qualified test development specialists and a representative group of individuals with significant experience in food safety. A pyschometrically valid job analysis is a detailed job description in which a profession, in this instance food service sanitation manager, is broken down into necessary knowledge and skills. The job analysis study is then used as the basis for examination development in the profession being credentialed.

b) The Department-approved instructor/proctor shall monitor time spent by students during the alternative method of training to ensure that the student is meeting the minimum required number of training hours described in Section 750.1820 and that the students are not allowed to complete the training at their own pace if less than the required number of training hours has been completed.

c) Only Department-approved instructors and proctors may oversee alternative methods of training. If a student is using an alternative method of training, the Department-approved instructor affiliated with that training is responsible for proctoring the certification examination or for issuing a letter of permission to take the examination to the student and assisting the student in finding an approved proctor to provide an examination.~~Documentation that the candidate for certification or recertification has successfully participated in a training program which provides the knowledge and skills in food protection management necessary to implement the elements of the course content in Section 750.1820(b). All candidates must certify under oath that they personally completed the alternative training program.~~

d~~e~~) The Department will ~~reserves the right to~~ evaluate the effectiveness of the alternative method of training based on a 70% pass rate over a 12 month period. Approval will~~may~~ be revoked if the Department determines that the alternative method of training is not effective in preparing students to pass an approved Food Service Sanitation Manager Certification examination.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 750.1835 Make Up Work (Repealed)

~~a) The routine use of home-study preparation to complete the 15 hour course requirement shall not be approved. Make-up work; i.e., home study, is reserved for extraordinary situations, such as illness. Its use shall be reviewed on a case-by-case basis and approved by the instructor prior to the student taking the examination. The portions as defined in Section 750.1820(b0(5)(A) and (C) shall be taught in-class only, no make-up waiver will be approved. No more than four of the state-required course hours may be make-up work.~~

~~b) Make-up work will include required text and handout readings and written assignments covering the subject missed in class. The homework shall be graded and returned to the student prior to the taking the Food Service Sanitation Certification examination.~~

~~c) The class roster will reflect make-up work and its grade for the review of the monitor.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1836 Home Study (Repealed)

~~Home study other than make-up work as described in Section 750.1835 shall not be approved by the Department unless it meets the criteria in Section 750.1831.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1837 Course Waiver (Repealed)

~~a) The certification course may be waived by the Department if the individual has taken an equivalent course or combination of courses which is equivalent or~~

~~exceeds Department standards for course content and length. The individual must submit, to the Department, documentation such as a letter from the instructor, transcript, or certificate indicating course completion. Such training must be completed within five years of applying for the Department certificate.~~

~~b) If the individual satisifies the above stipulations, they may take the Department certification examination once without taking a Department-approved course. If they do not pass the exam, they must take a Department-approved course prior to taking the examination again.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1850 Certification Examination

The Department shall only accept certification examinations accredited under the standards developed and adopted by the Conference for Food Protection or its successor. (Section 3 of the Act)~~The examination shall reflect the course content and be used as a measure of the candidates knowledge of food service sanitation. In addition, examination formulation shall follow the following guidelines:~~

~~a) Questions must be proportionate to the subject areas included under Course Content and Length of Training guidelines delineated under Section 750.1820.~~

~~b) The question format shall be multiple choice.~~

~~c) New forms of the examination must be pretested to identify questions that could possible be misinterpreted by candidates.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 750.1855 Testing Criteria (Repealed)

~~Any organization seeking approval from the Department to develop and administer a Food Service Sanitation Manager Certification examination shall comply with the following criteria:~~

~~a) Each organization seeking approval to develop and administer an examination shall provide background information naming:~~

~~1) The organization's name, address, telephone number and other identifying~~

~~information; and~~

~~2) A description of the scope of usage of the examination including the time period in use, number of examinations already administered and any government or other agencies already approving the examination.~~

~~b) Each organization shall provide information about the development and administration of the examination for which approval is sought, including:~~

~~1) Formation of the examination questions with number of items in the question bank, source of questions, method of composition, job relatedness;~~

~~2) Content validity based on "Specific Elements of Knowledge" in Section 750.1820 or job analysis to provide an equivalent description of the knowledge, skills and abilities required of the occupation of food service sanitation manager;~~

~~3) Evidence that the examination includes sanitation requirements of the Illinois Food Service Sanitation Code (77 Ill. Adm. Code 750);~~

~~4) Actual numerical score resulting from testing;~~

~~5) Methods for periodic review of the examination;~~

~~6) Methods used to provide alternate examination forms (retakes) from the bank of questions;~~

~~7) Alternate language forms;~~

~~8) Item analysis data to show each examination is performing at the same difficulty and reliability levels; and~~

~~9) Policies and procedures used to administer examination.~~

~~c) Each testing organization shall assure security mechanisms which:~~

~~1) Provide effective security during preparation, printing, transportation, handling, administration and destruction of the examinations;~~

~~2) Ensure approved organization monitors are present during administration of the examinations;~~

~~3) Maintain a tracking system for all examinations; and~~

~~4) Make provisions to remove a particular version if the examination has been compromised.~~

~~d) Each testing organization shall assure administration of examinations in compliance with Subpart J of this Part by:~~

~~1) Verifying the eligibility of candidates according to Code requirements; and~~

~~2) Providing the necessary staff and resources to administer, monitor and grade examinations.~~

~~e) Each testing organization shall collect and make available to the Department certain performance criteria:~~

~~1) Statistics following examination development which indicate percentage answering each item correctly, numbers choosing each distractor, reliability estimates, discrimination indexes;~~

~~2) An annual report showing the number of candidates tested, the number passing the examination, the number failing the examination; and~~

~~3) Within 10 working days of each examination, class enrollment information: each candidate's name, home address, social security number (voluntary), passing/failing score, date of examination and names of approved instructor and monitor.~~

~~f) The Department shall reserve the right to audit operations to verify security measures and compliance with this Part.~~

~~g) Each testing organization with an examination previously approved by the Department shall have two years following the effective date of this amendment to provide the requested information.~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1860 Administration of Examination ~~Notification~~

a) The Department-approved national examination provider shall administer and secure the examinations as set forth in the proctor agreement.

b) The instructor shall complete and electronically submit a Course Notification Form (CNF) to the Department prior to conducting the training course or examination.

c) Each examination packet sent to the Department shall consist of the following:

1) A copy of the CNF;

2) A class enrollment form with names listed in alphabetical order by last name. The presence of a student's name on this list is the instructor's verification that the individual completed the required course; and

3) Scantrons completed completely and accurately, arranged in alphabetical order by last name.

d) All required examination documentation shall be sent to the Department within 45 days after the examination date. Sending examination materials later than 45 days after the examination date will result in enforcement action against the instructor/proctor as outlined in Section 750.1815.

e) Scantrons for those students who failed an examination do not need to be submitted to the Department until the student receives a passing grade of 75% or higher. Instructors/proctors shall remove or strike that failing student's name from the list that they are submitting to the Department for that examination date.

f) An individual who is found to have cheated on the certification examination shall not be entitled to certification. The individual shall retake an approved course before taking the examination again.

~~The instructor shall complete and submit an "Examination Date Notification" form (see Appendix B) to the Department at least 30 days prior to the examination.~~

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 750.1861 Class Enrollment Form (Repealed)

~~a) The instructor shall submit a completed "Class Enrollment" form (see Appendix C) at the time of the examination. The presence of a student's name on this list is the instructor's verification that the individual completed the required course. The monitor shall confirm the list with the class roster.~~

~~b) The names shall be listed on the entrance in alphabetical order.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1862 Administration of Examination (Repealed)

~~a) The examinations shall be stored and administered under secure conditions. They shall be inventoried prior to and immediately following each administration of the examination. "Secured" means that access to the examination is essentially limited to the monitor of the examination or an agent of the Department.~~

~~b) Location of the exams shall be monitored and kept in a log at all times. The State of Illinois Food Service Sanitation Manager Certification exams shall not be out of the Department for more than 10 days. Exams shall be sent by Certified Mail, UPS, hand delivered or other method approved by the Department.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1865 Monitors (Repealed)

~~a) There shall be one approved monitor for every 35 students taking the examination.~~

~~b) Approved monitors for the State examination shall be restricted to individuals in one of the following groups and must complete and submit a monitor's agreement form, if the examination location is not a designated regional location. This form must be submitted 30 days prior to the examination date.~~

~~1) Illinois Department of Public Health personnel;~~

~~2) Local Health Department personnel;~~

~~3) State institution personnel; i.e., Department of Corrections;~~

~~4) Community colleges or university sponsored personnel; and~~

~~5) Department approved Food Service Sanitation Manager Certification instructors.~~

~~c) Testing organizations approved in Section 750.1855 of this Part must submit for Department review and approval criteria for approving monitors for their examinations.~~

~~d) The Department reserves the right to determine who may function in the role as a monitor for the State examination and to audit the performance of any monitor for any approved examination. The Department shall suspend or revoke permission to serve as a monitor in the event of a breach of test security, provision of assistance to students taking the exam, repeated failure to return exams within a timely manner, cheating, changing of students' answers, duplicating test materials, conflict of interest, and otherwise failing to comply with this Part.~~

~~e) The monitor shall confirm the identity of the individual who wishes to take the examination by photograph identification, driver's license or student identification card. In the event that the individual does not have a photographic identification card, a legal document which bears the individual's signature shall be acceptable.~~

~~f) The monitor shall confirm that the individual has taken an approved course prior to retaking the examination in one or more of the following methods:~~

~~1) Instructor at the examination site will confirm that he/she instructed the individual.~~

~~2) Individual submits the Department fail letter sent to him and the monitor confirms the name and address on the letter against the person's identification.~~

~~3) Individual submits the "Permission To Retake Certification Examination" form (see Appendix D) which has been signed by the instructor. The~~

~~monitor must confirm the name listed on the form with the person's identification.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1868 Cheating (Repealed)

~~a) An individual determined to have cheated on the Certification examination shall not be entitled to certification. The individual must retake an approved course before taking the examination again.~~

~~b) An individual determined to have cheated on the Instructor's examination shall not be certified as an instructor.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1870 Re-test Class (Repealed)

~~The Department reserves the right to approve or reject retest requests and to retest individuals or a class:~~

~~a) if it appears that there was substantial probability that cheating occurred.~~

~~b) if it appears that the examination integrity was compromised.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1876 Dictionary (Repealed)

~~An individual who speaks English as a secondary language may use a dictionary which translates English to the native language.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1880 Retake Examination (Repealed)

~~a) An individual shall only retake the exam twice. If the person does not pass the exam after three attempts, they must again take an approved course prior to taking the exam. All attempts at retaking the examination must completed within six~~

~~months of completing the course.~~

~~b)~~ ~~An individual may retake the examination by scheduling it with the Department, or with another class, if first approved by the class instructor.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

Section 750.1890 Revocation of Certificates

Food Service Sanitation Manager~~The~~ certificates will be valid for five years after the date of the examination unless revoked under Section 750.560~~ of the Food Service Sanitation Code~~.

(Source: Amended at 38 Ill. Reg. _____, effective _____)

Section 750.1895 Change of Address (Repealed)

~~Certificate holders shall inform the Department of any name and address changes. Legal documentation such as marriage certificate, divorce decree or court approved name change shall be provided for any name change.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 750.APPENDIX B Examination Date Notification Form (Repealed)

~~ILLINOIS DEPARTMENT OF PUBLIC HEALTH~~
~~OFFICE OF HEALTH PROTECTION~~
~~DIVISION OF FOOD, DRUGS & DAIRIES~~

~~Food Service Sanitation Manager Certification~~
~~Examination Date Notification Form~~

~~INSTRUCTOR NAME:~~ _____

~~I.D.#~~ _____ ~~DAYTIME PHONE:~~ _____

~~SPONSOR NAME:~~ _____

~~COURSE INFORMATION~~

~~DATES:~~ _____ ~~TIMES:~~ _____

~~LOCATION:~~ _____ ~~ROOM #:~~ _____

_____

~~EXAMINATION INFORMATION~~

~~EXAMINATION TYPE:~~

~~State~~ _____ ~~Spanish~~ _____

~~Educational Testing~~ ~~Educational Foundation~~ _____

~~Service~~ _____ ~~Other~~ _____

~~Retake~~ _____

~~NUMBER OF APPLICANTS:~~ _____

~~*LOCATION:~~ _____ ~~ROOM #:~~ _____

~~EXAMINATION DATE:~~ _____ ~~TIME:~~ _____

~~MONITOR NAME:~~ _____

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

~~MAILING ADDRESS:~~ _____

~~CITY~~ _____ ~~STATE~~ _____ ~~ZIP~~ _____

~~DAYTIME PHONE:~~ _____

~~(Mailing address for UPS delivery if applicable)~~

~~**********~~

~~*If examination location is not the designated Regional location, a completed Monitor's Agreement Form must be attached. These forms must be submitted 30 days prior to the examination date.~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 750.APPENDIX C Class Enrollment Form (Repealed)

~~ILLINOIS DEPARTMENT OF PUBLIC HEALTH~~
~~OFFICE OF HEALTH PROTECTION~~
~~DIVISION OF FOOD, DRUGS AND DAIRIES~~

~~Food Service Sanitation Manager Certification~~
~~Class Enrollment Form~~

~~Examination Date:~~ _____ ~~Location:~~ _____

~~EXAMINATION TYPE:~~ ~~State~~ _____ ~~Spanish~~ _____
~~Educational Testing Service~~ _____ ~~Education Foundation~~ _____
~~Other~~ _____
~~Retake~~ _____

~~Instructor's Name:~~ _____ ~~ID#:~~ _____

~~Address:~~ _____ ~~City:~~ _____ ~~State:~~ _____ ~~Zip:~~ _____

~~Daytime Phone:~~ _____

~~Sponsor:~~ _____

~~I~~ _____ ~~(Instructor)~~ _____ ~~certify that I have taught the State Food Service Sanitation Course according to the State requirement and the individuals listed below are eligible to take the examination.~~

~~Name (list alphabetically by last name)~~	~~Address~~	~~City~~	~~State~~	~~Zip Code~~	~~Check If Retake~~	~~Score~~
~~1.~~						
~~2.~~						
~~3.~~						
~~4.~~						
~~5.~~						
~~6.~~						
~~7.~~						
~~8.~~						

~~9.~~
~~10.~~

~~Instructor's Signature~~	~~Date~~	~~Monitor's Signature~~	~~Date~~

~~[FOR REGIONAL USE ONLY]~~

~~Region:~~ _____

~~Signature:~~ _____

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 750.APPENDIX D Permission to Retake Certification Examination Form (Repealed)

~~ILLINOIS DEPARTMENT OF PUBLIC HEALTH~~

~~OFFICE OF HEALTH PROTECTION~~

~~Request for Permission to Retake~~
~~Food Service Manager Certification Examination~~

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

~~Address:~~ _____

_____

~~Telephone:~~ _____

~~Social Security #:~~ _____

~~Course~~

~~School:~~ _____

~~Instructor:~~ _____

~~Date of Course:~~ _____ ~~thru~~ _____

~~Dates of previous exams: First~~ _____

~~Second~~ _____

~~Affidavit:~~ ~~I certify that this student has completed my approved Food Service Manager's Certification course.~~

~~Signature:~~ _____
~~(Instructor)~~

~~2609K~~

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

Section 750.APPENDIX E Monitor's Agreement Form (Repealed)

~~ILLINOIS DEPARTMENT OF PUBLIC HEALTH~~

~~OFFICE OF HEALTH PROTECTION~~

~~Division of Food, Drugs & Dairies~~

~~Food Service Sanitation Manager Certification~~

~~Monitor's Agreement Form~~

~~I,~~ _____~~,~~
~~(Name)~~

~~representing~~ _____
~~(LHD, Community College, Agency, etc.)~~

~~agree to be the designated monitor for the State of Illinois Food Service Sanitation Manager Certification examination~~
~~at~~ _____

~~and/or in~~ _____ ~~county. I agree to abide by the Food Service Sanitation Certification examination monitor guidelines as provided by the Illinois Department of Public Health, Division of Food, Drugs and Dairies.~~

~~Date~~ _____ _____
~~Monitor Signature~~

_____
~~Address~~

_____
~~Daytime Telephone Number~~

(Source: Repealed at 38 Ill. Reg. _____, effective _____)

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

1) Heading of Part: Compassionate Use of Medical Cannabis Pilot Program

2) Code Citation: 8 Ill. Adm. Code 1000

3)

Section Numbers:	Adopted Action:
1000.10	New Section
1000.20	New Section
1000.30	New Section
1000.40	New Section
1000.50	New Section
1000.60	New Section
1000.70	New Section
1000.100	New Section
1000.110	New Section
1000.120	New Section
1000.130	New Section
1000.140	New Section
1000.150	New Section
1000.160	New Section
1000.200	New Section
1000.210	New Section
1000.220	New Section
1000.230	New Section
1000.240	New Section
1000.250	New Section
1000.260	New Section
1000.270	New Section
1000.300	New Section
1000.310	New Section
1000.320	New Section
1000.330	New Section
1000.400	New Section
1000.405	New Section
1000.410	New Section
1000.415	New Section
1000.420	New Section
1000.425	New Section
1000.430	New Section
1000.435	New Section

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

1000.440	New Section
1000.445	New Section
1000.450	New Section
1000.455	New Section
1000.460	New Section
1000.465	New Section
1000.470	New Section
1000.500	New Section
1000.510	New Section
1000.600	New Section
1000.700	New Section
1000.APPENDIX A	New Section

4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]

5) Effective Date of Rule: July 25, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rule contain incorporations by reference? Yes. See Section 1000.20 of the adopted rulemaking.

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Date Notice of Proposal published in the *Illinois Register*: April 18, 2014; 38 Ill. Reg. 8069

10) Has JCAR issued a Statement of Objection to these rulemakings? No

11) Differences between Proposal and Final Version: See the following Sections:

In Section 1000.10 Definitions:
The ASTM standard for child-resistant packaging was updated.
A definition of "DD214" was added.
"Financial interest" references securities exchanges in the United States.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

In Section 1000.20, citations to Environmental Protection Agency and Department of Agriculture rules were added and a reference to the Business Enterprise for Minorities, Females, and Persons with Disabilities Act was also added.

In Section 1000.30, references to DPH and DFPR were added.

In Section 1000.40, allows for a cultivation center to hire a physician as an independent contractor for limited purposes; and clarifies the surety bond terms.

In Section 1000.50, clarifies the hold harmless/indemnification provision.

In Section 1000.70, the incorrect reference to Section 1000.210(a)(1) was corrected to reference Section 1000.220(a)(1).

In Section 1000.100, changes the period during which the Department will accept applications to 14 calendar days and provides for the electronic submission of applications; provides for the inclusion of the number of points available for each required criteria and bonus category to be used in the scoring of the application process; adds the prohibition against communication with applicants upon receipt of an application;. references to “mortgagors” were changed to “mortgagees”; language was added to clarify that requirements of the permit application will also be contained in rule; and requires that principal officers and producer backers must be subject to service of process in Illinois.

In Section 1000.110, provides guidance for verification of minority, female, veteran or disabled person owned business and allows for verification of application information to assess applicant's character and fitness to operate a cultivation center.

In Section 1000.120, revises provisions for transferring a cultivation center permit to the surviving spouse or domestic partner of a deceased permit holder to allow re-issuance of the permit in the survivor’s name without charge and without an additional background check if the original permit was in both names.

In Section 1000.130, prohibits the production, sales and delivery of medical cannabis on an expired permit; failure to renew results in a maximum suspension of 30 days during which no cannabis can be sold or delivered; failure to renew after the 30 day suspension results in the permit not being eligible for renewal and the applicant must cease and desist production, sale and delivery of cannabis.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

In Section 1000.160, indicates there is no right, duty, privilege or interest entitling applicant to an administrative hearing upon denial of an application.

In Section 1000.200, clarifies that various documents must be filed by each producer backer member.

In Section 1000.210, provides that the Department will maintain criminal history records checks in compliance with the State Records Act.

In Section 1000.300, clarifies that the application will include instructions and requests for information in support of the application; and that the Department will enter certain information into its record system.

In Section 1000.320, provides that the agent-in-charge identification card be applied for by the cultivation center.

In Section 1000.405, requires DPH's inspection of cultivation centers regarding their operation to include the processing of cannabis infused products.

In Section 1000.415, references cultivation center agents.

In Section 1000.420, requires the inclusion of a "use by date"; that cannabis-infused products be wrapped or packaged; and that labels be in English.

In Section 1000.445, provides that the electronic security system has a digital recording device and can produce a digital video disc; and that cloud storage is an example of off site storage of security recordings. It also provides for delivery of medical cannabis during the hours of 7 a.m. and 9 p.m. and clarifies who is allowed on the permitted premises.

In Section 1000.460, cites the rules of the Illinois Environmental Protection Act; and gives examples of other wastes that can be used to make compostable and noncompostable mixed waste.

In Section 1000.470, clarifies the reference to the Illinois Pesticide Control Act.

In Section 1000.510, provides that testing shall be done only by an approved lab; clarifies that certain testing be measured in colony forming units per gram with limits set out in

the American Herbal Pharmacopoeia Monograph Table; and states the year of the citation to the CFR.

In Section 1000.600, includes notification to local law enforcement having jurisdiction if a cultivation center closes.

In Section 1000.700, clarifies that the Department can sanction not only a registration but also a permit.

Section 1000.APPENDIX A is added to list the approved pesticides that can be used on cannabis plants.

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 rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: The Department is charged with registering and regulating the cultivation centers allowed in the Compassionate Use of Medical Cannabis Pilot Program Act. This rulemaking sets forth the requirements and criteria that will apply to registering cultivation centers, including providing oversight of the production of medical cannabis and cannabis infused products, and preventing theft and diversion of those products.

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

Amanda Sutton
Illinois Department of Agriculture
P. O. Box 19281, State Fairgrounds
Springfield IL 62794-9281

217/524-4190
Facsimile: 217/524-5960

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: ILLINOIS DEPARTMENT OF AGRICULTURE
SUBCHAPTER v: LICENSING AND REGULATIONS

PART 1000
COMPASSIONATE USE OF MEDICAL CANNABIS PILOT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section
1000.10 Definitions and Incorporations
1000.20 Referenced Materials
1000.30 Scope and Application
1000.40 Operation of a Cultivation Center
1000.50 Permits − General Provisions
1000.60 Evidence of Financial Responsibility − Terms
1000.70 Variances

SUBPART B: CULTIVATION CENTER PERMITS AND PERMIT SELECTION

1000.100 Permit Application
1000.110 Permits − Selection Criteria
1000.120 Permit Issuance; Transferability
1000.130 Permit Renewal
1000.140 Fees
1000.150 Modifications and Alterations
1000.160 Denial of Cultivation Center Application/Suspension or Revocation of Permit

SUBPART C: CULTIVATION CENTER REQUIREMENTS

1000.200 Financial Disclosure
1000.210 Fingerprint-Based Criminal History Records Check
1000.220 Cultivation Center Facility Plans and Specifications
1000.230 Measuring Distances
1000.240 Failure to Open or Operate
1000.250 Cultivation Center Records
1000.260 Automated Data Processing (ADP) and/or Point-of-Sale (POS) Systems
1000.270 Mandatory Signage

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

SUBPART D: CULTIVATION CENTER AGENTS/AGENTS-IN-CHARGE

1000.300 Cultivation Center Agents Application; Issuance; Surrender
1000.310 Suspension or Revocation of Agent Identification Card
1000.320 Cultivation Center Agent-in-Charge
1000.330 Denial, Suspension or Revocation of Agent-in-Charge Identification Card

SUBPART E: CULTIVATION CENTER OPERATIONS

1000.400 Production Areas − Plants
1000.405 Production Areas − Infused or Processed Products
1000.410 Cultivation Center Management and Operations
1000.415 Containment Management and Operations
1000.420 Packaging and Labeling of Medical Cannabis and Cannabis-Infused Products
1000.425 Advertising
1000.430 Transportation of Cannabis and Cannabis-Infused Products
1000.435 Inventory
1000.440 Cultivation Center Storage
1000.445 Electronic Security System
1000.450 Alarm System
1000.455 Hours of Operation
1000.460 Waste Disposal
1000.465 Connections to the Potable Water Supply
1000.470 Pesticide Usage

SUBPART F: LABORATORY TESTING

1000.500 Laboratory Approval
1000.510 Laboratory Testing

SUBPART G: CULTIVATION CENTER CLOSURE

1000.600 Closure of a Cultivation Center

SUBPART H: ENFORCEMENT

1000.700 Investigations; Administrative Hearings and Penalties

1000.APPENDIX A Authorized Pesticides

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

AUTHORITY: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

SOURCE: Adopted at 38 Ill. Reg. 16731, effective July 25, 2014.

SUBPART A: GENERAL PROVISIONS

Section 1000.10 Definitions and Incorporations

Definitions for this Part can be located in Section 10 of the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130/10]. The following definitions shall also apply to this Part:

"Act" means the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

"Adequate supply" means 2.5 ounces of usable cannabis during a period of 14 days and that is derived solely from an intrastate source. The pre-mixed weight of medical cannabis used in making a cannabis-infused product shall apply toward the limit on the total amount of medical cannabis a registered qualifying patient may possess at any one time. [410 ILCS 130/10(a)]

"Alterations" means permanent changes in activities or processes at a cultivation center, or changes in production, handling or storage of the product mix, that do not modify the efficiency of facility structures or systems.

"Applicant" means any corporation, limited liability company, association or partnership, limited liability partnership, or one or more individuals, principal officers, agency, business trust, estate, trust, or any other legal entity that is applying with the Illinois Department of Agriculture for a cultivation center permit under the Act.

"Area zoned for residential use" means an area zoned exclusively for residential use; provided that, in municipalities with a population over 2,000,000 people, "an area zoned for residential use" means an area zoned as a residential district or a residential planned development.

"Batch" means the established segregation of a group of plants at the time of planting for the control of quantity, traceability and/or strain. A batch number will be assigned at the time of planting for a specified number of plants. When plants reach 18 inches in height, a specific number will be assigned for each plant within that batch. The batch number will remain with the segregated plants through harvest to final packaging. The batch number will be included on the label of the package distributed for the end user.

"Batch number" means a unique numeric or alphanumeric identifier assigned to a batch by a cultivation center when the batch is first planted. The batch number shall contain the facility number and a sequence to allow for inventory and traceability.

"Biosecurity" means a set of preventative measures designed to reduce the risk of transmission of infectious diseases in crops, quarantined pests, invasive alien species, and living modified organisms.

"Cannabis" means *marijuana, hashish and other substances which are identified as including any parts of the plant Cannabis sativa and including any and all derivatives or subspecies, such as Indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.* (Section 3 of the Cannabis Control Act)

"Cannabis concentrate" means a product derived from medical cannabis that is produced by extracting cannabinoids from the plant through the use of propylene glycol, glycerin, butter, olive oil or other typical cooking fats; water, ice or dry ice; or butane, propane, CO_2, ethanol or isopropanol. The use of any other solvent is expressly prohibited unless and until it is approved by the Department.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

"Cannabis plant monitoring system" means a system that includes, but is not limited to, testing and data collection established and maintained by the registered cultivation center and available to the Department for the purposes of documenting each cannabis plant and for monitoring plant development throughout the life cycle of a cannabis plant cultivated for the intended use by a qualifying patient from seed planting to final packaging. [410 ILCS 130/10(c)]

"Cannabis product" means a product containing medical cannabis either in a physical form or infused with an extracted resin.

"Cannabis waste" means any part of the plant that is not usable cannabis, or cannabis that cannot be processed as provided in Section 1000.510(d)(2).

"Child-resistant" means special packaging that is:

designed or constructed to be significantly difficult for children under five years of age to open and not difficult for normal adults to use properly as defined by 16 CFR 1700.20 (1995) and ASTM classification standard D3475-14, http://www.astm.org/Standards/D3475.htm. This incorporation by reference does not include any later amendments or editions. The Department maintains copies of the applicable federal regulation and ASTM classification standard, that are available to the public;

closable for any product intended for more than a single use or containing multiple servings; and

labeled properly as required by Section 1000.420.

"Clone" means a plant section from a female cannabis plant not yet root-bound, growing in a water solution or other propagation matrix, that is capable of developing into a new plant.

"Crop input" means any substance that is used by a producer for the production of medical cannabis. This may include pesticides as defined by the Illinois Pesticide Act or the American Association of Pesticide Control Officials, fertilizers as defined by the Illinois Commercial Fertilizer Act of 1961 or the American Association of Plant Food Officials, and soil amendments as defined by the Soil Amendment Act;

"Cultivation center" means a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis. [410 ILCS 130/10(e)]

"Cultivation center agent" means a principal officer, board member, employee, or agent of a registered cultivation center who is 21 years of age or older and has not been convicted of an excluded offense. [410 ILCS 130/10(f)]

"Cultivation center agent-in-charge" or "agent-in-charge" means the cultivation center agent who has been designated by the cultivation center to have control and management over the day to day operations of the cultivation center. A cultivation center may designate more than one agent-in-charge to cover varying operational work shifts, but may only have one per work shift.

"Cultivation center agent identification card" means a document issued by the Department of Agriculture that identifies a person as a cultivation center agent. [410 ILCS 130/10(g)]

"Cultivation center agent-in-charge identification card" means a document issued by the Department of Agriculture that identifies a cultivation center agent as an agent-in-charge.

"DD214" means a certified DD214 Certificate of Separation or Release from Active Duty Member Copy 4 or State Director of Veterans' Affairs Copy 6; a certified DD214 Report of Separation from Active Duty 2; or equivalent certified document indicating character of service and dates of service. A DD214 can be certified by the State Department of Veterans' Affairs, county veterans' officials, and the federal Department of Veterans Affairs.

"Department" means the Illinois Department of Agriculture.

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

"DPH" means the Illinois Department of Public Health.

"Disqualifying conviction" means conviction of an excluded offense.

"Enclosed, locked facility" means a room, greenhouse, building, or other enclosed area equipped with locks or other security devices that permit access only by a cultivation center's agents or a dispensing organization's agent working for the registered cultivation center or the registered dispensing organization to cultivate, store, and distribute cannabis for registered qualifying patients. [410 ILCS 130/10(k)]

"Excluded offense" means:

> *a violent crime defined in Section 3 of the Rights of Crime Victims and Witnesses Act or a substantially similar offense that was classified as a felony in the jurisdiction where the person was convicted; or*
>
> *a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, except that the Department may waive this restriction if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.*

This exception does not apply if the conviction was under state law and involved a violation of an existing medical cannabis law. [410 ILCS 130/10(l)]

"Facility" shall refer to the permitted physical structures associated with the cultivation center.

"Financial interest" means any actual or future right to ownership, investment or compensation arrangement with another person, either directly or indirectly, through business, investment, spouse, parent or child, in a cultivation center. Financial interest does not include ownership of investment securities in a publicly-held corporation that is traded on a national securities exchange or over-the-counter market in the United States, provided the investment securities held by the person and the person's spouse, parent or child, in the aggregate, do not exceed one percent ownership in the cultivation center.

"Fingerprint-based criminal history records check" means a fingerprint-based criminal history records check conducted by the Department of State Police in

accordance with the Uniform Conviction Information Act (UCIA) or 20 Ill. Adm. Code 1265.30 (Electronic Transmission of Fingerprint Requirements).

"Flower" means the gametophytic or reproductive state of cannabis in which the plant is in a light cycle intended to produce flowers, trichromes and cannabinoids characteristic of cannabis.

"Immature plant" means a nonflowering cannabis plant that has an established root structure.

"ISP" means the Illinois Department of State Police.

"Label" means a display of written, printed or graphic matter on the immediate container of any product containing cannabis;

"Laboratory" means an independent laboratory located in Illinois and approved by the Department to have custody and use of controlled substances for scientific and medical purposes and for purposes of instruction, research or analysis.

"Livescan" means an inkless electronic system designed to capture an individual's fingerprint images and demographic data (name, sex, race, date of birth, etc.) in a digitized format that can be transmitted to ISP for processing. The data is forwarded to the ISP Bureau of Identification (BOI) over a virtual private network (VPN) and then processed by ISP's Automated Fingerprint Identification System (AFIS). Once received at the BOI for processing, the inquiry may, as permitted by law, be forwarded to the Federal Bureau of Investigation (FBI) electronically for processing.

"Livescan vendor" means an entity licensed by the Department of Financial and Professional Regulation to provide commercial fingerprinting services under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

"Manufacturing" or "manufacture" means the process of converting harvested cannabis material into a finished product by manual labor and/or machinery designed to meet a specific need or customer expectation, either directly or indirectly by extraction from substances of natural origin, or independently by means of chemical synthesis, or by a combination of extraction and chemical synthesis.

"Medical cannabis" means cannabis and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), used as an herbal remedy or therapy to treat disease or alleviate symptoms. Medical cannabis can be administered in a variety of ways, including, but not limited to: vaporizing or smoking dried buds; using concentrates; administering tinctures or tonics; applying topicals such as ointments or balms; or consuming medical cannabis infused products.

"Medical cannabis cultivation center registration" means a registration issued by the Department of Agriculture. [410 ILCS 130/10(m)]

"Medical cannabis container" means a sealed, traceable, food compliant, tamper resistant, tamper evident container, or package used for the purpose of containment of medical cannabis from a cultivation center to a dispensing organization. [410 ILCS 130/10(n)]

"Medical cannabis dispensing organization" or "dispensing organization" or "dispensary organization" or "dispensary" *means a facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients.* [410 ILCS 130/10(o)]

"Medical cannabis dispensing organization agent" or "dispensing organization agent" means a principal officer, board member, employee, or agent of a registered medical cannabis dispensing organization who is 21 years of age or older and has not been convicted of an excluded offense. [410 ILCS 130/10(p)]

"Medical cannabis-infused product" means food, oils, ointments, sodas, teas, capsules *or other products containing usable cannabis that are not smoked.* [410 ILCS 130/10(q)] Only the portion of any cannabis-infused product that is attributable to cannabis shall count toward the possession limits of the dispensary and the patient.

"Medical use" means the acquisition; administration; delivery; possession; transfer; transportation; or use of cannabis to treat or alleviate a registered

qualifying patient's debilitating medical condition or symptoms associated with the patient's debilitating medical condition. [410 ILCS 130/10(r)]

"Modification" means changes in structures, processes or activities at a cultivation center that will alter the efficiency of production structures, processing systems, and/or changes in capacity within the center.

"Monitoring" means the continuous and uninterrupted video surveillance of cultivation activities and oversight for potential suspicious actions. Monitoring through video surveillance includes the purpose of summoning a law enforcement officer to the premises during alarm conditions. The Department and ISP or law enforcement agencies designated by ISP shall have the ability to access a cultivation center's monitoring system in real-time via a secure web-based portal.

"Motor vehicle" means a self-propelled vehicle as defined in Section 1-146 of the Illinois Vehicle Code.

"Natural processing" or "naturally produced" means the preparation of the harvested cannabis without significantly changing its physical form.

"Operational and Management Practices Plan" means a narrative description of all practices that will be employed at the facility for the production of medical cannabis and medical cannabis-infused products. The plan shall include but is not limited to:

the types and quantities of medical cannabis products that will be produced at the facility;

the methods of planting (seed or clones), harvesting, drying and storage of medical cannabis;

the estimated quantity of waste material to be generated and plans for subsequent disposal;

the quantity and proposed method for disposal for all crop inputs utilized for plant production;

methods for training employees for the specific phases of production;

biosecurity measures to be implemented for plant production and edible infused product production;

planned response to discrepancies in accounting of product inventories;

sampling strategy and quality testing for labeling purposes;

procedures to follow for proper labeling; and

procedures to follow for handling mandatory and voluntary recalls of cannabis or cannabis-infused products.

"Permit" means a registration issued by the Department to a qualified applicant to operate a cultivation center.

"Permittee" means a qualified applicant who is issued a permit by the Department to operate a cultivation center.

"Person" includes, but is not limited to, a natural person, sole proprietorship, partnership, joint venture, limited liability partnership or company, corporation, association, agency, business, not-for-profit organization.

"Physician" means a doctor of medicine or doctor of osteopathy licensed under the Medical Practice Act of 1987 to practice medicine and who has a controlled substances license under Article III of the Illinois Controlled Substances Act. It does not include a licensed practitioner under any other Act, including but not limited to the Illinois Dental Practice Act. [410 ILCS 130/10(s)]

"Principal officer" includes a prospective cultivation center or cultivation center owner, president, vice president, secretary, treasurer, partner, officer, board member, shareholder or person involved in a profit sharing arrangement.

"Producer backer" means any person (including any legal entity) with a direct or indirect financial interest in the applicant.

"Production" or "produce" means the planting, preparation, cultivation, growing, harvesting, propagation, compounding, conversion, natural processing or manufacturing of cannabis, and includes any packaging or repackaging of the substance, or labeling or relabeling of its container.

"Qualified applicant" means an applicant for a cultivation center permit who receives at least the minimum required score in each category required by the application.

"Qualifying patient" means a person who has been diagnosed by a physician as having a debilitating medical condition. [410 ILCS 130/10(t)]

"Registered" means licensed, permitted, or otherwise certified by the Department of Agriculture under the Act. [410 ILCS 130/10(u)]

"Restricted access area" means a building, room or other contiguous area upon the permitted premises where cannabis is grown, cultivated, harvested, stored, weighed, packaged, sold or processed for sale, under control of the permitted facility.

"Sale" means any form of delivery, which includes barter, exchange or gift, or offer therefor, and each such transaction made by any person whether as principal, proprietor, agent, servant or employee.

"Security alarm system" means a device or series of devices intended to summon law enforcement personnel during, or as a result of, an alarm condition. Devices may include hard-wired systems and systems interconnected with a radio frequency method such as cellular or private radio signals that emit or transmit a remote or local audible, visual or electronic signal; motion detectors, pressure switches, duress alarms (a silent system signal generated by the entry of a designated code into the arming station to indicate that the user is disarming under duress); panic alarms (an audible system signal to indicate an emergency situation); and hold-up alarms (a silent system signal to indicate that a robbery is in progress). The Department and law enforcement agencies shall have the ability to access a cultivation center's security alarm system in real-time.

"THC" means tetrahydrocannabinol.

"THCA" means tetrahydrocannabinolic acid.

"Tincture" means a cannabis-infused solution, typically comprised of alcohol, glycerin or vegetable oils, derived either directly from the cannabis plant or from a processed cannabis extract. Tinctures may be added to foods and other liquids,

applied directly to the skin, consumed orally by drinking a small quantity, or absorbed sublingually by placing a few drops under the tongue.

"Usable cannabis" means the seeds, leaves, buds, and flowers of the cannabis plant, and any mixture or preparation thereof, including the resin extracted from any part of the plant, *but does not include the stalks, and roots of the plant. It does not include the weight of any non-cannabis ingredients combined with cannabis, such as ingredients added to prepare a topical administration, food, or drink.* [410 ILCS 130/10(w)]

"USEPA" means the United States Environmental Protection Agency.

"Vegetative stage of growth" means that the cannabis plant consists of stems, leaves and roots and does not have any flowers or buds.

"Verification system" means a web-based system established and maintained by the Department of Public Health that is available to the Department of Agriculture, the Department of Financial and Professional Regulation, law enforcement personnel, and registered medical cannabis dispensing organization agents on a 24-hour basis for the verification of registry identification cards, the tracking of delivery of medical cannabis to medical cannabis dispensing organizations, and the tracking of the date of sale, amount, and price of medical cannabis purchased by a registered qualifying patient. [410 ILCS 130/10(x)]

"Veteran" means a person who served in one of the five active-duty Armed Services or their respective Guard or Reserve units, and who was discharged or released from service under conditions other than dishonorable.

"Violent crime" means any felony in which force or threat of force was used against the victim, or any offense involving sexual exploitation, sexual conduct or sexual penetration, or a violation of Section 11-20.1, 11-20.1B, or 11-20.3 of the Criminal Code of 1961 or the Criminal Code of 2012, domestic battery, violation of an order of protection, stalking, or any misdemeanor which results in death or great bodily harm to the victim or any violation of Section 9-3 of the Criminal Code of 1961 or the Criminal Code of 2012, or Section 11-501 of the Illinois Vehicle Code, or a similar provision of a local ordinance, if the violation resulted in personal injury or death, and includes any action committed by a juvenile that would be a violent crime if committed by an adult. For the purposes of this definition, *"personal injury" shall include any Type A injury as indicated on the*

traffic accident report completed by a law enforcement officer that requires immediate professional attention in either a doctor's office or medical facility. A Type A injury shall include severely bleeding wounds, distorted extremities, and injuries that require the injured party to be carried from the scene, or a substantially similar offense that was tried and convicted as a felony in the jurisdiction where the cultivation center agent, agent-in-charge, or applicant for a cultivation center agent or agent-in-charge identification card, was convicted. [725 ILCS 120/3(c)]

Section 1000.20 Referenced Materials

a) The following federal statutes and regulations are referenced in this Part:

1) Federal Food, Drug, and Cosmetic Act (21 USC 301 et seq.)

2) Fair Packaging and Labeling Act (15 USC 1451 et seq.)

3) Tolerances and Exemptions for Pesticide Chemical Residues in Food (40 CFR 180)(2013)

4) Poison Prevention Packaging Act of 1970 (15 USC 1471 et seq.)

5) Poison Prevention Packaging (16 CFR 1700)(2014)

6) Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) (7 USC 136)

b) The following Illinois statutes are referenced in this Part:

1) Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]

2) Administrative Review Law (Article III of the Code of Civil Procedure) [735 ILCS 5/Art. III]

3) Cannabis Control Act [720 ILCS 550]

4) Illinois Controlled Substances Act [720 ILCS 570]

5) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]

6) Food Handling Regulation Enforcement Act [410 ILCS 625]

7) Sanitary Food Preparation Act [410 ILCS 650]

8) Illinois Uniform Conviction Information Act [20 ILCS 2635]

9) Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447]

10) Illinois Vehicle Code [625 ILCS 5]

11) Criminal Code of 2012 [720 ILCS 5]

12) Rights of Crime Victims and Witnesses Act [725 ILCS 120]

13) Code of Civil Procedure [735 ILCS 5]

14) Probate Act of 1975 [755 ILCS 5]

15) Environmental Protection Act [415 ILCS 5] and 35 Ill. Adm. Code

16) Illinois Pesticide Act [415 ILCS 60] and 8 Ill. Adm. Code 250

17) Illinois Fertilizer Act of 1961 [505 ILCS 80]

18) Soil Amendment Act [505 ILCS 120]

19) Medical Practice Act of 1987 [225 ILCS 60]

20) Illinois Dental Practice Act [225 ILCS 25]

21) Weights and Measures Act [225 ILCS 470]

22) Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575]

c) The following State administrative rules are referenced in this Part:

1) The Illinois Food, Drug and Cosmetic Act (77 Ill. Adm. Code 720)

2) Manufacturing, Processing, Packing or Holding of Food Code (77 Ill. Adm. Code 730)

3) Food Service Sanitation Code (77 Ill. Adm. Code 750)

4) Electronic Transmission of Fingerprint Requirements (20 Ill. Adm. Code 1265.30)

5) Illinois Environmental Protection Agency Technical Policy Statement (35 Ill. Adm. Code 651 (Introduction and Definitions) and 653 (Design, Operation and Maintenance Criteria)

6) Illinois Plumbing Code (77 Ill. Adm. Code 890)

7) Illinois Pesticide Act (8 Ill. Adm. Code 250)

8) Department of Public Health Compassionate Use of Medical Cannabis Patient Registry (77 Ill. Adm. Code 946.Subpart D)

9) Weights and Measures Code (8 Ill. Adm. Code 600)

d) Incorporations by reference in this Part do not include any later amendments or editions beyond the date specified.

Section 1000.30 Scope and Application

a) *It is the duty of the Department to enforce the provisions of the Act relating to the registration and oversight of cultivation centers unless otherwise provided for in the Act.* [410 ILCS 130/15(b)]

b) A cultivation center shall be in compliance with all of this Part prior to the commencement of operational activities and/or storage of medical cannabis.

c) This Part shall apply to applicants for and holders of a cultivation center permit to propagate, cultivate, harvest, prepare, cure, package, store and label medical cannabis, whether in concentrated form or otherwise.

d) Authorized On-Premises Storage. A cultivation center is authorized to store cannabis and cannabis-infused products inventory on the permitted premises. All inventory stored on the permitted premises must be secured in a limited access area and tracked consistently with Section 1000.435.

e) Packaging and Labeling Standards Required. A cultivation center is prohibited from selling cannabis that is not packaged and labeled in accordance with Section 1000.420.

f) Sale to Consumer Prohibited. A cultivation center is prohibited from selling cannabis or any cannabis-infused product directly to a consumer.

g) Consumption Prohibited. A cultivation center shall not permit the consumption of cannabis or cannabis-infused products on its permitted premises.

h) *The Department, DPH and DFPR shall enter into intergovernmental agreements, as necessary, to carry out the provisions of the Act including, but not limited to, the provisions relating to the permitting and oversight of cultivation centers, dispensing organizations, and qualifying patients and caregivers.* (Section 15 of the Act)

Section 1000.40 Operation of a Cultivation Center

a) Only a cultivation center that has been issued a permit by the Department under the provisions of the Act and this Part shall own and operate a cultivation center facility.

b) A cultivation center, including each principal officer, board member, agent and employee shall not:

1) produce or manufacture cannabis in any place except in those areas designated in the permit;

2) sell, deliver, transport or distribute cannabis from any place except its permitted cultivation facility;

3) produce or manufacture cannabis for use outside of Illinois;

4) sell, deliver, transport or distribute cannabis to any person or entity other than a dispensary organization registered with the DFPR, or a testing laboratory approved by the Department;

5) enter into an exclusive agreement with any dispensary facility;

6) refuse to conduct business with any dispensary facility that has the financial ability to pay for the medical cannabis and is licensed with the DFPR on the same terms and conditions as other dispensary facilities with whom the cultivation center is dealing;

7) either directly or indirectly discriminate in price among different dispensary organizations that are purchasing a like grade, strain, brand and quality of cannabis or cannabis-infused product. Nothing in this subsection (b)(7) prevents pricing medical cannabis differently based on differences in the cost of production, the quantities sold, such as volume discounts, the way the products are delivered, or delivery costs relative to distance travelled;

8) accept, solicit or offer any form of remuneration from or to a physician;

9) allow a physician to conduct a personal physical examination of a patient for purposes of diagnosing a debilitating medical condition at the permitted location;

10) allow a physician to hold a direct or indirect economic interest in the cultivation center if the physician recommends the use of medical cannabis to qualified patients or is in a partnership or other fee or profitsharing relationship with a physician who recommends medical cannabis;

11) allow a physician to serve on the board of directors or as an employee of the cultivation center; however, a cultivation center may hire a physician as an independent contractor provided the physician's involvement in the cultivation center is limited exclusively to designing or conducting non-proprietary medical research or studies;

12) accept referral of patients from a physician;

13) allow a physician to advertise at the cultivation center; or

14) accept any returned product unless it is as a result of a Department approved product recall.

c) A cultivation center permit shall allow the permittee to operate at a single cultivation center location.

d) A single entity shall not be granted more than three cultivation center permits. If a qualified applicant has been selected for more than three permits, the applicant shall notify the Department within 48 hours after notification, on the form provided by the Department, in which three Districts it chooses to receive permits and operate cultivation centers. No person shall be an owner, partner, officer, director, shareholder, or member of more than three permitted cultivation centers. No corporation, partnership, limited liability partnership, limited liability company, or other entity or subsidiary thereof shall be an owner, principal officer, partner, shareholder, or member of more than three permitted cultivation centers. In the event that an entity is awarded a permit in a District and that entity forfeits that permit, the permit shall be awarded to the next highest scoring qualified applicant.

e) A permitted *cultivation center may not be located within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned for residential use*. (Section 105 of the Act)

f) A permitted *cultivation center is not subject to prosecution; search or inspection, except by the Department, Department of Public Health, or State or local law enforcement under Section 130 of the Act; seizure; or penalty in any manner, or be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business licensing board or entity, for acting under the Act or* this Part *to: acquire, possess, cultivate, manufacture, deliver, transfer, transport, supply, or sell cannabis to registered dispensing organizations*. (Section 25 of the Act)

g) A cultivation center shall provide evidence of financial responsibility, which shall be payable to the Department in the event the cultivation center fails to comply as follows: complete construction and begin production within six months after the

permit has been issued; maintain production for any reason for more than 90 consecutive days after it has completed construction of the facility; or continue to operate the cultivation center in a manner that provides an uninterrupted supply of medical cannabis to licensed dispensaries during the term of the permit, sufficient enough to allow the licensed dispensaries to supply their registered qualifying patients with an adequate supply of medical cannabis.

1) Evidence of financial responsibility shall be provided by one of the following:

A) Establishing and maintaining an escrow account in a chartered financial institution in Illinois in the amount of $2,000,000, except as otherwise provided in Section 1000.60, with escrow terms, approved by the Department, that it shall be payable to the Department in the event of circumstances outlined in this subsection (g). A financial institution may not return money in an escrow or surety account to the cultivation center that established the account or a representative of the cultivation center unless the cultivation center or representative presents a statement issued by the Department indicating that the account may be released; or

B) Providing a surety bond naming the cultivation center as principal of the bond, upon terms approved by the Department, in the amount of $2,000,000, except as otherwise provided in Section 1000.60, with terms approved by the Department that the bond defaults to the Department in the event of circumstances outlined in this subsection (g). Bond terms include:

i) The bond must be written by a surety company authorized and licensed by the Illinois Department of Insurance.

ii) The business name and registration number on the bond must correspond exactly with the business name and registration number in the Department's records.

iii) A copy of the bond must be received by the Department within 15 business days after notification of selection for a permit.

iv) The bond shall not be canceled by a surety on less than 30 days' notice in writing to the Department. If a bond is canceled and the cultivation center fails to file a new bond with the Department in the required amount on or before the effective date of cancellation, the cultivation center's permit shall be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified on the bond.

2) A cultivation center will not be held in default should the failure to comply be the direct result of an event or effect that cannot be reasonably anticipated or controlled, such as an act of God or nature and not the result of a lack of good faith effort.

h) The cultivation center shall provide documentation that it meets all federal, State and local building, zoning and fire codes and that all local ordinances are met.

i) The use of pesticides as part of the growing process by a cultivation center must be in compliance with the provisions of Section 1000.470.

j) Improper use of pesticides in the cultivation of a batch (Section 1000.470) may result in the destruction of the batch and denial, suspension or revocation of the cultivation center's permit.

Section 1000.50 Permits − General Provisions

a) A cultivation center permit issued under this Part is the property of the State of Illinois and shall be surrendered upon demand of the Department.

b) As part of the permit process, all applicants for a cultivation center permit shall sign a written statement certifying under penalty of perjury that:

1) All of the information provided on the application is true and accurate to the best of the applicant's knowledge and that the applicant must notify the Department of any significant changes to any of the information provided to the Department during the application process, such as but not limited to ownership, financial interest, operational structure and criminal history.

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2) The applicant understands that the medical cannabis laws and enforcement of the laws by the State of Illinois and the federal government are subject to change at any time.

3) The applicant understands that the cultivation center permit is not transferable, except as provided in Section 1000.120, and that the permit is the property of the State of Illinois and shall be surrendered upon demand of the Department.

4) The applicant specifically acknowledges receipt and advisement of the notices contained in the application and agrees to and accepts the limitations of liability and the requirement to indemnify, hold harmless and defend the State of Illinois, including:

A) Limitation of Liability − the State of Illinois shall not be liable to the permitted cultivation center, the cultivation center's agents, family members or guests for any damage, injury, accident, loss, compensation or claim, based on, arising out of, or resulting from the permitted cultivation center's participation in the Compassionate Use of Medical Cannabis Pilot Program, including, but not limited to, the following: arrest, seizure of persons and/or property, prosecution pursuant to State or federal laws by State or federal prosecutors, any fire, robbery, theft, mysterious disappearance or any other casualty; or the actions of any other permittees, registrants or persons. This Limitation of Liability provision shall survive expiration or the early termination of the permit.

B) Hold Harmless/Indemnification − the permitted cultivation center, its principal officers, board members, producer backers, agents, employees, family members or guests shall hold harmless and/or indemnify the State of Illinois, its officers and employees against any civil action or criminal penalty commenced against the State and/or its officers or employees resulting from participation in the Compassionate Use of Medical Cannabis Pilot Program.

C) Federal Prosecution − the United States Congress has determined that cannabis is a controlled substance. Illinois has placed cannabis in Schedule I of the Illinois Controlled Substances Act.

Growing, distributing, transporting and possessing cannabis in any capacity, other than as part of a federally authorized research program, is a violation of federal laws. The State of Illinois' Compassionate Use of Medical Cannabis Pilot Program Act does not authorize any permittee to violate federal or state laws.

5) The applicant understands that medical cannabis shall be transported only in a medical cannabis container as defined in Section 1000.10.

6) The applicant understands that unused medical cannabis shall not be transferred, shared, given or delivered to any other person regardless of whether that person is participating in the Compassionate Use of Medical Cannabis Pilot Program.

7) The applicant understands that qualifying patients and caregivers shall not grow or cultivate medical cannabis other than as a cultivation center agent.

8) The applicant understands that the Department may deny an application if the documentation is incomplete, or if the Department determines, after an inquiry or investigation, that the information provided was false, misleading, forged or altered.

9) The applicant understands that, upon issuance of a permit, the cultivation center is subject to random inspections by the Department, ISP and DPH.

Section 1000.60 Evidence of Financial Responsibility − Terms

a) In addition to the other terms and conditions permitted by the Act and this Part, upon request by the cultivation center for consideration of the following, the Department shall, by written or electronic notification, permit the cultivation center's $2,000,000 escrow account or surety bond to be reduced by $500,000 upon the successful achievement of each of the following milestones, resulting in a potential elimination of the escrow account or surety bond:

1) A determination by the Department that the cultivation center is fully operational and able to commence production of cannabis as provided for in the permit application of the cultivation center;

2) A determination by the Department that the cultivation center remained operational without substantial interruption, was able to provide an uninterrupted supply of medical cannabis to licensed dispensaries, as required by Sections 1000.40(g) and 1000.240, and operated without any violation of the Act or this Part for a one year period;

3) A determination by the Department that the cultivation center remained operational without substantial interruption, was able to provide an uninterrupted supply of medical cannabis to licensed dispensaries, as required by Sections 1000.40(g) and 1000.240, and operated without any violation of the Act or this Part for two consecutive years; and

4) A determination by the Department that the cultivation center remained operational without substantial interruption, was able to provide an uninterrupted supply of medical cannabis to licensed dispensaries as required by Sections 1000.40(g) and 1000.240, and operated without any violation of the Act or this Part for three consecutive years.

b) If a cultivation center voluntarily chooses not to renew its permit, provides notice of this decision in accordance with Section 1000.600 of this Part and is not in violation of the Act or this Part, the Department shall terminate the obligations under the escrow account or surety bond at the end of the permit term.

c) Should the sunset provision of the Act, found in Section 220 of the Act, take effect and no successor medical cannabis program be in place allowing for the continuation of cultivation centers as provided for in this pilot program and this Part, provided the cultivation center is not in violation of the Act or this Part, any remaining amount left in escrow or under a surety bond shall be released to the cultivation center permit holder.

Section 1000.70 Variances

a) The Department may grant variances from this Part in individual cases when it finds that:

1) The applicable provision is not statutorily mandated;

2) No party will be injured by the granting of the variance;

3) The provision from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome; and

4) The variance requested is from the requirements of:

A) Section 1000.210(a)(1) to allow a cultivation center to be located within 1000 feet of a dispensary; or

B) Section 1000.40(b)(4) to allow the exchange or sale of seedlings, clones or cuttings of strains of cannabis between cultivation centers in the event of a shortage due to a catastrophic event or to promote the development and production of strains that are beneficial to patients.

b) Any request for a variance shall be in writing (an original and 2 copies) and shall include the following:

1) Identification of the specific requirement in question;

2) A description of the variance;

3) The rationale for the variance and why the provision or requirement is unreasonable or unnecessarily burdensome in the particular case;

4) An explanation as to why no party will be injured if the variance is granted; and

5) The fee required by Section 1000.140.

c) Upon receipt of a request for a variance, the Director will appoint an unbiased panel of no more than three members to review the request.

1) The panel may request additional information or documentation from the applicant.

2) The panel shall either approve or deny the request within 30 calendar days after the date of receipt of the request, or the date of receipt of any additional information thereafter, and notify the applicant in writing.

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SUBPART B: CULTIVATION CENTER PERMITS AND PERMIT SELECTION

Section 1000.100 Permit Application

a) A cultivation center permit shall be obtained for each facility prior to commencement of any production activities. The permit shall, along with any other certificate, business license or other authorization required to conduct production activities, be posted in a conspicuous place within the facility.

b) The Department shall accept applications for cultivation center permits for 14 calendar days after the date indicated on the Department's website as the commencement date for accepting applications.

1) Submissions shall be considered as submitted on the date on which they are postmarked or, if delivered in person during regular business hours, on the date on which they are so delivered or, if sent electronically, on the date received by the Department if received on or before 5 p.m. Central Time. If received electronically after 5 p.m. Central Time, they will be considered received on the next day.

2) Submissions received after the 14 day period or any way other than required in this subsection (b) shall be returned to the applicant.

3) Notification of the availability of applications will be posted on the Department's website at www.agr.state.il.us/. Application forms will be made available online at that website and may be completed online and submitted electronically to that website, at the discretion of the Department, or sent via U.S. mail to the address set forth in the application.

c) The permit application shall be submitted on the forms provided by the Department. The forms will include instructions for their completion and submission. The application will reflect the information required of applicants by the Act and this Part and will include requests for information, plans, maps and other materials in support of the application needed by the Department to make its determination on the permit request. The instructions on the application will reflect the total maximum number of points that can be awarded for each required criteria, measure and bonus point category listed in Section 1000.110. The instructions/application will also identify the total minimum number of points

necessary from the required criteria and measures to be eligible for consideration of the bonus point categories. All applications will be reviewed and points awarded based upon the same point system in a fair and unbiased manner. If all materials, documentations, fees and information required by the application form are not submitted, the application shall be returned to the applicant. The applicant shall then have seven calendar days to resubmit the application in its entirety. Once submitted, the required fee will not be returned. Upon receipt of an application deemed to be complete, the Department will engage in no further communication with the applicant until after the selection process is completed, except as provided in Section 1000.110(g) and (h).

d) An applicant applying for a cultivation center permit shall submit, in duplicate, the following:

1) *The proposed legal name of the cultivation center*;

2) *The proposed physical address of the cultivation center and description of the enclosed, locked facility as it applies to cultivation centers where medical cannabis will be grown, harvested, manufactured, packaged, or otherwise prepared for distribution to a dispensing organization*;

3) *The name, address, and date of birth of each principal officer and board member of the cultivation center, provided that all those individuals shall be at least 21 years of age*;

4) *Any instance in which a business that any of the prospective board members of the cultivation center had managed or served on the board of the business and was convicted, fined, censured, or had a registration or license suspended or revoked in any administrative or judicial proceeding*;

5) *Cultivation, inventory, and packaging plans*;

6) *Proposed operating by-laws* (Operation and Management Practices Plan) *that include procedures for the oversight of the cultivation center, development and implementation of a plant monitoring system, medical cannabis container tracking system, accurate record keeping, staffing plan, and security plan reviewed* by *the Illinois State Police that are in accordance with the rules issued by the Department of Agriculture under the Act. A physical inventory shall be performed of all plants and medical*

cannabis containers on a weekly basis. ISP may utilize the services of a private security contractor licensed by DFPR to assist with performing a security plan review;

7) *Experience with agricultural cultivation techniques and industry standards*, including experience with the cultivation of agricultural or horticultural products, operating an agriculturally related business, or operating a horticultural business;

8) *Any academic degrees, certifications, or relevant experience with related businesses*;

9) *The identity of every person, association, trust*, producer backer, partnership, other entity *or corporation having any direct or indirect pecuniary interest in the cultivation center operation with respect to which the registration is sought. If the disclosed entity is a trust, the application shall disclose the names and addresses of the beneficiaries;* (Section 85 of the Act)

10) If a sole proprietorship, the name, residence and date of birth of the owner;

11) *If a partnership, the names and addresses of all partners, both general and limited* (Section 85 of the Act) and any partnership or joint venture documents.

A) For a domestic limited partnership, a copy of the Certificate of Limited Partnership and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days.

B) For a foreign limited partnership, a certificate of Good Standing from the state of formation, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days;

12) If a limited liability partnership, the names and addresses of all partners, and any partnership or joint venture documents.

A) For a domestic limited liability partnership, a copy of the Certificate of Limited Liability Partnership and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days.

B) For a foreign limited liability partnership, a certificate of Good Standing from the state of formation, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days;

13) If a corporation based in Illinois, a copy of the Articles of Incorporation and a copy of the Certificate of Good Standing issued by the Illinois Secretary of State or obtained from the Secretary of State's website within the last 60 days. If the corporation is a foreign corporation, a copy of the Articles of Incorporation, a copy of the Certificate of Good Standing from the state or country in which the corporation is domiciled, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days. If using an assumed name (d/b/a), a copy of the assumed name registration issued by the Secretary of State. Additionally, applicants shall include *the names and addresses of all stockholders and directors of the corporation* (Section 85 of the Act);

14) If a limited liability company:

A) For a domestic limited liability company, a copy of the Articles of Organization, a copy of the Certificate of Good Standing issued by the Illinois Secretary of State or obtained from the Secretary of State's website within the last 60 days, and a listing of the members of the limited liability company and his, her, or its contact information.

B) For a foreign limited liability company, a copy of the Articles of Organization and a Certificate of Good Standing from the state of organization, a copy of the Application for Admission to Transact Business in Illinois, along with a Certificate of Good Standing issued by the Illinois Secretary of State, all dated within the last 60 days;

15) If another type of business entity, the same or similar information, as applicable, to that listed in this subsection (d);

16) *Verification from the Illinois State Police that all background checks of the principal officer, board members, and registered agents have been conducted and those individuals have not been convicted of an excluded offense* (Section 85 of the Act).

17) A *copy of the current local zoning ordinance to the Department and* verification from the local zoning authority that the *proposed cultivation center is in compliance with the local zoning rules issued in accordance with Section 140* of the Act (Section 85 of the Act).

A) If the property is not owned but is currently leased by the applicant, the applicant shall provide: a copy of the lease; confirmation of land ownership; identification of any mortgagees and/or lienholders; a written statement from the property owner and/or landlord, certifying consent that the applicant may operate a cultivation center on the premises at least through December 31, 2017; and, if applicable, verification of notification by the property owner to any and all mortgagees and/or perfected lienholders that the property is to be used as a cultivation center at least through December 31, 2017, and consent thereto by any mortgagees and/or perfected lienholders.

B) If the property is not owned or currently leased by the applicant, the applicant shall provide: a written statement from the property owner and/or landlord certifying consent that the applicant will lease or purchase the property for the purpose of operating a cultivation center until at least December 31, 2017; and, if applicable, verification of notification by the property owner to any and all mortgagees and/or perfected lienholders that the property is to be used as a cultivation center at least through December 31, 2017, and consent thereto by any mortgagees and/or perfected lienholders.

C) If the property is owned by the applicant, the applicant shall provide: confirmation of land ownership; identification of any and

all mortgagees and/or perfected lienholders; and, if applicable, verification of notification to any and all mortgagees and/or perfected lienholders that the property is to be used as a cultivation center at least through December 31, 2017, and consent thereto by any mortgagees and/or perfected lienholders;

18) A non-refundable application fee as set forth in Section 1000.140 for each application. Each application for a particular District shall be a separate application requiring a separate fee;

19) A location area map of the area surrounding the proposed cultivation center. The map must clearly demonstrate that the proposed cultivation center is *not located within 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home, part day child care facility, or an area zoned for residential use* (Section 105 of the Act);

20) A plot plan of the cultivation center drawn to a reasonable scale. If the cultivation center building is in existence at the time of the application, the applicant shall submit plans and specifications drawn to scale for the interior of the building. If the building is not in existence at the time of application, the applicant shall submit a plot plan and a detailed drawing to scale of the interior and the architect's drawing of the building to be constructed;

21) Documentation acceptable to the Department that the individual or entity filing the application has at least $500,000 in liquid assets. Documentation acceptable to the Department includes a signed statement from an Illinois Licensed CPA attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying. The statement must be dated within 30 calendar days before the date the application was submitted;

22) Documentation acceptable to the Department that the individual or entity filing the application will be able to obtain insurance sufficient to indemnify and hold harmless the State and its officers and employees as required in Section 1000.50(b)(4)(B);

23) All relevant financial information as set forth in Section 1000.200;

24) The name of any agent-in-charge for each work shift;

25) If currently or previously licensed or authorized in another state or jurisdiction to produce or otherwise deal in the distribution of cannabis in any form, the following:

A) A copy of each such licensing/authorizing document verifying licensure in that state or jurisdiction;

B) A statement granting permission to contact the regulatory agency that granted the license to confirm the information contained in the application; and

C) If the license/authorization or application was ever denied, suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a statement that the applicant was so licensed and was never sanctioned.

e) The applicant shall sign a notarized statement certifying that:

1) No prospective principal officer or board member has been convicted of an excluded offense in any state or country;

2) The cultivation center will register with the Illinois Department of Revenue should the applicant be granted a permit;

3) The application is complete and accurate; and

4) The applicant has actual notice that, notwithstanding any state law:

A) Cannabis is a prohibited Schedule I controlled substance under federal law;

B) Participation in the program is permitted only to the extent provided by the strict requirements of the Act and this Part;

C) Any activity not sanctioned by the Act or this Part may be a violation of State law;

D) Growing, distributing or possessing cannabis in any capacity, except through a federally-approved research program, is a violation of federal law;

E) Use of medical cannabis may affect an individual's ability to receive federal or State licensure in other areas;

F) Use of medical cannabis, in tandem with other conduct, may be a violation of State or federal law;

G) Participation in the program does not authorize any person to violate federal law or State law and, other than as set out in Section 25 of the Act, does not provide any immunity from or affirmative defense to arrest or prosecution under federal law or State law; and

H) Applicants shall indemnify, hold harmless, and defend the State of Illinois for any and all civil or criminal penalties resulting from participation in the program.

5) The Department has authority to include additional certifications in the application that would be sufficient to ensure compliance with the program and all other applicable laws.

6) All of applicant's principal officers and producer backers expressly agree to be subject to service of process in Illinois with a current Illinois address on file with the Department.

Section 1000.110 Permits − Selection Criteria

a) Each application shall address all criteria and measures as set forth in this Part. The failure by an applicant to address all of the required criteria and measures will result in the application being denied.

b) The required criteria and measures shall include the following:

1) Suitability of the Proposed Facility:

A) Measure 1: The applicant demonstrates that the proposed facility is suitable for effective and safe cultivation of medical cannabis, sufficient in size, power allocation, air exchange and air flow, interior layout, lighting, and sufficient both in the interior and exterior to handle the bulk agricultural production of medical cannabis, cannabis-infused products, product handling, storage, trimming, packaging, loading and shipping. The loading/unloading of medical cannabis in the transport motor vehicle for shipping shall be in an enclosed, secure area out of public sight.

B) Measure 2: The applicant demonstrates the ability to continue to meet qualifying patient demand by expanding the cultivation facility in a quick and efficient manner with minimal impact on the environment and the surrounding community.

C) Measure 3: The applicant provides an employee handbook that will provide employees with a working guide to the understanding of the day-to-day administration of personnel policies and practices.

2) Proposed Staffing Plan and Knowledge of Illinois Law and Rules Relating to Medical Cannabis:

A) Measure 1: The applicant fully describes a staffing plan that will provide and ensure adequate staffing and experience for all accessible business hours, safe production, sanitation, adequate security and theft prevention; and

B) Measure 2: The applicant provides an Operations and Management Practices Plan that demonstrates compliance with this Part and the Act.

3) Security Plan:

A) Measure 1: The applicant's security plan demonstrates its ability to prevent the theft or diversion of medical cannabis and how the plan will assist with ISP, Department, and local law enforcement. Specifically, it shall evidence compliance with all items in Sections 1000.440, 1000.445 and 1000.450.

B) Measure 2: The applicant demonstrates that its plan for record keeping, tracking and monitoring inventory, quality control and security and other policies and procedures will discourage unlawful activity. It also describes the applicant's plan to coordinate with and dispose of unused or surplus medical cannabis through ISP and the Department.

C) Measure 3: The applicant's security plan shall describe the enclosed, locked facility that will be used to secure or store medical cannabis, its security measures, including when the location is closed for business, and the steps taken to ensure that medical cannabis is not visible to the public.

D) Measure 4: The applicant describes its transportation plan regarding procedures for safely and securely delivering medical cannabis to registered dispensaries.

4) Cultivation Plan:

A) Measure 1: The applicant shall describe its plan to provide a steady, uninterrupted supply of medical cannabis to registered dispensaries.

B) Measure 2: The applicant demonstrates knowledge of cultivation methods to be used in the cultivation of cannabis. The applicant shall describe the various strains to be cultivated and its experience, if applicable, with growing those strains or comparable agricultural products.

C) Measure 3: The applicant demonstrates the steps that will be taken to ensure the quality, including the purity and consistency, of the medical cannabis to be provided to dispensaries.

5) Product Safety and Labeling Plan:

A) Measure 1: The applicant shall describe its plan for providing safe and accurate packaging and labeling of medical cannabis.

B) Measure 2: The applicant shall describe its plan for testing medical cannabis and ensuring that all medical cannabis is free of contaminants, including but not limited to pesticides, microbiological, and residual solvent. If applicable, the applicant shall provide quality history records showing specific testing results from laboratory testing conducted on the applicant's cannabis products.

C) Measure 3: The applicant shall describe its plan for establishing a recall of the applicant's products in the event that they are shown by testing or other means to be, or potentially to be, defective or have a reasonable probability that their use or exposure to will cause serious adverse health consequences. At a minimum, the plan should include the method of: identification of the products involved; notification to the dispensary organization or others to whom the product was sold or otherwise distributed; and how the products will be disposed of if returned to or retrieved by the applicant.

6) Applicant's Business Plan and Services to be Offered:

A) Measure 1: The applicant shall provide a business plan that describes how the cultivation center plans to operate on a long-term basis. This shall include the applicant providing a detailed description about the amount and source of the equity and debt commitment for the proposed cultivation center that demonstrates the immediate and long-term financial feasibility of the proposed financing plan, the relative availability of funds for capital and operating needs, and the financial capability to undertake the project.

B) Measure 2: The applicant or its officers, board members, or incorporators demonstrates experience in business management and/or having medical industry, agricultural or horticultural experience and the extent of their involvement in or ability to influence the day-to-day operations of the facility.

C) Measure 3: The business plan demonstrates a start-up timetable that provides an estimated time from permit approval of the

cultivation center to full operation, and the assumptions used for the basis of those estimates.

c) The Department shall award bonus points for preferred but not required initiatives based on the applicant's ability to meet or exceed minimum requirements in the following categories:

1) Labor and Employment Practices: The applicant may describe any plans it has to:

A) Provide a safe, healthy and economically beneficial working environment for its employees, including, but not limited to, its plans regarding workplace safety and environmental standards, codes of conduct, healthcare benefits, educational benefits, retirement benefits, and wage standards.

B) Recruit and/or hire minorities, women, veterans, disabled persons and Illinois residents.

2) Research Plan: The applicant may provide the Department with a detailed proposal to conduct, or facilitate, a scientific study or studies related to the medicinal use of cannabis. To the extent it has been determined, the applicant may include in its proposal, a detailed description of:

A) The methodology of the study;

B) The issues to be studied;

C) The methods that will be used to identify and select study participants;

D) The identity of all persons or organizations that will be worked with in connection with the study, including the role of each;

E) The duration of the study; and

F) The intended use of the study results.

3) Community Benefits Plan: The applicant may provide the Department with a detailed description of any plans the applicant has to give back to the local community if awarded a cultivation center permit.

4) Substance Abuse Prevention Plan: The applicant may provide a detailed description of any plans it will undertake, if awarded a cultivation center permit, to combat substance abuse in Illinois, including the extent to which the applicant will partner, or otherwise work with existing substance abuse programs.

5) Local Community/Neighborhood Report: The applicant may provide comments, concerns or support regarding the potential impact of the proposed location to the local community and neighborhood. This may include the local community's concerns or support regarding the proposed location's proximity to substance abuse treatment centers, day care centers, schools and halfway houses.

6) Environmental Plan: The applicant may demonstrate an environmental plan of action to minimize the carbon footprint, environmental impact, and resource needs for the production of medical cannabis. The applicant may describe any plans for the use of alternative energy, the treatment of waste water and runoff, and scrubbing or treatment of exchanged air.

7) Verification of Minority Owned, Female Owned, Veteran Owned, or Disabled Person Owned Business: The Minority, Female, Veteran, or Disabled Person applicant must own at least 51 percent of the entity applying for registration. The percentage totals may include any combination of these types of businesses. The Minority, Female, Veteran, or Disabled Person applicant must also share in control of management and day-to-day operations of the permitted facility. Documentation must be submitted at the time of application that demonstrates the respective status of the applicant, including, but not limited to, certification under the Business Enterprise for Minorities, Females, and Persons with Disabilities Act [30 ILCS 575] for minority, female or disabled person applicants, or a DD214 for veteran applicants.

8) Verification that the applicant's principal place of business is headquartered in Illinois. The names, addresses and verification of the applicant's proposed agents that reside in Illinois. The applicant may also

provide a plan for generating Illinois-based jobs and economic development.

d) Should the applicant be awarded a permit, the information and plan that an applicant provided in its application becomes a mandatory condition of the permit. If a permittee fails to comply with standard and special conditions of the permit, the Department may assess a penalty or seek suspension or revocation of the permit pursuant to Section 1000.700.

e) The Department may issue a cultivation center permit with conditions addressing weaker areas of the cultivation center's application that shall be addressed and corrected in the manner and timeframe set forth in the permit.

f) There shall not be more than one permit issued per each of the 22 ISP District boundaries as specified on January 1, 2013.

1) A permit shall be issued to the qualified applicant receiving at least the minimum required score in each category and the highest total score overall as compared to the other applicants within the applicable district.

2) ISP District Chicago (District C) incorporates ISP Districts 3 and 4. Therefore, the Department shall issue two separate permits for ISP District C.

g) In the event that two or more qualified applicants for a cultivation center permit receive the same total score, the Department shall select the applicant that received the highest score in the cultivation plan category. In the event that the same two applicants received the same score in the cultivation plan category, the Department shall select the applicant that received the highest score in the security plan category.

1) If a tie score still remains, the tied applicants will be interviewed by an unbiased panel selected by the Department.

2) The panel will judge the overall applications and suitability, sustainability and likelihood of success of the applicants and award the permit accordingly.

h) In the event that there are no qualified applicants in a particular District, the applicant with the highest total score will meet with an unbiased panel selected by the Department to determine whether the applicant may be able to cure any deficiencies in the application to become qualified. If the applicant is unable to cure the deficiencies, the panel will meet with the applicant with the next highest score to determine whether it may be able to cure any deficiencies in its application to become qualified. If that applicant is unable to cure the deficiencies, and there are no qualified applicants in that particular District, the application process will be reopened. All applicants will be required to submit a new fee and application for that District.

i) If no qualified applicants are found during the process described in subsections (g) and (h), or if an applicant that is issued a conditional permit fails to fulfill the conditions of the conditional permit, or if no permit is issued or active in a particular District for any other reason, the Department shall announce another period to submit an application for that District. The application period shall be for 30 calendar days from the date specified in the announcement.

j) The Department may verify information contained in each application and accompanying documentation to assess the applicant's character and fitness to operate a cultivation center. Notwithstanding an applicant satisfying the foregoing selection criteria, the Department may, in its discretion, refuse to issue a permit if it is not satisfied that an applicant, or any one required to be identified in the application by Section 1000.100, is a person of good character, honesty and integrity, and is not:

1) A person whose background, including criminal charges, reputation and association, is injurious to the health, safety, morals, good order and general welfare of the People of the State of Illinois;

2) A person whose background, criminal record, reputation, habits, social or business associations adversely affect public confidence and trust in the medical cannabis industry or poses a threat to the public interests of the State or to the security and integrity of the medical cannabis industry;

3) A person who creates or enhances the dangers of unlawful practices, methods and activities in the medical cannabis industry, including, but limited to, product diversion;

4) A person who presents questionable business practices and financial arrangements incidental to the medical cannabis industry;

5) A person who associates with, either socially or in business affairs, or employs persons of notorious or unsavory reputation or who have extensive police records, or who have failed to cooperate with any officially constituted investigatory or administrative body; or

6) A person who has had a cannabis dispensary or cultivation center license revoked, suspended or sanctioned in any other jurisdiction.

Section 1000.120 Permit Issuance; Transferability

a) A cultivation center permit shall be issued for the specific location identified on the application, and is valid only for the owner, premises and name designated on the permit and the location for which it is issued.

1) A cultivation center permit is not transferable to a new location without Department approval.

2) In the event that the Department approves the new location as meeting all requirements of the Act and this Part, the cultivation center shall have a brief transition period of no more than 90 days, approved by the Department, to transfer its inventory and begin operations at the new location.

A) The transition period shall not begin until the new location is ready to begin production.

B) No product may be transferred to or cultivated at the new location prior to the beginning date of this approved transition period.

C) Any product remaining at the original location past the transition period shall be destroyed in accordance with the provisions of Section 1000.460.

D) The cultivation center shall notify the Department in writing or by electronic transmission once the transfer of inventory is complete and production has begun at the new location.

3) Upon inspection and verification by the Department that the new location is in compliance with the Act and this Part, the Department shall issue a permit modification reflecting the new location. The modified permit shall have the same expiration date as the previously issued permit.

b) A cultivation center permit shall be issued for the specific applicant identified in the application and shall not be transferable in whole or in part, with the following exceptions:

1) A cultivation center permit may be reissued, without charge, solely in the name of the surviving spouse or domestic partner of a deceased permittee if the permit was issued in the names of both of the parties.

2) A cultivation center permit may be transferred, without charge, to an heir of a deceased permittee other than as provided in subsection (b)(1), as determined by the Probate Act of 1975 [755 ILCS 5]. For the purpose of considering the qualifications of the heir to receive a cultivation center permit, the Department shall require a criminal background check and the heir will be subject to all other requirements of the Act and this Part.

c) The proposed sale of any outstanding or issued stock of a corporation permitted under the Act, or any proposed change in the officers or board members of the corporation, must be reported to the Department, and Department approval must be obtained before the changes are made. A fee (see Section 1000.140) will be charged for the processing of the change of stock ownership or corporate officers or board members.

d) The proposed change of any person or principal officer of any permittee must be reported to the Department and Department approval must be obtained before the changes are made. A fee (see Section 1000.140) will be charged for the processing of any such change.

e) A cultivation center permit shall not be leased or subcontracted, in whole or in part.

Section 1000.130 Permit Renewal

a) Every cultivation center permit, agent and agent-in-charge identification card issued by the Department under the Act and this Part shall expire annually on the date it was issued.

b) Every renewal application for a permit, agent or agent-in-charge identification card issued pursuant to this Part and accompanied by the proper fees (see Section 1000.140) shall be filed annually with the Department at least 45 calendar days prior to the date the existing permit or registration expires.

c) The Department shall send written notification of expiration to each permitted cultivation center at least 90 days prior to expiration. However, failure to receive a renewal form from the Department shall not excuse the cultivation center from paying the renewal fee or renewing the permit prior to its expiration. Except as allowed by subsection (e), production, sales and delivery of medical cannabis on an expired permit is not permitted and is grounds for imposition of discipline.

d) *The Department shall grant a renewal application within 45 days* after *its submission if the following conditions are satisfied:*

1) *the registered cultivation center submits a renewal application and the required renewal fee; and*

2) *the Department of Agriculture has not suspended the registration of the cultivation center or suspended or revoked the registration for violation of the Act or* this Part. (Section 90 of the Act)

e) Failure to renew prior to the expiration date of the applicable permit or agent or agent-in-charge identification card shall result in the permit or identification card being suspended for a maximum of 30 days, after which the permit, if not renewed, will be deemed expired. During the suspension, the cultivation center shall not sell or deliver any cannabis or cannabis-infused product.

f) If a renewal application and all applicable fees are not submitted to the Department at least 30 calendar days after the expiration of the permit or identification card, the permit or identification card shall not be eligible for renewal, and the applicant shall cease and desist from all production, sale and delivery activities.

1) If a permit renewal application and all applicable fees are not submitted to the Department at least 30 calendar days after the expiration of the permit, the Department shall accept applications for cultivation center permits in the applicable State Police District in accordance with Sections 1000.100 and 1000.110.

2) The cultivation center shall dispose of all medical cannabis in its possession in accordance with Section 1000.460.

g) Upon request for renewal, the Department shall consider the permittee's history of compliance with requirements of the Act and this Part, the number and severity of any violations and the correction of those violations, as well as penalties or fines imposed or any other enforcement actions.

h) The Department may deny a renewal after consideration of the permittee's history of compliance.

Section 1000.140 Fees

a) An applicant shall submit the following non-refundable fees with each permit and registration application submitted, in the form of a certified check or money order payable to the "Illinois Department of Agriculture", or by such other means as approved by the Department.

1) The application fee for a cultivation center permit shall be $25,000 for each application submitted. In addition, if an application for a cultivation center permit is approved, the applicant shall pay a fee of $200,000 for each permit prior to receiving the permit.

2) The fee for each annual renewal of a cultivation center permit shall be $100,000.

3) The fee for a cultivation center agent or agent-in-charge identification card and for each renewal shall be $100.

4) The fee for the issuance of a replacement cultivation center agent or agent-in-charge identification card shall be $50.

5) The fee for an application to change a cultivation center name or the change of stock ownership or principal officers shall be $1,000.

6) The fee for an application to make modifications to a cultivation center shall be $5,000. In addition, upon approval of the application, the applicant shall pay an additional fee of $3,000.

7) The fee for an application to make a physical, non-cosmetic alteration of a cultivation center, other than an expansion, shall be $1,000.

8) The fee for a cultivation center to register a cannabis product with the Department shall be $100 per product name;

9) The fee to request a variance shall be $200.

b) *All monies collected under the Act shall be deposited in the Compassionate Use of Medical Cannabis Fund in the State treasury.* (Section 20 of the Act)

c) The Department may, through the administrative rulemaking process, propose changes to the fees set forth in this Section if the Department deems that change is necessary to cover costs for implementation, administration and enforcement of the Act and this Part.

Section 1000.150 Modifications and Alterations

a) A permit shall be amended before the commencement of any modification to the facility. This includes any change that modifies the approved permit design capability of production or process areas, including change of capacity, efficiency or processes.

b) Before making any modification to a permitted facility, the cultivation center must complete an Application for Permit and Construction Approval and submit the application with the appropriate schedules to the Department.

c) An amendment to the permit shall not be required for alterations at the facility.

Section 1000.160 Denial of Cultivation Center Application/Suspension or Revocation of Permit

a) *An application for a cultivation center permit must be denied if any of the following conditions are met:*

1) *the applicant failed to submit the materials required by this* Part;

2) *the applicant would not be in compliance with local zoning rules issued in accordance with Section 140* of the Act;

3) *one or more of the prospective principal officers or board members has been convicted of an excluded offense;*

4) *one or more of the prospective principal officers or board members has served as a principal officer or board member for a registered dispensing organization or cultivation center that has had its registration revoked* or suspended;

5) *one or more of the principal officers or board members is under 21 years of age;*

6) *a principal officer or board member of the cultivation center has been convicted of a felony under the laws of this State, any other state, or the United States;*

7) *a principal officer or board member of the cultivation center has been convicted of any violation of Article 28 of the Criminal Code of 2012, or substantially similar laws of any other jurisdiction; or*

8) *the person has submitted an application for a* permit *under* the *Act* and/or this Part *which contains false information.* (Section 85 of the Act)

b) The Department may suspend or revoke a registration for violations of the Act and/or this Part.

c) Nothing in this Part is intended to confer a property or other right, duty, privilege or interest entitling an applicant to an administrative hearing upon denial of an application.

SUBPART C: CULTIVATION CENTER REQUIREMENTS

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

Section 1000.200 Financial Disclosure

a) When applying for a cultivation center permit, the applicant shall disclose all relevant financial information to the Department. The applicant shall have a continuing duty to disclose promptly any material changes in the financial information provided to the Department. If an applicant is issued a permit, this duty of ongoing disclosure shall continue throughout the permitted period. These disclosures shall include:

1) The ownership structure of the cultivation center;

2) A current organizational chart that includes position descriptions and the names and resumes of persons holding each position to the extent those positions have been filled. To the extent not revealed by the resume, include additional pages with each resume setting out the employee's particular skills, education, experience or significant accomplishments that are relevant to owning or operating a cultivation center;

3) Documents such as the articles of incorporation, articles of association, charter, by-laws, partnership agreement, agreements between any two or more members of the applicant that relate in any manner to the assets, property or profit of the applicant, or any other comparable documents that set forth the legal structure of the applicant or relate to the organization, management or control of the applicant;

4) A copy of all compensation agreements with producer backers, directors, owners, officers, growers, other high-level employees or any other persons required to complete these agreements;

5) A compensation agreement that includes any agreement that provides, or will provide, a benefit to the recipient, whether in the form of salary, wages, commissions, fees, stock options, dividends, interest, bonuses or otherwise;

6) The nature, type, terms, covenants and priorities of all outstanding bonds, loans, mortgages, trust deeds, pledges, lines of credit, notes, debentures or other forms of indebtedness issued or executed, or to be issued or executed, in connection with opening or operating the proposed cultivation center;

7) Audited financial statements for the previous fiscal year, which shall include, but are not limited to, an income statement, balance sheet, statement of retained earnings or owners' equity, statement of cash flows, and all notes to these statements and related financial schedules, prepared in accordance with generally accepted accounting principles, along with the accompanying independent auditor's report. If the applicant was formed within the year preceding the application for permit, provide certified financial statements for the period of time the applicant has been in existence and any pro forma financials used for business planning purposes;

8) Complete copies of all federal, state and foreign (with translation) tax returns filed by the applicant for the last three years, or for the period the applicant has filed returns if less than three years;

9) Complete copies of the most recently filed federal, state and/or foreign (with translation) tax returns filed by each producer backer and by each producer backer member identified in the applicant's application.

b) The applicant shall disclose all sources of funding used to acquire or develop the business for which the permit is sought, and shall provide independent documentation concerning the source of the funds and copies of closing documents in connection with the purchase of a registered business.

c) The applicant shall disclose the estimated expenditures to be incurred before the cultivation center is operational.

d) The applicant shall disclose the estimated full facility cost and projected annual revenue of the cultivation center under operation.

e) The applicant shall disclose whether any principal officer and/or board member has ever:

1) Filed for bankruptcy;

2) Defaulted on a student loan;

3) Defaulted on alimony or child support payment;

4) Been disciplined or sanctioned by a State or federal agency; or

5) Been convicted of an excluded offense.

f) The applicant shall disclose whether there are currently or have ever been any state or federal tax liens against the property of the applicant, as well as the property of any principal officer and/or board member.

Section 1000.210 Fingerprint-Based Criminal History Records Check

a) *No person who has been convicted of an excluded offense may be a cultivation center agent.* (Section 105 of the Act)

b) ISP shall act as the Department's agent for purposes of receiving electronic fingerprints and conducting background checks of each cultivation center agent applying for a cultivation center agent identification card.

1) ISP will conduct background checks for conviction information contained within ISP and FBI criminal history databases to the extent allowed by law.

2) For verification of any statutorily imposed duty to conduct background checks pursuant to the Act, ISP will transmit the results of the background check to the Department and that transmittal shall conclude the verification process.

3) The electronic background checks shall be submitted as outlined in either the Illinois Uniform Conviction Information Act or 20 Ill. Adm. Code 1265.30 (Electronic Transmission of Fingerprint Requirements).

A) Manual fingerprints will not be accepted and shall not be scanned and converted into an electronic format.

B) Fingerprint images of the individual being fingerprinted, and related alphanumeric identification data submitted to ISP for the purpose of this fingerprint-based background check, shall be submitted electronically.

C) Electronic transmission of fingerprint data to ISP shall be accomplished utilizing livescan procedures or other comparable technology approved for use by ISP.

D) If the fingerprints are rejected by ISP, the cultivation center agent shall have his or her fingerprints collected electronically by a livescan fingerprint vendor a second time.

E) In the event of equipment malfunction or other special circumstance that make electronic transmission of fingerprint data impractical, ISP may allow limited use of paper fingerprint records.

c) Each cultivation center agent applying for a cultivation center agent identification card shall have his or her fingerprints collected electronically by a livescan fingerprint vendor licensed by DFPR and transmitted to ISP for processing no more than 30 days prior to the date of application or renewal for a cultivation center agent identification card.

1) The cultivation center agent shall submit to the Department, with the cultivation agent identification card application or renewal, a copy of the livescan request form and the receipt provided by the livescan fingerprint vendor containing the Transaction Control Number (TCN) as proof that his or her fingerprints have been collected.

2) Cultivation center identification card applications submitted without a copy of the livescan request form and receipt will be deemed incomplete and will not be processed until fingerprinting is completed. The fingerprinting process is not completed until the Department receives the results from ISP.

3) Any fees associated with the livescan fingerprint-based criminal history records check shall be the responsibility of the individual seeking a cultivation center agent identification card and shall be collected by the livescan vendor at the time of fingerprinting and transmitted to ISP for deposit in the State Police Services Fund. A convenience fee may be charged by the livescan vendor as provided in Section 31-5 of the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004.

d) The Department shall obtain from ISP a state and federal criminal records check, to the extent allowed by law, containing conviction information for each cultivation center agent applying for a cultivation center agent identification card.

e) The Department will maintain the results of the criminal history records check in compliance the State Records Act [5 ILCS 160].

f) The Department may deny an application or renewal for a cultivation center agent who has been convicted of an excluded offense.

g) If the cultivation center agent has been convicted of any excluded offenses, the Department may approve a cultivation center agent identification card *if the person demonstrates that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.* (Section 10 of the Act) In determining whether to waive a conviction for excluded offenses, the Department shall determine whether the offense consisted of conduct for which, had it occurred on or after January 1, 2014, would likely have been protected by the Act and would likely not have resulted in a conviction.

h) Convictions for violations of the medical cannabis laws of Illinois or any other state or jurisdiction shall not be waived by the Department.

i) Should the Department not be able to obtain from ISP the required state and/or federal criminal records check required by the Act and this Section, the Department shall contract as appropriate with a private detective/investigating agency licensed under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 and in good standing with DFPR, for the purpose of conducting those records checks.

Section 1000.220 Cultivation Center Facility Plans and Specifications

a) Cultivation centers shall:

1) Not be located closer than 1,000 feet to another cultivation center or a medical cannabis dispensary.

2) Not be located closer *than 2,500 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care*

center, day care home, group day care home, part day child care facility, or an area zoned for residential use. [Section 105 of the Act]

3) Not be in violation of any other local zoning requirements.

b) When applying for a permit, the applicant shall provide engineering plans and specifications of the entire cultivation center. The plans and specifications shall include:

1) A detailed plan and elevation drawings of all operational areas involved with the production of cannabis plants. This should include dimensions and elevation referenced to a single facility benchmark;

2) Cross-sections that show the construction details and their dimensions to provide verification of construction materials, enhancement for security measures and bio-security measures;

3) Identification of all employee areas that are non-production areas;

4) The location of all storage areas, ventilation systems, and equipment used for the production of cannabis;

5) The location of all entrances and exits to the cultivation center;

6) The location of any windows, skylights and roof hatches;

7) The location of all cameras and their field of view;

8) The location of all alarm inputs (door contacts, motion detectors, duress/hold up devices) and alarm sirens;

9) The location of the digital video recorder and alarm control panel;

10) The location of all restricted and public areas;

11) The location where all plant inputs and application equipment are stored;

12) If applicable, the location of areas designated specifically for the production of cannabis-infused products; and

13) The location of the enclosed, secure area or loading/unloading dock out of public sight for the loading/unloading of medical cannabis in the transport motor vehicle.

Section 1000.230 Measuring Distances

a) In establishing the distance between one or more places (such as the actual distance of a cultivation center from a school or day care center, as defined in the Act), the distance shall be measured linearly and shall be the shortest distance between the closest point of the property lines of the places.

b) If a boundary line measured by the Department touches upon any portion of a parcel or lot, the parcel or lot shall be within the area being identified by the Department.

Section 1000.240 Failure to Open or Operate

a) A cultivation center permit shall be surrendered to the Department upon written notice and demand if the cultivation center fails to begin production within six months after the permit has been issued. The cultivation center may submit a written request to the Department for an extension of time setting forth its justification for being unable to begin production within six months after the permit was issued. The Department may grant an extension, at its discretion, for good cause shown. Good cause may include unforeseen events, acts of nature and other events that prevent a good faith effort. Good cause shall not include cost overruns, insufficient financing and other factors evidencing a lack of good faith effort.

b) A cultivation center that fails to maintain production for any reason for more than 90 consecutive days after it has begun production shall be notified in writing and given 30 days from the date of notification from the Department to submit a written explanation why it so failed and, if it plans on continuing to operate as a cultivation center, a description of how it will correct the problem and prevent it from occurring again.

1) If no response is received from the cultivation center or if a response is received after the 30 day period, the permit shall be revoked and surrendered to the Department.

2) If a response is received within the 30 day period, the Department shall review the response and either approve it and require the cultivation center to come into compliance or reject it and revoke the permit requiring the cultivation center to surrender its permit to the Department. If the Department allows the cultivation center to come into compliance, the Department may, after a hearing, levy a fine for failure to provide an uninterrupted supply to patients.

c) Upon surrender of its cultivation center permit, the cultivation center shall forfeit the balance of its escrow account or surety bond required by Section 1000.40(g).

d) A cultivation center that has failed to continue to operate the cultivation center in a manner that provides an uninterrupted supply of medical cannabis to licensed dispensaries as provided for in Section 1000.40(g) shall be notified in writing and given 30 days from the date of notification from the Department to submit a written explanation why it was unable to provide the supply and how it will correct the situation in the future.

1) If no response is received from the cultivation center or if a response is received after the 30 day period, the permit shall be revoked and surrendered and the escrow account or surety bond required by Section 1000.40(g) shall be forfeited to the Department.

2) If a response is received within the 30 day period, the Department shall review the response and either accept it and require the cultivation center to come into compliance or reject and revoke it requiring the cultivation center to surrender its permit to the Department and forfeit its escrow account or surety bond. If the Department allows the cultivation center to come into compliance, the Department may, after a hearing, levy a fine for failure to provide an uninterrupted supply to patients.

Section 1000.250 Cultivation Center Records

a) Each cultivation center shall keep and maintain upon the permitted premises for a five-year period true, complete, legible and current books and records, including the following:

1) The date of each sale or distribution to a dispensary;

2) The name, address and registration number of the dispensary;

3) The item number, product name (description), and quantity of cannabis and cannabis-infused products registered by the Department and sold or otherwise distributed to the dispensary;

4) The price charged and the amount received for the cannabis and cannabis-infused products from the dispensary;

5) If the distribution was for a purpose other than sale, the reason for the distribution;

6) The quantity and form of medical cannabis maintained at the cultivation center on a daily basis; and

7) The amount of plants being grown at the cultivation center on a daily basis.

b) Each cultivation center is responsible for keeping and maintaining records that clearly reflect all financial transactions and the financial condition of the business. The following records must be kept and maintained on the permitted premises for a five-year period and must be made available for inspection if requested by the Department, and, when applicable, the Illinois Department of Revenue:

1) Purchase invoices, bills of lading, manifests, sales records, copies of bills of sale and any supporting documents, including the items and/or services purchased, from whom the items were purchased, and the date of purchase;

2) If applicable, bank statements and canceled checks for all accounts relating to the cultivation center;

3) Accounting and tax records related to the cultivation center and each producer backer;

4) Records of all financial transactions related to the cultivation center, including contracts and/or agreements for services performed or received that relate to the cultivation center;

5) All employee records, including training, education, discipline, etc.;

6) Soil amendment, fertilizers, pesticides as required by Section 1000.470, or other crop production aids applied to the growing medium or plants or used in the process of growing cannabis;

7) Production records, including:

A) planting, harvest and curing, weighing, destruction of cannabis, creating batches of cannabis-infused products, and packaging and labeling; and

B) disposal of cannabis, cannabis-infused products and waste materials associated with production.

8) Records of each batch of extracts or cannabis-infused products made, including, at a minimum, the usable cannabis or trim, leaves, and other plant matter used (including the total weight of the base product used), any solvents or other compounds utilized, and the product type and the total weight of the end product produced, such as hash oil, shatter, tincture, infused dairy butter, etc.;

9) Transportation records as described in Section 1000.430;

10) Inventory records as described in Section 1000.435;

11) Records of all samples sent to an independent testing lab and/or the Department's lab and the quality assurance test results;

12) All samples provided to anyone or any entity for any purpose; and

13) Records of any theft, loss or other unaccountability of any cannabis seedlings, clones, plants, trim or other plant material, extracts, cannabis-infused products, or other items containing cannabis.

Section 1000.260 Automated Data Processing (ADP) and/or Point-of-Sale (POS) Systems

a) The cultivation center shall keep records within an automated data processing (ADP) and/or point-of-sale (POS) system. The system must include a method for producing legible records that will provide the same information required of that type of record by Section 1000.250. The system must be compatible with the State's system in place at the time.

b) The ADP/POS system is acceptable if it complies with the following guidelines:

1) Provides an audit trail so that details (invoices and vouchers) underlying the summary accounting data may be identified and made available upon request.

2) Provides the opportunity to trace any transaction back to the original source or forward to a final total. If printouts of transactions are not made when they are processed, the system must have the ability to reconstruct these transactions.

3) Has available a full description of the ADP/POS portion of the accounting system. This should show the applications being performed, the procedures employed in each application, and the controls used to ensure accurate and reliable processing.

c) The provisions contained in this Section do not eliminate the requirement to maintain source documents.

Section 1000.270 Mandatory Signage

a) Each permitted cultivation center must post a sign in a conspicuous location at each entrance of the facility that reads: "PERSONS UNDER 21 YEARS OF AGE NOT PERMITTED ON THESE PREMISES".

b) Each permitted cultivation center must post a sign in a conspicuous location at each entrance of the facility that reads: "THESE PREMISES ARE UNDER CONSTANT VIDEO SURVEILLANCE".

c) A cultivation center agent must keep his or her identification card visible at all times when on the property of a cultivation center and during the transportation of medical cannabis to a registered dispensary organization. During these times, the

cultivation center agent must also provide the identification card upon request of any law enforcement officer engaged in his or her official duties.

d) Any visitor must keep his or her visitor pass visible at all times when on the property of a cultivation center.

SUBPART D: CULTIVATION CENTER AGENTS/AGENTS-IN-CHARGE

Section 1000.300 Cultivation Center Agents Application; Issuance; Surrender

a) The cultivation center agent application shall be submitted on forms provided by the Department in accordance with the Act and this Part. The application will include instructions for its completion and submission. The application will include requests for information in support of the application needed by the Department in making its determination. If all materials, documentation and information required by the Act and this Part are not submitted, the application will be denied.

b) Each principal officer, board member, employee or agent of a registered cultivation center must apply to the Department for a cultivation center agent identification card. Along with the application, the applicant shall submit:

1) A copy of the applicant's social security card;

2) A copy of the applicant's valid driver's license or state issued identification card;

3) A document verifying the applicant's place of residency, such as a bank statement, cancelled check, insurance policy, etc. The document must contain the applicant's full residence address;

4) A sworn statement that the applicant has not been convicted of an excluded offense in any jurisdiction;

5) Verification from ISP that the applicant's background check has been conducted and that the applicant has not been convicted of an excluded offense;

6) The application fee; and

7) Any additional information requested by the Department.

c) Upon receipt and verification of the information specified in subsection (b), the Department shall:

1) approve or deny the application within 30 days after receipt;

2) issue each cultivation center agent an identification card, within 15 business days after approval, that shall expire one year after the date of issuance; and

3) enter in its record system the registry identification number of the cultivation center where the agent works.

d) No person shall begin working at a cultivation center prior to receiving his or her cultivation center agent identification card.

e) The cultivation center identification card shall contain the following:

1) The name of the cardholder;

2) The date of issuance and expiration;

3) A random 10 digit alphanumeric identification number with at least 4 numbers and 4 letters that are unique to the holder; and

4) A photograph of the cardholder.

f) *A registered cultivation center agent is not subject to prosecution, search, or penalty in any manner,* and will not *be denied any right or privilege, including but not limited to civil penalty or disciplinary action by a business licensing board or entity, for working or volunteering for a registered cannabis cultivation center, to perform the actions listed under* Section 1000.40. (Section 25 of the Act)

g) *A cultivation center agent must keep his or her identification card visible at all times when on the property of a cultivation center and during the transportation of medical cannabis to a registered dispensary organization.* (Section 100 of the Act)

h) Upon termination of employment, the cultivation center agent identification cards shall be immediately returned to the cultivation center. The cultivation center shall promptly return the identification cards to the Department.

i) Any cultivation center agent identification card that is lost, destroyed or stolen shall be reported to ISP and the Department immediately upon discovery of the loss, destruction or theft.

j) Upon conviction of an excluded offense, the principal officer, board member or registered agent shall immediately notify the Department and shall surrender his or her identification card to the Department.

Section 1000.310 Suspension or Revocation of Agent Identification Card

a) The Department may suspend or revoke a cultivation center agent identification card for any of the following reasons:

1) Submission of misleading, incorrect, false or fraudulent information in the application or renewal application;

2) Violation or violations of the requirements of the Act and this Part;

3) Fraudulent use of the identification card;

4) Selling, distributing, transferring in any manner, or giving medical cannabis to any unauthorized person;

5) Tampering with, falsifying, altering, modifying or duplicating an identification card;

6) Failure to notify the Department within 10 business days after becoming aware that the identification card has been lost, stolen or destroyed;

7) Failure to notify the Department within 10 business days after a change in the information provided in the application for an identification card; or

8) Conviction of an excluded offense following the issuance of an identification card.

b) In addition, each of the following shall be grounds for the revocation of a cultivation center identification card:

1) The cultivation center agent is convicted of a felony drug offense in Illinois or of a like violation of the laws of another state, the United States or a military, territorial or Indian tribal authority, or another country; or

2) The cultivation center agent is deceased.

Section 1000.320 Cultivation Center Agent-in-Charge

a) Every cultivation center shall designate, at a minimum, one agent-in-charge. Except as provided in subsection (h), maintaining an agent-in-charge is a continuing requirement for a valid cultivation center permit.

b) Every cultivation center agent-in-charge shall have a valid current cultivation center agent identification card applied for by the cultivation center and issued by the Department, as set forth in Section 1000.300, designating that individual as an agent-in-charge. The application for the identification card with the agent-in-charge designation shall include authorization from a principal officer or board member of the cultivation center granting the designation.

c) The agent-in-charge shall be a full-time officer or employee of the cultivation center and shall participate in cultivation center affairs. Participation in cultivation center affairs includes, but is not limited to, responsibility for the overall operation of the cultivation center. Participation in cultivation center affairs also includes the responsibility of the agent-in-charge for maintaining all files subject to audit or inspection by the Department. These files shall be located within Illinois.

d) The agent-in-charge is responsible for notifying the Department, on forms provided by the Department, of any change of information required to be reported in any application for registration within 10 work days after the change.

e) The agent-in-charge is responsible for maintaining the good standing of the permittee organization with the Secretary of State, if applicable, and for maintaining its authorization to conduct business in Illinois, if applicable.

f) In determining whether an agent-in-charge participates in cultivation center affairs, the Department may consider the responsibilities identified in this Section, the number of employees under the direct supervision of the agent-in-charge, and the employment relationship between the agent-in-charge and the cultivation center, including the existence of a contract for employment and any other relevant fact or circumstance.

g) The agent-in-charge is responsible for notifying the Department, on forms provided by the Department, of a change in the employment status of all cultivation center agents, and the nature and reason for the status change, within 10 work days after the change.

h) Upon written request by an officer or board member of the cultivation center, within 10 days after the loss of an agent-in-charge due to the death or incapacity of that individual or termination of the employment of that individual, the Department shall issue a temporary certificate of authority allowing the continuing operation of the cultivation center. No temporary certificate of authority shall be valid for more than 90 days. An extension of an additional 90 days may be granted upon written request by the representative of the cultivation center. Not more than 2 extensions may be granted to any cultivation center. No temporary permit shall be issued for loss of the agent-in-charge because of disciplinary action by the Department related to his or her conduct on behalf of the cultivation center.

i) The cultivation center agent-in-charge identification card shall expire annually on the date it was issued. The cultivation center shall renew the agent-in-charge identification card annually. The Department shall review the cultivation center's compliance history when determining whether to grant the request to renew.

j) A cultivation center shall submit a full set of fingerprints, in the electronic format outlined in the Act and this Part, with the agent-in-charge's annual identification card renewal.

Section 1000.330 Denial, Suspension or Revocation of Agent-in-Charge Identification Card

The Department may deny, suspend or revoke a cultivation center agent-in-charge identification card, for any of the reasons for which it can deny, suspend or revoke a cultivation center agent identification card, or for the failure to comply with any additional duty or responsibility imposed upon an agent-in-charge, as set forth in the Act or this Part.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

SUBPART E: CULTIVATION CENTER OPERATIONS

Section 1000.400 Production Areas − Plants

a) Each facility shall develop and maintain an Operations and Management Practices Plan for each production area.

b) Each production area shall maintain an open aisle on all sides of each plant group to allow for unobstructed travel, observation and inventory of each plant group.

c) Each production area shall be maintained free of debris.

d) Biosecurity measures shall be implemented and maintained at all times.

e) A record of all crop inputs shall be maintained for at least five years at the facility. The record shall include the following (see Section 1000.470(g) for additional requirements for the use of pesticides):

1) The date of application;

2) The name of the individual making the application;

3) The product that was applied;

4) The section, including the square footage, that received the application (by group number);

5) The amount of product that was applied; and

6) A copy of the label of the product applied.

f) At the time of planting, all plants shall be accounted for as a batch with a unique batch number that shall remain with the batch through final packaging.

g) When a plant reaches 18 inches in height, it shall be assigned a specific number and so tagged with an individual tag that will be recorded electronically (RFID) or kept in an electronic file until harvest or destruction. All plants, regardless of

accounting strategy, shall be physically inventoried on a weekly basis and records of the inventory shall be kept at the facility for at least 5 years.

h) Any removal of plants from the batch shall be recorded on a permanent record and maintained on site.

i) The batch number shall be displayed on the approved label of the product designated for distribution to a dispensing organization.

j) All persons working in direct contact with medical cannabis shall conform to hygienic practices while on duty, including but not limited to the following:

1) Litter and waste shall be properly removed and the operating systems for waste disposal shall be maintained in an adequate manner so that they do not constitute a source of contamination in areas where cannabis plants are exposed;

2) Floors, walls and ceilings shall be constructed in such a manner that they may be adequately cleaned and kept clean and in good repair;

3) There shall be adequate lighting in all areas where medical cannabis is stored and where equipment or utensils are cleaned;

4) There shall be adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage or breeding place for pests;

5) Any buildings, fixtures and other facilities shall be maintained in a sanitary condition;

6) Toxic cleaning compounds, sanitizing agents, solvents used in the production of medical cannabis concentrates, and pesticide chemicals shall be identified, held and stored in a manner that protects against contamination of cannabis, and in a manner that is in accordance with any applicable local, State or federal law, rule, regulation or ordinance;

7) Only sanitizing agents registered with the Department pursuant to the Illinois Pesticide Act shall be used in cultivation centers, and they shall be used in accordance with labeled instructions;

8) The water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable and adequate supply of water to meet the facility's needs (see Section 1000.465);

9) Plumbing shall be of adequate size and design and adequately installed and maintained to carry sufficient quantities of water to required locations throughout the cultivation center, and it shall properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines, pursuant to the Illinois Plumbing Code;

10) All operations in the receiving, inspecting, transporting, segregating, preparing, production, packaging and storing of cannabis or cannabis-infused product shall be conducted in accordance with adequate sanitation principles; and

11) Medical cannabis that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

Section 1000.405 Production Areas − Infused or Processed Products

a) Any area within the cultivation center where cannabis will be manufactured into an edible form shall comply with the Illinois Food, Drug and Cosmetic Act, Sanitary Food Preparation Act, and Food Handling Regulation Enforcement Act.

1) *No cannabis-infused products requiring refrigeration or hot-holding* or considered potentially hazardous food (Section 4 of the Food Handling Regulation Enforcement Act) *shall be manufactured at a cultivation center for sale or distribution at a dispensing organization due to the potential for food-borne illness.*

2) *Cannabis-infused products for sale or distribution at a dispensing organization must be prepared by an approved staff member of a permitted cultivation center.*

b) The Department of Public Health *may at all times enter every building, room, basement, enclosure, or premises occupied or used or suspected of being occupied or used for the production, preparation, manufacture for sale, storage, sale, distribution or transportation of medical cannabis-infused products, to inspect the premises and all utensils, fixtures, furniture, and machinery used for the preparation of these products*.

c) *If a local health department has a reasonable belief that a cultivation center's cannabis-infused product poses a public health hazard, it may refer the cultivation center to the Department of Public Health* for inspection. (Section 80 of the Act)

d) General Sanitary Requirements. All areas permitted in the cultivation center for the production of cannabis-infused products shall take all reasonable measures and precautions to ensure that:

1) Any person who, by medical examination or supervisory observation, is shown to have, or appears to have, an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination for whom there is a reasonable possibility of contact with cannabis shall be excluded from any operations that may be expected to result in microbial contamination until the condition is corrected.

2) Hand-washing facilities are adequate and convenient and are furnished with running water at a suitable temperature. Hand-washing facilities shall be located in the permitted premises and where good sanitary practices require employees to wash and/or sanitize their hands, and provide effective hand-cleaning and sanitizing preparations and sanitary towel service or suitable drying devices.

3) All persons working in direct contact with cannabis shall conform to hygienic practices while on duty, including but not limited to:

A) Maintaining adequate personal cleanliness;

B) Washing hands thoroughly in adequate hand-washing areas before starting work and at any other time when the hands may have become soiled or contaminated;

C) Refraining from having direct contact with cannabis if the person has or may have an illness, open lesion, including boils, sores or infected wounds, or any other abnormal source of microbial contamination, until the condition is corrected.

4) Litter and waste are properly removed and the operating systems for waste disposal are maintained in an adequate manner so that they do not constitute a source of contamination in areas where cannabis is exposed.

5) Floors, walls and ceilings are constructed in such a manner that they may be adequately cleaned and kept clean and in good repair.

6) There is adequate lighting in all areas where cannabis is stored and where equipment or utensils are cleaned.

7) There is adequate screening or other protection against the entry of pests. Rubbish shall be disposed of so as to minimize the development of odor and minimize the potential for the waste becoming an attractant, harborage or breeding place for pests.

8) Any buildings, fixtures and other facilities are maintained in a sanitary condition.

9) Toxic cleaning compounds, sanitizing agents, and solvents used in the production of cannabis concentrates shall be identified, held and stored in a manner that protects against contamination of cannabis, and in a manner that is in accordance with any applicable local, State or federal law, rule, regulation or ordinance.

10) All contact surfaces, including utensils and equipment used for the preparation of cannabis or cannabis-infused product, shall be cleaned and sanitized as frequently as necessary to protect against contamination. Equipment and utensils shall be designed and shall be of such material and workmanship as to be adequately cleanable, and shall be properly maintained. Only sanitizing agents registered with the Department

pursuant to the Illinois Pesticide Act shall be used in cultivation centers; they shall be used in accordance with labeled instructions.

11) The water supply shall be sufficient for the operations intended and shall be derived from a source that is a regulated water system. Private water supplies shall be derived from a water source that is capable of providing a safe, potable and adequate supply of water to meet the facility's needs.

12) Plumbing shall be of adequate size and design, and adequately installed and maintained, to carry sufficient quantities of water to the required locations throughout the facility. Plumbing shall properly convey sewage and liquid disposable waste from the facility. There shall be no cross-connections between the potable and waste water lines.

13) All operations in the receiving, inspecting, transporting, segregating, preparing, producing, packaging and storing of cannabis and cannabis-infused products shall be conducted in accordance with adequate sanitation principles.

14) Each cultivation center shall provide its employees with adequate and readily accessible toilet facilities that are maintained in a sanitary condition and good repair.

15) Cannabis that can support the rapid growth of undesirable microorganisms shall be held in a manner that prevents the growth of these microorganisms.

e) The permittee must request DPH to conduct a pre-operational inspection at all registered cultivation centers to determine whether the facilities, methods, practices and controls used in the manufacture, processing or holding of cannabis-infused products conform to or are operated or administered in conformity with good manufacturing practices to ensure that food products for human consumption are safe and have been prepared, packed and held under sanitary conditions.

f) Permitted cultivation centers shall immediately allow DPH to inspect the premises and all utensils, fixtures, furniture, machinery and devices used for preparing manufactured cannabis-infused products.

g) DPH will conduct inspections of registered cultivation centers with regard to the manufacture and preparation of cannabis-infused products under the authority of the Illinois Food, Drug and Cosmetic Act, the Food Handling Regulation Enforcement Act and the Food Service Sanitation Code and in accordance with DPH's Cannabis-Infused Products rules (77 Ill. Adm. Code 946.Subpart D).

h) *A cultivation center that prepares cannabis-infused products for sale or distribution at a dispensing organization shall be under the operational supervision of a certified food service sanitation manager.* (Section 80 of the Act) Management responsibilities and supervision shall be in accordance with 77 Ill. Adm. Code 730.8000 and 730.8040 (Manufacturing, Processing, Packing or Holding of Food Code).

Section 1000.410 Cultivation Center Management and Operations

a) A cultivation center shall:

1) Have storage areas that provide adequate lighting, ventilation, temperature, sanitation, humidity, space, equipment and security conditions for the production and manufacture of cannabis;

2) Separate for storage, in a quarantined area, cannabis that is outdated, damaged, deteriorated, misbranded or adulterated, or whose containers or packaging have been opened or breached, until that cannabis is destroyed pursuant to Section 1000.460;

3) Be maintained in a clean and orderly condition;

4) Be free from infestation by insects, rodents, birds or vermin of any kind; and

5) Produce no products other than useable cannabis and cannabis-infused products intended for human consumption.

b) All areas in the cultivation center shall be compartmentalized based on function, and access shall be restricted between compartments. The facility shall establish, maintain and comply with written policies and procedures provided in the Operational and Management Practice Plan approved by the Department

regarding best practices for secure and proper production of cannabis. These shall include, but not be limited to, policies and procedures that:

1) Restrict movement between production compartments;

2) Ensure that only personnel necessary for a production function have access to that compartment of the cultivation center; and

3) Document the chain of custody of all cannabis and cannabis-infused products.

c) Cultivation centers shall establish, maintain and comply with the policies and procedures contained in the Operations and Management Practices Plan, approved by the Department, for the production, security, storage, inventory and distribution of cannabis products. The policies and procedures shall include methods for identifying, recording and reporting diversion, theft and loss, and for correcting all errors and inaccuracies in inventories. Cultivation centers shall include in their written policies and procedures a process for the following:

1) Handling mandatory and voluntary recalls of cannabis or cannabis-infused products. The procedure shall be adequate to deal with:

A) recalls due to any action initiated at the request of the Department and any voluntary action by the cultivation center to remove from the market defective or potentially defective cannabis or cannabis-infused products, or any product that has failed laboratory testing as required by this Part or has been found to have a reasonable probability that its use or exposure will cause serious adverse health consequences; and

B) any action undertaken to promote public health and safety by replacing existing cannabis or cannabis-infused products with improved products or packaging.

2) Preparing for, protecting against, and handling any crises that affect the security or operation of any facility in the event of strike, fire, flood or other natural disaster, or other situations of local, State or national emergency.

3) Ensuring that any outdated, damaged, deteriorated, misbranded or adulterated cannabis is segregated from other cannabis and destroyed. This procedure shall provide for written documentation of the cannabis disposition.

4) Ensuring the oldest stock of a specific desired strain of a cannabis product is distributed first. The procedure may permit deviation from this requirement if the deviation is temporary and appropriate.

Section 1000.415 Containment Management and Operations

a) All cannabis in the process of production, distribution, transfer or analysis shall be stored in such a manner as to prevent diversion, theft or loss, shall be accessible only to the minimum number of specifically authorized personnel essential for efficient operation, and shall be returned to its secure location immediately after completion of the process or at the end of the scheduled business day. If a production process cannot be completed at the end of a working day, the processing area or tanks, vessels, bins or bulk containers containing cannabis shall be securely locked inside an area that affords adequate security.

b) No person, except cultivation center agents, local law enforcement, the Department or the Department's authorized representative, DPH inspectors, or other federal, State or local government officials when necessary to perform their governmental duties, shall be allowed on the premises of a cultivation center, except that:

1) Laboratory staff may enter a cultivation center for the sole purpose of identifying and collecting cannabis samples for purposes of conducting laboratory tests;

2) Emergency personnel may enter a cultivation center when necessary to perform their duties;

3) Upon written notice to the Department, a cultivation center may allow contractors to enter a cultivation center when they are working on a job unrelated to medical cannabis, such as installing or maintaining security devices or performing electrical wiring; and

4) Upon prior written request, the Department or the Department's authorized representative may permit other persons to enter a cultivation center.

c) All persons who are not cultivation center agents, but who are permitted on the premises of a cultivation center pursuant to subsection (b), shall obtain a visitor identification badge from cultivation center personnel prior to entering the cultivation center, and shall be escorted and monitored at all times by cultivation center personnel. The visitor identification badge shall be visibly displayed at all times while the visitor is in the cultivation center. All visitors, after presenting valid government issued identification with a picture shall be logged in and out, and that log shall include the date, time and purpose of the visit and shall be maintained and made available to the Department, at any time, for a period of five years. All visitor identification badges shall be returned to the cultivation center personnel upon the visitor exiting the cultivation center.

d) Except as otherwise provided by this Part (e.g., see Section 1000.445), the use and/or possession of cell phones, cameras and any other audio or video recording device by any cultivation center agent, visitor or other individual shall be prohibited inside the production area of a cultivation center, except when used for legitimate business purposes of the cultivation center, such as, but not limited to, communication with employees and the identification of plant disease with off-site experts.

Section 1000.420 Packaging and Labeling of Medical Cannabis and Cannabis-Infused Products

a) Each cannabis product produced for sale shall be registered with the Department on forms provided by the Department. Each product registration shall include a label and the required registration fee (Section 1000.140). The registration fee is for the name of the product offered for sale and one fee shall be sufficient for all package sizes.

b) All harvested cannabis intended for distribution to a dispensing organization must be packaged in a sealed, labeled, medical cannabis container.

c) Packaging of any product containing cannabis shall be child-resistant and light-resistant consistent with current standards, including the Consumer Product Safety Commission standards referenced by the Poison Prevention Act.

d) Each cannabis product shall be labeled by the cultivation center prior to sale to a dispensary and each label shall be securely affixed to the package and shall state in legible English:

1) The name and P.O. Box of the registered cultivation center where the item was manufactured;

2) The common or usual name of the item and the registered name of the cannabis product that was registered with the Department pursuant to subsection (a);

3) A unique serial number that will match the product with a producer batch and lot number to facilitate any warnings or recalls the Department or producer deems appropriate;

4) The date of final testing and packaging, if sampled, and the identification of the independent testing laboratory;

5) The date of manufacture and "use by" date;

6) The quantity (in ounces or grams) of cannabis contained in the product;

7) A pass/fail rating based on the laboratory's microbiological, mycotoxins, and pesticide and solvent residue analyses, if sampled;

8) Content List

A) A list of the following, including the minimum and maximum percentage content by weight for subsections (d)(8)(A)(i) through (iv):

i) delta-9-tetrahydrocannabinol (THC);

ii) tetrahydrocannabinolic acid (THCA);

iii) cannabidiol (CBD);

iv) cannabidiolic acid (CBDA); and

v) any other ingredients besides cannabis.

B) The acceptable tolerances for the minimum percentage printed on the label for any of subsections (d)(8)(A)(i) through (iv) shall not be below 85% or above 115% of the labeled amount;

9) A statement that the product is for medical use and not for resale or transfer to another person.

e) Medical Cannabis-Infused Products. All items shall be individually wrapped or packaged at the original point of preparation. The packaging of the medical cannabis-infused product shall conform to the labeling requirements of the Illinois Food, Drug and Cosmetic Act and, in addition to the other requirements set forth in this Section, shall include the following information in English on each product offered for sale or distribution:

1) All ingredients of the item, including any colors, artificial flavors and preservatives, listed in descending order by predominance of weight shown with common or usual names;

2) The following phrase: "This product was produced in a medical cannabis cultivation center not subject to public health inspection that may also process common food allergens.";

3) Allergen labeling as specified in the Federal Food, Drug and Cosmetics Act, Federal Fair Packaging and Labeling Act, and the Illinois Food, Drug and Cosmetic Act;

4) The pre-mixed total weight (in ounces or grams) of usable cannabis in the package (the pre-mixed weight of medical cannabis used in making a cannabis-infused product shall apply toward the limit on the total amount of medical cannabis a registered qualifying patient may possess at any one time);

5) A warning that the item is a medical cannabis-infused product and not a food must be distinctly and clearly legible on the front of the package;

6) A clearly legible warning emphasizing that the product contains medical cannabis and is intended for consumption by registered qualifying patients only;

7) Ingredients List

A) A list of the following ingredients, including the minimum and maximum percentage content by weight for subsections (e)(7)(A)(i) through (iv):

i) delta-9-tetrahydrocannabinol (THC);

ii) tetrahydrocannabinolic acid (THCA);

iii) cannabidiol (CBD);

iv) cannabidiolic acid (CBDA); and

v) any other ingredients besides cannabis.

B) The acceptable tolerances for the minimum percentage printed on the label for any of subsections (e)(7)(A)(i) through (iv) shall not be below 85% or above 115% of the labeled amount.

f) THC and CBD Container Content and Restriction
Each individually packaged medical cannabis-infused product, even if comprised of multiple servings, shall include the total milligram content of THC and CBD and may not include more than a total of 100 milligrams of active THC.

g) The label shall not contain any of the following information:

1) Any false or misleading statement or design;

2) Any seal, flag, crest, coat of arms or other insignia likely to mislead the qualified patient to believe that the product has been endorsed, made or used by the State of Illinois or any of its representatives; or

3) Depictions of the product, cartoons or images other than the cultivation center's logo. Medical cannabis-infused products shall not bear a

reasonable resemblance to any product available for consumption as a commercially available candy.

h) It is a violation for anyone other than the end user to alter, obliterate or destroy any label attached to a medical cannabis container to administer the product.

i) For each commercial weighing and measuring equipment device used at a facility, the cultivation center must:

1) Ensure that the commercial device is licensed pursuant to the Weights and Measures Act and the associated administrative rules (8 Ill. Adm Code 600);

2) Maintain documentation of the licensure of the commercial device; and

3) Provide a copy of the license of the commercial device to the Department for review upon request.

Section 1000.425 Advertising

Cultivation centers may not advertise through any public medium, including but not limited to newspapers, television, radio or any means designed to market its products to the public. Cultivation centers may market their products directly to registered dispensaries or physicians through direct mail, brochures or other means directed solely to the dispensaries and not available to the public.

Section 1000.430 Transportation of Cannabis and Cannabis-Infused Products

a) Prior to transporting any cannabis or cannabis-infused product, a cultivation center shall:

1) Complete a shipping manifest using a form prescribed by the Department; and

2) Securely transmit a copy of the manifest to the dispensary facility that will receive the products and to the Department before the close of business the day prior to transport. The manifest shall be made available to the ISP upon request.

b) The cultivation center shall maintain all shipping manifests and make them available at the request of the Department.

c) Cannabis products that are being transported shall:

1) Only be transported in a locked, safe and secure storage compartment that is part of the motor vehicle transporting the cannabis, or in a locked storage container that has a separate key or combination pad; and

2) Not be visible from outside the motor vehicle.

d) Any motor vehicle transporting cannabis shall travel directly from the cultivation center to the dispensary facility, or a testing laboratory, and shall not make any stops in between except to other dispensary facilities or laboratories, for refueling or, in case of an emergency. In case of emergency, the agents will report the emergency immediately to law enforcement through the 911 emergency system and the cultivation center, which will immediately notify the Department.

e) A cultivation center shall ensure that all delivery times and routes are randomized.

f) A cultivation center shall staff all transport motor vehicles with a minimum of two employees. At least one delivery team member shall remain with the motor vehicle at all times that the motor vehicle contains cannabis.

g) Each delivery team member shall have access to a secure form of communication with personnel at the cultivation center and the ability to contact law enforcement through the 911 emergency system at all times that the motor vehicle contains cannabis.

h) Each delivery team member shall possess his or her department issued identification card at all times when transporting or delivering cannabis and shall produce it for the Department or Department's authorized representative or law enforcement official upon request.

Section 1000.435 Inventory

a) Each cultivation center, prior to commencing business, shall:

1) Conduct an initial comprehensive inventory of all cannabis at the facility. If a cultivation center commences business with no cannabis on hand, the cultivation center shall record this fact as the initial inventory; and

2) Establish ongoing inventory controls and procedures for the conduct of inventory reviews and comprehensive inventories of cannabis, which shall enable the cultivation center to detect any diversion, theft or loss in a timely manner.

b) Upon commencing business, each cultivation center shall conduct a weekly inventory of cannabis stock, which shall include, at a minimum:

1) the date of the inventory;

2) a summary of the inventory findings;

3) the name, signature and title of the individuals who conducted the inventory and the agent-in-charge who oversaw the inventory; and

4) the product name and quantity of cannabis plants or cannabis-infused products at the facility.

c) The record of all medical cannabis sold or otherwise disposed of shall show:

1) the date of sale;

2) the name of the dispensary facility to which the medical cannabis was sold;

3) the batch number, product name and quantity of cannabis sold; and

4) if applicable, the date, quantity, manner in which and reason why any cannabis was destroyed.

d) A complete and accurate record of all plant stock or products of cannabis on hand shall be prepared annually on the anniversary of the initial inventory, or other date that the cultivation center agent-in-charge may choose, so long as it is not more than one year following the prior year's inventory.

e) All inventories, procedures and other documents required by this Section shall be maintained on the premises and made available to the Department at all times.

f) Whenever any sample or record is removed by a person authorized to enforce this Part, that person shall tender a receipt in lieu of the sample or record. The receipt shall be kept for five years.

Section 1000.440 Cultivation Center Storage

a) A cultivation center shall:

1) Not produce or maintain cannabis in excess of the quantity required for normal, efficient operation;

2) Store all cannabis and cannabis-infused products in a safe, vault or secured room and in such a manner as to prevent diversion, theft or loss;

3) Maintain all cannabis that is not part of a finished product in a secure area or location within the cultivation center accessible only to specifically authorized personnel, which shall include only the minimum number of employees essential for efficient operation;

4) Keep all approved safes, vaults, or other equipment or areas used for the production or storage of cannabis securely locked or protected from entry, except for the actual time required to remove or replace cannabis;

5) Keep all locks and security equipment in good working order;

6) Not allow keys to be left in the locks and not store or place keys in a location accessible to persons other than specifically authorized personnel;

7) Not allow other security measures, such as combination numbers, passwords or electronic or biometric security systems, to be accessible to persons other than specifically authorized personnel; and

8) Keep the cultivation center securely locked and protected from unauthorized entry at all times.

b) If a cultivation center presents special security issues, such as extremely large stock of cannabis, exposed handling or unusual vulnerability to diversion, theft or loss, the Department may require additional safeguards, such as supervised watchman service.

c) If a loss, theft or diversion of cannabis has occurred from a cultivation center, the cultivation center shall notify the Department and the nearest ISP District immediately. The Department and ISP shall determine the appropriate storage and security requirements for all cannabis in the cultivation center, and may require additional safeguards to ensure the security of the cannabis. If a reduction in the amount of medical cannabis in the cultivation center's inventory is due to suspected criminal activity, the cultivation center shall immediately report the reduction to the Department and ISP, which may then notify local law enforcement.

d) Any cultivation center whose permit is revoked or not renewed shall dispose of its entire stock of cannabis under conditions approved by the Department.

e) Any area of a cultivation center containing cannabis, including a room with an approved safe or approved vault, shall have a sign posted at all entryways, which shall be a minimum of 12 inches in height and 12 inches in length and shall state: "Do Not Enter − Limited Access Area – Access Limited to Authorized Personnel Only" in lettering no smaller than one inch in height.

f) Notwithstanding the requirements of this Section, nothing shall prohibit members of the Department, local law enforcement or other federal, State or local government officials from entering any area of a cultivation center if necessary to perform their governmental duties, or persons authorized by the Department (see Section 1000.415(b)).

g) Cultivation centers shall provide current copies of cultivation center floor plans to ISP and local law enforcement that have jurisdiction in the area where the cultivation center is located.

Section 1000.445 Electronic Security System

a) A cultivation center shall be required to operate and maintain in good working order a 24 hour, seven days a week, closed-circuit television (CCTV) surveillance system on the premises that complies with the following minimum standards:

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1) Visually records and monitors all building entrances and exits, all parking lot areas, and rear alley areas immediately adjacent to the building, and covers the entire inside of the facility, including all limited access areas and all areas where cannabis is produced, stored, shipped or destroyed, but does not include restrooms nor the executive office. Fixed cameras shall be installed to provide a consistent recorded image of these areas. The cultivation center shall instruct the company or individuals installing the surveillance cameras to maximize the quality of facial and body images and to avoid backlighting and physical obstructions.

2) Cameras installed outdoors and in low-light interior areas shall be day/night cameras with a minimum resolution of 600 lines per inch (analog) or D1 (IP) and a minimum light factor requirement of 0.7 LUX. The installation of additional lighting may be required to increase picture clarity and brightness. Cameras shall be calibrated and focused to maximize the quality of the recorded image.

3) The recording device shall be digital and meet the following minimum standards:

A) Displays a date and time stamp on all recorded video.

B) Can produce a digital video disc using an installed media recording drive. The video on the disc shall be viewable on any Windows PC, and shall include any required player software on the disc.

C) The ability to remain operational during a power outage.

D) Allow for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

4) A display monitor with a minimum screen size of 12 inches shall be connected to the electronic recording security system at all times.

5) Electronic recording security systems are required to be maintained in good working order at all times. The owner of a cultivation center shall instruct each manager, employee or agent overseeing the functioning of the video recording security system to immediately report to the agent-in-charge any malfunctioning or technical problems with the system.

6) Security recordings shall meet the following minimum requirements:

A) The recorded image resolution shall be at least D1; and

B) The recorded image frame rate shall be at least three frames per second during alarm or motion based recording.

7) Security recordings shall be retained by the cultivation center for a minimum of 90 days at the permitted premises and an additional 90 days off site (e.g., cloud storage). The recording system for the security cameras must be located in a locked, tamper-proof compartment. A cultivation center shall be prohibited from taping over existing security video from the last 60 days.

8) Have available a video printer capable of immediately producing a clear still photo from any video camera image.

9) Upon request, the recording or any photo shall be turned over to ISP or the Department.

b) Access to surveillance areas shall be limited to persons who are essential to surveillance operations, law enforcement agencies, security system service personnel, the Department, and others when approved by the Department. A current list of authorized employees and service personnel that have access to the surveillance room must be available to the Department upon request. Surveillance rooms shall remain locked.

c) The electronic security system shall be available 24 hours per day, 7 days per week, to the Department and law enforcement agencies via a secure web-based portal.

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Section 1000.450 Alarm System

a) A cultivation center shall install, maintain and use a professionally monitored robbery and burglary alarm system meets the following requirements:

1) At a minimum, the system shall provide coverage of all facility entrances and exits, rooms with exterior windows, rooms with exterior walls, roof hatches, skylights and storage rooms that contain safes.

2) Duress alarm, which means a silent security alarm system signal generated by the entry of a designated code into an arming station in order to signal that the alarm user is being forced to turn off the system.

3) Panic alarm, which means an audible security alarm system signal generated by the manual activation of a device intended to signal a life threatening or emergency situation requiring law enforcement response.

4) Holdup alarm, which means a silent alarm signal generated by the manual activation of a device intended to signal a robbery in progress.

5) Automatic voice dialer, which means any electrical, electronic, mechanical or other device capable of being programmed to send a prerecorded voice message requesting dispatch, when activated, over a telephone line, radio or other communication system to a law enforcement, public safety or emergency services agency.

6) A failure notification system that provides an audible, text or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to the cultivation center, within five minutes after the failure, by telephone, email or text message.

7) The ability to remain operational during a power outage and ensure all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during power outage.

b) The system shall be inspected and all devices tested annually by a qualified alarm vendor.

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Section 1000.455 Hours of Operation

a) A cultivation center shall not be open to the public.

b) A cultivation center may operate its business 24 hours a day.

c) A cultivation center may deliver to licensed medical cannabis dispensaries only between the hours of 7 a.m. and 9 p.m.

d) A cultivation center shall only allow on the permitted premises those set forth in Section 1000.415(b) and (c).

e) The Department may further limit the hours of operation for a cultivation center on a case-by-case basis as the result of the cultivation center's failure to comply with the Act or this Part or for any other reason that the Department deems the limit to be necessary.

Section 1000.460 Waste Disposal

a) Cannabis Waste. Cannabis waste must be stored, secured, locked and managed in accordance with State regulations and as submitted and approved in the cultivation center's Operations and Management Practices Plan.

b) Liquid Waste. Liquid waste from a cultivation center shall be disposed of in compliance with the Illinois Environmental Protection Act and 35 Ill. Adm. Code.

c) Hazardous Waste. Disposal of hazardous and chemical waste must be conducted in a manner consistent with federal, State and local laws.

d) Cannabis waste must be rendered unusable following the methods set forth in this Section prior to leaving a cultivation center. Disposal of the cannabis waste rendered unusable must follow the methods in this Section.

e) A cultivation center must provide the Department and ISP, through the traceability system (see Section 1000.400), a minimum of seven days' notice prior to rendering the product unusable and disposing of the product.

f) The allowable method to render cannabis plant waste unusable is by grinding and incorporating the cannabis plant waste with other ground materials so the

resulting mixture is at least 50% non-cannabis waste by volume. Other methods to render cannabis waste unusable must be approved by the Department before implementation. Material used to grind with the cannabis falls into two categories: compostable waste and noncompostable waste.

1) Compostable Mixed Waste: Cannabis waste to be disposed of as compost, feedstock or in another organic waste method (e.g., anaerobic digester) may be mixed with the following types of waste materials:

A) Food waste;

B) Yard waste;

C) Vegetable based grease or oils; or

D) Other wastes approved by the Department (e.g., agricultural material, biodegradable products and paper, clean wood, fruits and vegetables, plant matter).

2) Noncompostable Mixed Waste: Cannabis waste to be disposed of in a landfill or another disposal method (e.g., incinerator) may be mixed with the following types of waste materials:

A) Paper waste;

B) Cardboard waste;

C) Plastic waste;

D) Soil; or

E) Other wastes approved by the Department (e.g., nonrecyclable plastic, broken glass, leather).

g) Cannabis waste rendered unusable following the methods described in this Section may be disposed of in the manner provided in this subsection (g). Disposal of the cannabis waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

1) Compostable Mixed Waste: Compost, anaerobic digester, or other facility with approval of the jurisdictional health department.

2) Noncompostable Mixed Waste: Landfill, incinerator, or other facility with approval of the jurisdictional health department.

h) All waste and unusable product shall be weighed, recorded and entered into the inventory system prior to mixing and disposal. Verification of this event shall be performed by a supervisor and conducted in an area with video surveillance.

i) Any nutrient enriched grow media shall be disposed of as required by the Illinois Environmental Protection Act and the associated rules, or land applied at agronomic rates.

Section 1000.465 Connections to the Potable Water Supply

a) General: Potable water supply lines shall not be connected to process water lines, chemical lines or equipment, unless proper backflow protection is installed.

b) Water service lines that connect a cultivation center to a community public water supply shall include either a reduced pressure principle backflow preventer or a fixed proper air gap, in accordance with 35 Ill. Adm. Code 653.803(c)(4).

c) Water service lines that connect a cultivation center to a potable water supply other than a community public water supply shall include either a reduced pressure principle backflow preventer or a fixed proper air gap, in accordance with the Illinois Plumbing Code.

d) Installation, maintenance and inspection of backflow prevention devices shall be carried out in accordance with 35 Ill. Adm. Code 651 and 653 or the Illinois Plumbing Code, whichever is applicable.

Section 1000.470 Pesticide Usage

a) All pesticides applied at a cultivation center shall be from the Department's approved list, which will be reflected as a schedule in the application and on the Department's website. Updates to the approved list will be posted on the Department's website and permittees will be notified electronically.

b) All pesticide products shall be registered with the Department, including those products classified as 25(b) pursuant to the Federal Insecticide Fungicide and Rodenticide Act administered by the USEPA.

c) Any individual who applies pesticide on the premises shall obtain the appropriate license from the Department under the Illinois Pesticide Control Act [415 ILCS 60]. This includes successful completion of the Vegetable Category Examinations (see 8 Ill. Adm. Code 250).

d) No application of pesticides shall be made after the vegetative stage of growth of the cannabis plant.

e) All individuals applying pesticides shall adhere to the agricultural use requirements of the label and shall employ all personal protective equipment prescribed by the label.

f) The cultivation center shall comply with all posting requirements of the worker protection standard for the restricted entry interval (REI) stated on the label.

g) A record of all pesticide applications shall be maintained at the cultivation center for at least five years and shall be made available to the Department, DPH or the ISP upon request. The application record shall include the following information:

1) Date and time of application;

2) Date of start of vegetative stage of growth;

3) USEPA Registration Number;

4) Product name;

5) Application site (the site shall be identified by the location legend maintained by the facility);

6) Amount applied;

7) Size of the application area;

8) Name of individual making the application;

9) Section for comments or special conditions related to the application.

h) Disposal of all unused pesticide product shall be performed in compliance with all State and federal laws and regulations, which require compliance with all directions on the product label.

SUBPART F: LABORATORY TESTING

Section 1000.500 Laboratory Approval

a) No laboratory shall handle, test or analyze cannabis unless approved by the Department in accordance with this Section. A list of approved laboratories will be made available by the Department on its website.

b) No laboratory shall be approved to handle, test or analyze cannabis unless the laboratory:

1) Is accredited by a private laboratory accrediting organization;

2) Is independent from all other persons involved in the cannabis industry in Illinois, which shall mean that no person with a direct or indirect interest in the laboratory shall have a direct or indirect financial, management or other interest in a dispensary, dispensary facility, cultivation center, certifying physician or any other entity that may benefit from the production, manufacture, dispensing, sale, purchase or use of cannabis; and

3) Has employed at least one person to oversee and be responsible for the laboratory testing who has earned, from a college or university accredited by a national or regional certifying authority, at least:

A) a master's level degree in chemical or biological sciences and a minimum of two years post-degree laboratory experience; or

B) a bachelor's degree in biological sciences and a minimum of four years post-degree laboratory experience.

c) Each independent testing laboratory that claims to be accredited must provide the Department with a copy of the most recent annual inspection report granting accreditation and every annual report thereafter.

Section 1000.510 Laboratory Testing

a) Immediately prior to manufacturing or natural processing of any cannabis or cannabis-infused product or packaging cannabis for sale to a dispensary, each batch shall be made available at the cultivation center for an employee of an approved laboratory to select a random sample, which shall be tested by the approved laboratory for:

1) microbiological contaminants;

2) mycotoxins;

3) pesticide active ingredients;

4) residual solvent; and

5) purposes of conducting an active ingredient analysis.

b) The Department may select a random sample that shall, for the purposes of conducting an active ingredient analysis, be tested by the Department for verification of label information.

c) A laboratory shall immediately return or dispose of any cannabis upon the completion of any testing, use or research. If cannabis is disposed of, it shall be done in compliance with Section 1000.460.

d) If a sample of cannabis does not pass the microbiological, mycotoxin, pesticide chemical residue or solvent residue test, based on the standards set forth in this Section, the following shall apply:

1) If the sample failed the pesticide chemical residue test, the entire batch from which the sample was taken shall, if applicable, be recalled as provided for in Section 1000.410(c)(1) and disposed of in accordance with Section 1000.460.

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2) If the sample failed any other test, the batch may be used to make a CO_2 or solvent based extract. After processing, the CO_2 or solvent based extract must still pass all required tests

e) Microbiological Test: For purposes of the microbiological test, a cannabis sample shall be deemed to have passed if it satisfies the recommended microbial and fungal limits for cannabis products in colony forming units per gram (CFU/g) set out in the American Herbal Pharmocopoeia Monograph Table as follows:

	Total viable aerobic bacteria	**Total yeast and mold**	**Total coliforms**	**Bile-tolerant gram-negative bacteria**	**E. coli (pathogenic strains) and Salmonella spp.**
CO_2 and solvent based extracts	10^4	10^3	10^2	10^2	Not detected in 1 g

Unprocessed materials include minimally processed crude cannabis preparations such as inflorescences, accumulated resin glands (kief), and compressed resin glands (hashish). Processed materials include various solid or liquid infused edible preparations, oils, topical preparations, and water-processed resin glands (bubble hash).

f) Mycotoxin Test: For purposes of the mycotoxin test, a cannabis sample shall be deemed to have passed if it meets the following standards:

Test	**Specification**
Aflatoxin B1	<20 µg/kg of substance
Aflatoxin B2	<20 µg/kg of substance
Aflatoxin G1	<20 µg/kg of substance
Aflatoxin G2	<20 µg/kg of substance
Ochratoxin A	<20 µg//kg of substance

g) Pesticide Chemical Residue Test: For purposes of the pesticide chemical residue test, a cannabis sample shall be deemed to have passed if it satisfies the most stringent acceptable standard for a pesticide chemical residue in any food item as set forth in subpart C of USEPA's regulations for Tolerances and Exemptions for Pesticide Chemical Residues in Food (40 CFR 180 (2014)).

h) Residue Solvent Test: For purposes of the residue solvent test, a cannabis sample shall be below 10 ppm.

i) The laboratory shall file with the Department an electronic copy of each laboratory test result for any batch that does not pass the microbiological, mycotoxin, or pesticide chemical residue test, at the same time that it transmits those results to the cultivation center. In addition, the laboratory shall maintain the laboratory test results for at least five years and make them available at the Department's request.

j) A cultivation center shall provide to a dispensary organization the laboratory test results for each batch of cannabis product purchased by the dispensary organization, if sampled. Each dispensary organization shall have that laboratory results available upon request to qualifying patients, designated caregivers and a physician who has certified a qualifying patient.

SUBPART G: CULTIVATION CENTER CLOSURE

Section 1000.600 Closure of a Cultivation Center

The cultivation center shall notify the Department, ISP and local law enforcement having jurisdiction if the cultivation center will be closing or if the cultivation center does not intend to renew its permit. This notification shall occur immediately after the closure decision has been made, prior to any product destruction or removal, and, in no event, less than six months prior to the effective date of the closure.

SUBPART H: ENFORCEMENT

Section 1000.700 Investigations; Administrative Hearings and Penalties

a) Any hearing conducted by the Department pursuant to the Act shall be conducted in accordance with the Department's rules applicable to formal administrative

proceedings (8 Ill. Adm. Code 1.Subparts A and B). All such hearings shall be held in Springfield, Illinois or such other location as mutually agreed to by the Department and the other party.

b) The Department or its designee may conduct an investigation for the purpose of investigating an applicant or application, a cultivation center, cultivation center agent, agent-in-charge or any other party for an alleged violation of the Act or this Part or to determine qualifications to be granted a permit or registration by the Department.

c) The Department may require an applicant, cultivation center, or cultivation center agent or agent-in-charge to produce relevant documents, records or any other material pertinent to the investigation of alleged violations of the Act or this Part. Failure to provide that material shall be grounds for disciplinary action.

d) Notwithstanding any other criminal penalties related to the unlawful possession of cannabis, the Department may revoke, suspend, place on probation, reprimand, issue cease and desist orders, refuse to issue or renew a registration or permit, or take any other disciplinary or non-disciplinary action as the Department may deem proper with regard to a permitted cultivation center or cultivation center agent or agent-in-charge.

e) The Department may impose fines not to exceed $50,000 for each violation, for any violations of the Act or this Part.

f) Violation of any provision of the Act or this Part, or failure to comply with any standard or special conditions of the issued permit, may result in a notice of intent to suspend or revoke a cultivation center permit or the registration of a cultivation center agent or agent-in-charge.

g) The Department shall, before refusing to issue or renew a permit or agent registration or seeking to discipline a permittee or cultivation center agent or agent-in-charge, at least 30 days before the date set for the hearing, notify in writing the applicant, cultivation center, or cultivation center agent or agent-in-charge of the charges made and the time and place for the hearing on the charges. The written notice may be served by delivery personally to the accused, or by mailing the notice by registered or certified mail to the cultivation center's physical address.

h) At any point in any investigation or disciplinary proceeding provided for in the Act and this Section, both parties may agree to a negotiated consent order. The consent order shall be final upon signature of both parties.

i) The Department may temporarily suspend a permittee or cultivation center agent or agent-in-charge without a hearing, simultaneously with the institution of proceedings for a hearing, if the Department finds that the public interest, safety or welfare requires emergency action. In the event that the Department temporarily suspends a permittee or agent without a hearing, a hearing shall be held within 30 days after the suspension has occurred. The suspended party may seek a continuance of the hearing, during which the suspension shall remain in effect. The proceeding shall be concluded without appreciable delay. If the Department does not hold a hearing within 30 days after the date of the suspension, and the permittee or agent has not requested a continuance, the permit shall be automatically reinstated.

j) In appropriate cases, the Department may resolve a complaint against a permittee or agent through the issuance of a Consent to Administrative Supervision order. A permittee or agent subject to a Consent to Administrative Supervision order shall be considered by the Department as an active permittee or agent in good standing. This order shall not be reported or considered by the Department to be a discipline of the permittee or agent. The records regarding an investigation and a Consent to Administrative Supervision order shall be considered confidential and shall not be released by the Department except as mandated by law. A complainant shall be notified if his or her complaint has been resolved by a Consent to Administrative Supervision order.

k) The respondent in any contested case may request reconsideration of any part or all of the decision of the administrative law judge on any petition or may request the Director to stay the effective date of any administrative action for a specific period or for an indefinite period. A petition for reconsideration or stay of action shall be submitted within 30 days after the date of the administrative law judge's decision on the case. A petition for reconsideration or stay of action submitted later than 30 days after the date of the decision involved shall be denied as untimely.

l) All final administrative decisions of the Department are subject to judicial review under the Administrative Review Law and its rules. The term "administrative decision" is defined in Section 3-101 of the Code of Civil Procedure.

m) Immediately upon the suspension, revocation or reinstatement of a permit, the Department shall make written notification to the ISP, DFPR and Department of Revenue of the status of the permit. If the suspension or revocation involves suspected criminal activity, the Department shall make available to ISP all documents or electronic communications involving the suspected criminal activity. If suspected criminal activity is confirmed or independently discovered by ISP, notification will be made to the Department.

n) If any final Department action is appealed in Circuit Court pursuant to this Section, the record on review shall include the following:

1) The application or petition submitted;

2) Any written documentation considered by the Department in making its final decision with respect to the application or petition;

3) Any written correspondence between the Department and the person or entity submitting the application or petition, provided that the correspondence either played a material role in the final decision rendered by the Department; made a material argument to the Department with respect to the application or petition; or would be helpful to the Circuit Court in reviewing the matter because the correspondence provides helpful procedural background.

4) The transcript of any administrative hearing and any documents or other evidence submitted at the hearing.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF ADOPTED RULES

Section 1000.APPENDIX A Authorized Pesticides

The following is a list of pesticide active ingredients the Department has approved for use on cannabis plants. The pesticide product shall be registered with the Department under the Illinois Pesticide Control Act.

Label Type	**Signal Word**	**Active Ingredient**	**Concentration**
Insect Repellent	Caution	Azadirachtin	0.09%
Insecticide	Caution	Azadirachtin	0.09%
Insecticide	Caution	Azadirachtin	0.60%
Nematicide	Caution	Azadirachtin	0.60%
Fungicide	Caution	Azadirachtin	0.70%
Insect Repellent	Caution	Azadirachtin	0.70%
Insecticide	Caution	Azadirachtin	0.70%
Nematicide	Caution	Azadirachtin	0.70%
Insecticide	Caution	Azadirachtin	1.00%
Insect Repellent	Caution	Azadirachtin	1.20%
Insecticide	Caution	Azadirachtin	1.20%
Nematicide	Caution	Azadirachtin	1.20%
Insecticide	Caution	Azadirachtin	3.00%
Nematicide	Caution	Azadirachtin	3.00%
Nematicide	Warning	Azadirachtin	3.00%
Insect Repellent	Caution	Azadirachtin	4.50%
Insecticide	Caution	Azadirachtin	4.50%
Insecticide	Caution	Azadirachtin	6.00%
Nematicide	Caution	Azadirachtin	6.00%
Fungicide	Caution	Bacillus pumilus strain GHA 180	0.00%
PGR - Growth Stimulator	Caution	Bacillus pumilus strain GHA 180	0.00%
Fungicide	Caution	Bacillus subtilis MBI 600	0.00%
PGR - General	Caution	Bacillus subtilis MBI 600	0.00%
Fungicide	Caution	Bacillus subtilis MBI 600	9.90%
Fungicide	Caution	Bacillus subtilis GB03	0.03%
Fungicide	Caution	Bacillus subtilis QST713 Strain	0.07%
Fungicide	Caution	Bacillus subtilis QST713 Strain	1.34%

Fungicide	Caution	Bacillus subtilis QST713 Strain	14.60%
Fungicide	Caution	Bacillus subtilis var. amyloliquefaciens strain D747 TGAI	25.00%
Fungicide	Caution	Bacillus subtilis var. amyloliquefaciens strain D747 TGAI	98.85%
Insecticide	Caution	Bacillus thuringiensis ssp. aizawai	54%
Insecticide	Caution	Bacillus thuringiensis ssp. israelensis	6.38%
Insecticide	Caution	Bacillus thuringiensis ssp. kurstaki 1	17.19%
Insecticide	Caution	Bacillus thuringiensis ssp. kurstaki 1	54%
Insecticide	Caution	Bacillus thuringiensis ssp. kurstaki 1	58.20%
Insecticide	Caution	Bacillus thuringiensis ssp. kurstaki 7841	40.00%
Insecticide	Caution	Bacillus thuringiensis ssp. kurstaki strain SA-12	9.83%
Insecticide	Caution	Canola Oil	1.00%
Insecticide	Caution	Canola Oil	89.50%
Fungicide	Caution	Canola Oil	96.00%
Insecticide	Caution	Canola Oil	96.00%
Insecticide	Caution	Chromobacterium sub strain PRAA4-1 cells	30.00%
Insecticide	Caution	Chromobacterium sub strain PRAA4-1 cells	94.50%
Insect Repellent	Caution	Cinnamon	0.03%
Insecticide	Caution	Cinnamon	0.03%
Fungicide	Caution	Cinnamon Oil	0.20%
Insect Repellent	None	Cinnamon Oil	0.20%
Insecticide	Caution	Cinnamon Oil	0.20%
Insecticide	None	Cinnamon Oil	0.20%
Fungicide	Caution	Cinnamon Oil	4%
Insecticide	Caution	Cinnamon Oil	4%
Insecticide	Caution	Citric Acid	0.10%
Fungicide	Danger	Citric Acid	99%
Insecticide	Warning	Citronella Oil	0.42%
Fungicide	Caution	Clarified Hydrophobic Extract of Neem Oil	70.00%
Insecticide	Caution	Clarified Hydrophobic Extract of	70.00%

		Neem Oil	
Fungicide	Caution	Copper Octanoate	0.08%
Fungicide	Caution	Copper Octanoate	10%
Fungicide	Caution	Corn Oil	0.30%
Fungicide	Caution	Corn Oil	30%
Fungicide	Caution	Cottonseed Oil	0.30%
Insecticide	Caution	Cottonseed Oil	0.40%
Fungicide	Caution	Cottonseed Oil	3%
Insecticide	Caution	Cottonseed Oil	3%
Fungicide	Caution	Cottonseed Oil	30%
Insecticide	Caution	Cottonseed Oil	40%
PGR - Crop Quality	Caution	Cytokinins	0.01%
PGR - General	Caution	Cytokinins	0.01%
PGR - Growth Stimulator	Caution	Cytokinins	0.02%
Nematicide	Caution	Dried Ferm. Slds/Slbs of Myrothecium verrucaria	90%
Insecticide	Warning	Farnesol	0.17%
Insect Repellent	Caution	Garlic Oil/Powder	0.03%
Insecticide	Caution	Garlic Oil/Powder	0.03%
Insecticide	Caution	Garlic Oil/Powder	0.10%
Fungicide	Caution	Garlic Oil/Powder	0.23%
Fungicide	Caution	Garlic Oil/Powder	3.00%
Insecticide	Caution	Garlic Oil/Powder	10%
Insect Repellent	Caution	Garlic Oil/Powder	20.00%
Invertebrate Control	Caution	Garlic Oil/Powder	20.00%
Vertebrate Repellent	Caution	Garlic Oil/Powder	20.00%
Fungicide	Caution	Garlic Oil/Powder	23%
Insecticide	Caution	Geraniol	0.30%
Insecticide	Warning	Geraniol	0.42%
PGR - Crop Quality	Caution	Gibberellic Acid	0.00%
PGR - General	Caution	Gibberellic Acid	0.00%
PGR - Crop Quality	Warning	Gibberellic Acid	4%
PGR - General	Caution	Gibberellic Acid	4.00%
PGR - Crop Quality	Caution	Gibberellic Acid	20%
PGR - General	Caution	Gibberellic Acid	20%

PGR - Growth Stimulator	Caution	Gibberellic Acid	20.00%
Fungicide	Caution	Gliocladium virens G-21	12%
Algaecide Slimicide	Danger	Hydrogen Peroxide (Dioxide)	5.34%
Fungicide	Danger	Hydrogen Peroxide (Dioxide)	5.34%
Algaecide Slimicide	Danger	Hydrogen Peroxide (Dioxide)	26.50%
Fungicide	Danger	Hydrogen Peroxide (Dioxide)	26.50%
Algaecide Slimicide	Danger	Hydrogen Peroxide (Dioxide)	27.00%
Algaecide Slimicide	Danger	Hydrogen Peroxide (Dioxide)	27.00%
Disinfectant	Danger	Hydrogen Peroxide (Dioxide)	27.00%
Fungicide	Danger	Hydrogen Peroxide (Dioxide)	27.00%
Algaecide Slimicide	Danger	Hydrogen Peroxide (Dioxide)	27.10%
Fungicide	Danger	Hydrogen Peroxide (Dioxide)	27.10%
Herbicide	Danger	Hydrogen Peroxide (Dioxide)	27.10%
Algaecide Slimicide	Danger	Hydrogen Peroxide (Dioxide)	33.00%
Disinfectant	Danger	Hydrogen Peroxide (Dioxide)	33.00%
Fungicide	Danger	Hydrogen Peroxide (Dioxide)	33.00%
PGR - Crop Quality	Caution	IBA (Indole-3-Butyric Acid)	0.01%
PGR - General	Caution	IBA (Indole-3-Butyric Acid)	0.01%
Fungicide	Caution	IBA (Indole-3-Butyric Acid)	0.01%
PGR - General	Caution	IBA (Indole-3-Butyric Acid)	0.10%
PGR - Growth Stimulator	Caution	IBA (Indole-3-Butyric Acid)	0.10%
PGR - Growth Stimulator	Caution	IBA (Indole-3-Butyric Acid)	0.30%
PGR - Growth Stimulator	Caution	IBA (Indole-3-Butyric Acid)	0.31%
PGR - Growth Stimulator	Caution	IBA (Indole-3-Butyric Acid)	0.47%
PGR - Growth Stimulator	Caution	IBA (Indole-3-Butyric Acid)	0.54%
PGR - Growth Stimulator	Caution	IBA (Indole-3-Butyric Acid)	0.80%
PGR - Growth Stimulator	Caution	IBA (Indole-3-Butyric Acid)	20.00%
Invertebrate Control	Caution	Iron Phosphate ($FePO_4$)	1.00%
Insecticide	Caution	Isaria fumosorosea	20%
Fungicide	Caution	Jojoba Oil	97.50%
Insecticide	Caution	Jojoba Oil	97.50%
Fungicide	Caution	Kaolin	95.00%
Insecticide	Caution	Kaolin	95.00%
PGR - General	Caution	Kaolin	95.00%
Vertebrate Repellent	Caution	Kaolin	95.00%

Fungicide	Caution	Mineral Oil/Petroleum Distillate	98.00%
Insecticide	Caution	Mineral Oil/Petroleum Distillate	98.00%
Insecticide	Caution	Mineral Oil/Petroleum Distillate	98.80%
Insecticide	Caution	Mineral Oil/Petroleum Distillate Light	1.00%
Fungicide	Caution	Mineral Oil/Petroleum Distillate Light	80%
Insecticide	Caution	Mineral Oil/Petroleum Distillate Light	80%
Insecticide	Caution	Mineral Oil/Petroleum Distillate Light	90.00%
Desiccant	Caution	Mineral Oil/Petroleum Distillate Light	98%
Fungicide	Caution	Mineral Oil/Petroleum Distillate Light	98.00%
Insecticide	Caution	Mineral Oil/Petroleum Distillate Light	98.00%
Fungicide	Caution	Mineral Oil/Petroleum Distillate Light	98.40%
Insecticide	Caution	Mineral Oil/Petroleum Distillate Light	98.40%
Fungicide	Caution	Monopotassium Phosphate	40.80%
Fungicide	Caution	Monopotassium Phosphate	100%
Fungicide	Caution	Neem Oil Cold Pressed	65.80%
Insect Repellent	Caution	Neem Oil Cold Pressed	65.80%
Insecticide	Caution	Neem Oil Cold Pressed	65.80%
Nematicide	Caution	Neem Oil Cold Pressed	65.80%
Insect Repellent	Caution	Neem Oil Cold Pressed	100.00%
Insecticide	Caution	Neem Oil Cold Pressed	100.00%
Insecticide	Warning	Nerolidol	0.42%
Fungicide	Caution	Oil of Clove	0.10%
Insecticide	Caution	Oil of Clove	0.10%
Fungicide	Caution	Oil of Clove	0.20%
Insect Repellent	None	Oil of Clove	0.20%
Insecticide	Caution	Oil of Clove	0.20%
Insecticide	None	Oil of Clove	0.20%
Insect Repellent	Caution	Oil of Clove	1.50%
Insecticide	Caution	Oil of Clove	1.50%
Fungicide	Caution	Oil of Clove	2%
Insecticide	Caution	Oil of Clove	2%
Fungicide	Caution	Oil of Clove	10.00%
Herbicide	Caution	Oil of Clove	10.00%
Insecticide	Caution	Oil of Clove	20%
Fungicide	Caution	Oil of Rosemary	0.05%

Insect Repellent	Caution	Oil of Rosemary	0.05%
Insecticide	Caution	Oil of Rosemary	0.05%
Fungicide	Caution	Oil of Rosemary	0.10%
Insecticide	Caution	Oil of Rosemary	0.10%
Insect Repellent	Caution	Oil of Rosemary	0.23%
Insect Repellent	Caution	Oil of Rosemary	0.53%
Insecticide	Caution	Oil of Rosemary	0.53%
Insecticide	Caution	Oil of Rosemary	0.80%
Fungicide	Caution	Oil of Rosemary	2%
Insect Repellent	Caution	Oil of Rosemary	2.00%
Insecticide	Caution	Oil of Rosemary	2%
Insect Repellent	Caution	Oil of Rosemary	10.00%
Insecticide	Caution	Oil of Rosemary	10.00%
Fungicide	Caution	Oil of Rosemary	18.00%
Herbicide	Caution	Oil of Rosemary	18.00%
Fungicide	None	Oil of Sesame	0.10%
Insecticide	None	Oil of Sesame	0.10%
Fungicide	Caution	Oil of Sesame	5%
Insecticide	Caution	Oil of Sesame	5%
Insecticide	None	Oil of Sesame	5.00%
Fungicide	Caution	Oil of Thyme	0.10%
Insecticide	Caution	Oil of Thyme	0.10%
Fungicide	Caution	Oil of Thyme	1.20%
Fungicide	Caution	Oil of Thyme	2%
Insecticide	Caution	Oil of Thyme	2%
Fungicide	Caution	Oil of Thyme	4%
Fungicide	Caution	Oil of Thyme	10.00%
Herbicide	Caution	Oil of Thyme	10.00%
Algaecide Slimicide	Caution	Oregano Oil	1.00%
Fungicide	Caution	Oregano Oil	1.00%
Herbicide	Caution	Oregano Oil	1.00%
Insect Repellent	Caution	Peppermint	0.04%
Insecticide	Caution	Peppermint	0.04%
Insecticide	Caution	Peppermint	0.40%
Insecticide	Caution	Peppermint	0.80%

Insecticide	Caution	Peppermint	2.00%
Algaecide Slimicide	Danger	Peroxyacetic Acid	1.36%
Fungicide	Danger	Peroxyacetic Acid	1.36%
Algaecide Slimicide	Danger	Peroxyacetic Acid	2.00%
Fungicide	Danger	Peroxyacetic Acid	2.00%
Herbicide	Danger	Peroxyacetic Acid	2.00%
Algaecide Slimicide	Danger	Peroxyacetic Acid	4.90%
Fungicide	Danger	Peroxyacetic Acid	4.90%
Fungicide	Caution	Phosphorous Acid Mono- And Di-Potassium, Salts of	28.10%
Fungicide	Caution	Phosphorous Acid Mono- And Di-Potassium, Salts of	45.50%
Fungicide	Caution	Phosphorous Acid Mono- And Di-Potassium, Salts of	45.80%
Fungicide	Caution	Phosphorous Acid Mono- And Di-Potassium, Salts of	53%
Fungicide	Caution	Phosphorous Acid Mono- And Di-Potassium, Salts of	53.60%
Fungicide	Caution	Phosphorous Acid Mono- And Di-Potassium, Salts of	56.00%
PGR - General	Caution	Phosphorous Acid Mono- And Di-Potassium, Salts of	56.00%
Fungicide	Caution	Phosphorous Acid Mono- And Di-Potassium, Salts of	56.20%
Fungicide	Caution	Phosphorous Acid Mono- And Di-Potassium, Salts of	57.00%
Fungicide	Caution	Phosphorous Acid Mono- And Di-Potassium, Salts of	99.00%
Fungicide	Caution	Piperonyl Butoxide	2.50%
Insecticide	Caution	Piperonyl Butoxide	2.50%
Insecticide	Caution	Piperonyl Butoxide	4.00%
Insecticide	Caution	Piperonyl Butoxide	16.00%
Insect Repellent	Caution	Piperonyl Butoxide	60.00%
Insecticide	Caution	Piperonyl Butoxide	60.00%
Fungicide	Caution	Potassium Bicarbonate	81.90%
Fungicide	Caution	Potassium Bicarbonate	85.00%
Insecticide	Caution	Potassium Laurate	1%

Insecticide	Caution	Potassium Laurate	1.02%
Fungicide	Caution	Potassium Laurate	12.38%
Insecticide	Caution	Potassium Laurate	12.38%
Insecticide	Caution	Potassium Laurate	19.90%
Insecticide	Caution	Potassium Laurate	20.00%
Insecticide	Warning	Potassium Laurate	47%
Fungicide	Warning	Potassium Laurate	49.00%
Insecticide	Warning	Potassium Laurate	49.00%
Insecticide	Warning	Potassium Laurate	49.52%
Fungicide	Caution	Pyrethrins	0.01%
Insecticide	Caution	Pyrethrins	0.01%
Insecticide	Caution	Pyrethrins	0.24%
Fungicide	Caution	Pyrethrins	0.25%
Insecticide	Caution	Pyrethrins	0.25%
Insecticide	Caution	Pyrethrins	0.50%
Insecticide	Caution	Pyrethrins	1.40%
Insecticide	Caution	Pyrethrins	4.00%
Insect Repellent	Caution	Pyrethrins	5.00%
Insecticide	Caution	Pyrethrins	5.00%
Insect Repellent	Caution	Pyrethrins	6.00%
Insecticide	Caution	Pyrethrins	6.00%
Fungicide	Caution	Pythium oligandrum DV 74	1.00%
PGR - Growth Stimulator	Caution	Pythium oligandrum DV 74	1.00%
Fungicide	Caution	Reynoutria sachalinensis	5%
PGR - General	Caution	Reynoutria sachalinensis	5%
Insect Repellent	Caution	Rosemary Herbs	10.00%
Insect Repellent	Caution	Sesame Plant Ground	0.05%
Insecticide	Caution	Sesame Plant Ground	0.05%
Invertebrate Control	Caution	Sodium Ferric EDTA	2.00%
Invertebrate Control	Caution	Sodium Ferric EDTA	5.00%
Fungicide	Caution	Sorbic Acid Potassium Salt	0.01%
Insecticide	Caution	Sorbic Acid Potassium Salt	0.01%
Insecticide	Warning	Sorbitol Octanoate	90.00%
Insecticide	Caution	Soybean Oil	93%
Fungicide	Caution	Streptomyces griseoviridis strain K61	4%

Fungicide	Caution	Streptomyces griseoviridis strain K61	35%
Fungicide	Caution	Streptomyces lydicus WYEC 108	0.04%
Fungicide	Caution	Streptomyces lydicus WYEC 108	1.30%
Fungicide	Caution	Sulfur	0.20%
Insecticide	Caution	Sulfur	0.20%
Fungicide	Caution	Sulfur	6.48%
Insecticide	Caution	Sulfur	6.48%
Fungicide	Caution	Sulfur	10.00%
Insecticide	Caution	Sulfur	10.00%
Fungicide	Caution	Sulfur	12%
Insect Repellent	Caution	Thyme Herbs	0.03%
Insecticide	Caution	Thyme Herbs	0.03%
Fungicide	Caution	Trichoderma asperellum strain ICC 012	2.00%
Fungicide	Caution	Trichoderma gamsii strain ICC 080	2.00%
Fungicide	Caution	Trichoderma harzianum Rifai strain KRL-AG2	1.15%
Fungicide	Caution	Trichoderma virens strain G-41	0.61%

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: State Vehicles and Garage

2) Code Citation: 44 Ill. Adm. Code 5040

3)

Section Numbers:	Adopted Action:
5040.100	Amendment
5040.110	Amendment
5040.120	Amendment
5040.130	Amendment
5040.200	Amendment
5040.210	Amendment
5040.230	Amendment
5040.240	Repealed
5040.250	Amendment
5040.270	Amendment
5040.300	Amendment
5040.310	Amendment
5040.320	Amendment
5040.330	Amendment
5040.340	Amendment
5040.360	Amendment
5040.380	Repealed
5040.410	Amendment
5040.420	Amendment
5040.430	Amendment
5040.510	Amendment
5040.520	Amendment
5040.530	Amendment
5040.540	Amendment
5040.560	Amendment
5040.570	Amendment
5040.580	Amendment
5040.600	Amendment
5040.610	Repealed
5040.620	Amendment
5040.630	Amendment
5040.700	Amendment

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

4) Statutory Authority: Implementing Sections 405-215, 405-280, and 405-285 of the Department of Central Management Services Law [20 ILCS 405/405-280, 405-285, and 405-215], Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2], and the State Vehicle Use Act [30 ILCS 617/1 et seq.], and authorized by Section 405-280 of the Department of Central Management Services Law [20 ILCS 405/405-280]

5) Effective Date of Rule: July 25, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 3241; January 31, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version. In Section 5040.110, strike "CMS and the Office of the Governor determine fleet policy, promulgated in this Part, applicable to all executive agencies' fleets." In Section 5040.200, replace "vehicles with "passenger cars" and insert "In certain exceptional circumstances, CMS may acquire passenger vans designed for carrying up to fifteen persons." after "government." In Section 5040.210(a), insert "to be submitted to the State Purchasing Officer for final approval" after "CMS". In Section 5040.210(c), insert "and, if CMS believes an exception is warranted, CMS will submit the exception request to the State Purchasing Officer for final approval" after "exception request". Insert "request" after "No exception". Replace "granted" with "submitted to the State Purchasing Officer for final approval". In Section 5040.210(d), replace "an exception will be granted" with "CMS will recommend to the State Purchasing Officer that the requested exception be granted". Section 5040.230, insert "or awarded" after "bid let" and replace "DOV may recommend to CMS Bureau of Strategic Sourcing to delegate authority to agencies for the purchase of vehicles from other sources when in the best interests of the State" with "Agencies may be delegated authority to purchase vehicles from other sources when in the best interests of the State". In Section 5040.250, strike "competitively bid". In Section 5040.270, strike "Effective July 1, 2012". In Section 5040.270(d)(2), strike "State". In Section 5040.410(a), insert "or as required by law" after "year". In Section 5040.600(a), replace "CMS" with "DOV".

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

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, all agreed upon changes have been made.

13) Will this rulemaking replace any emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking includes wholesale revisions to the CMS vehicle rules, including:

- clarifying the circumstances under which agencies—both agencies under the Governor and agencies not under the Governor but which utilize vehicle services offered by the CMS Division of Vehicles—are subject to the CMS vehicle rules, and clarifying requirements for agency vehicle use policies;

- revising reporting and authorization requirements regarding vehicles assigned to specific individuals;

- revising requirements regarding vehicle repair and maintenance services and accident reporting;

- clarifying the role of each agency's vehicle coordinator/vehicle use officer;

- updating the criteria for leasing, purchasing and renting vehicles; and repealing certain outdated Sections and correcting and standardizing terminology used within the Part, and correcting grammatical and/or typographical errors.

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

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT AND PROPERTY MANAGEMENT
SUBTITLE D: PROPERTY MANAGEMENT
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 5040
STATE VEHICLES AND GARAGE

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

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AUTHORITY: Implementing Sections 405-280, 405-285, and 405-215 of the Department of Central Management Services Law [20 ILCS 405/405-280, 405-285, and 405-215] and Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2] and authorized by Section 405-280 of the Department of Central Management Services Law [20 ILCS 405/405-280].

SOURCE: Adopted at 4 Ill. Reg. 28, p. 173, effective July 1, 1980; amended at 4 Ill. Reg. 30, p. 1225, effective July 1, 1980, by the Department of Administrative Services; transferred to the Department of Central Management Services by Executive Order 82-1, effective July 1, 1982; amended at 7 Ill. Reg. 2483, effective March 1, 1983; codified at 8 Ill. Reg. 8180; amended at 9 Ill. Reg. 13720, effective August 21, 1985; amended at 13 Ill. Reg. 13829, effective August 22,

1989; amended at 15 Ill. Reg. 7553, effective May 7, 1991; amended at 19 Ill. Reg. 14774, effective October 5, 1995; amended at 25 Ill. Reg. 6221, effective April 17, 2001; amended at 26 Ill. Reg. 9695, effective June 19, 2002; amended at 30 Ill. Reg. 4587, effective March 1, 2006; amended at 36 Ill. Reg. 2089, effective January 24, 2012; amended at 38 Ill. Reg. 16839, effective July 25, 2014.

SUBPART A: GENERAL

Section 5040.100 Authority

This Part is promulgated under the authority of Sections 405-215, 405-280 and 405-285 of the Department of Central Management Services Law [20 ILCS 405/405-215, 405-280 and 405-285] and Sections 1 and 2 of the State Vehicle Identification Act [30 ILCS 610/1 and 2]~~Illinois Revised Statutes 1981, Chapter 127, Paragraphs 63b13.15, 63b13.16, 63b13.22, 132.501-132.502, and 133e1-133e4~~.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.110 Policy

The Department of Central Management Services (CMS~~DCMS~~) shall be responsible for the proper operation of the State garages and for ensuring that vehicles necessary for the operation of State government are acquired, maintained and used in the most efficient and least costly manner that~~than~~ comports with the State's needs. State vehicles shall only be used for the performance of State duties and purposes incident to the performance of those~~such~~ duties. As set forth in further detail in this Part, each State agency, with the assistance of the vehicle use officer, shall draft a vehicle use policy that is at least as stringent as this Part.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.120 Applicability

a) This Part applies to all State entities in the executive branch~~department~~ of State government.

b) Section 5040.210 (Fuel Economy Standards) applies to all State entities.

c) State colleges and universities may administer their own garages and are not required to abide by this Part,~~rules~~ except for Section 5040.210.

d) Vehicle Services Offered by CMS

1) Management of State Fleet and Vehicle Acquisitions

2) Usage/Maintenance Programs

3) Maintenance and Repair

4) CMS Fleet Credit Card and Fuel/Vendor Fleet Car Services

e) State agencies under the Governor are subject to this Part. Agencies that voluntarily utilize any of the vehicle services listed in subsection (d) are required to follow all rules related to that particular vehicle service. If the policies of another Section apply, agencies shall comply with those Sections.~~Any State entity not required but desiring to use any of the vehicle services provided by DCMS must agree to follow the entire vehicle services program administered by DCMS and must abide by all applicable DCMS vehicle rules.~~

f~~e~~) Source of funds does not affect applicability of this Part.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.130 Definitions

"Agency Head" – The top appointed or elected person within a State entity or the person authorized to act in his or her behalf.

"Agency Vehicle Coordinator/Vehicle Use Officer" – The individual designated by each State agency utilizing CMS, Division of Vehicles services to act as the agency's liaison with DOV.

"CMS" – The Illinois Department of Central Management Services.

"CMS Fleet Card" – A card issued by CMS as a means of identifying a particular piece of equipment used to purchase fuel, maintenance and repair goods and services.

"DOV" – The CMS Division of Vehicles.

"Equipment" – Any motorized implement or vehicle used to perform official State business.

"Executive Department" – All departments, boards, commissions~~,~~ and agencies of the State of Illinois subject to the Governor.

"General Purpose Passenger and Light Duty Vehicles" − Cars, minivans, sport utility vehicles, crossovers or other vehicles with not more than a 10 passenger capacity, and/or vans, pickups or trucks with ~~less than one ton (~~8,000 lbs. or less~~)~~ gross vehicle weight rating.

"Law" – The Department of Central Management Services Law [20 ILCS 405].

"State Employee" – Any person who is paid on a State warrant or providing a service to the State and who has permission from the "agency head" may use a State vehicle.

"Vehicle" – Any automobile, truck~~,~~ or other conveyance capable of independent locomotion on the roads and highways of the State other than special mobile equipment as defined in Section 1-100 of the Illinois Vehicle Code [625 ILCS 5/1-100].

"Vendor Fleet Card" – A card issued by a private vendor, under contract with CMS, as a means of identifying a particular piece of equipment and used to purchase fuel and~~,~~ maintenance and repair goods and services.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

SUBPART B: ACQUISITION

Section 5040.200 Acquisition of Vehicles

CMS~~DCMS~~ shall acquire or make contracts for the acquisition of all passenger cars~~vehicles~~ necessary for the operations of the executive branch~~department~~ of State government. In certain exceptional circumstances, CMS may acquire passenger vans designed for carrying up to 15 persons. Vehicles will be acquired in accordance with Section 405-280 of the Law ~~Illinois Purchasing Act (Ill. Rev. Stat. 1981, ch. 127, pars. 132.1 et seq.)~~ and this Part.~~rules,statutes governing this Part, and with other rules applicable to State agencies.~~

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.210 Fuel Economy Standards

All new passenger automobiles purchased or leased by any State entity or used passenger automobiles obtained from Property Control (including inter-agency transfer) must be rated by the U.S. Environmental Protection Agency as meeting the minimum average fuel economy for the model year of the automobile, in miles per gallon, imposed upon manufacturers of vehicles pursuant to Title V of the Motor Vehicle Information and Cost Savings Act (15 USC~~U.S.C.~~ 2001 et seq.) as ~~now or hereafter~~ amended.

a) Exceptions: Exceptions to the mileage standards set forth in the Motor Vehicle Information and Cost Savings Act ~~above~~ may be authorized by CMS to be submitted to the State Purchasing Officer for final approval~~the Department of Central Management Services~~. Acquisition of any statutorily excepted vehicles is allowable, but a statement must accompany the acquisition request indicating why a more economical vehicle cannot fulfill the operational needs of the agency.

b) Requests for Exceptions: Requests for exceptions must be made on the Vehicle Acquisition Request form provided by CMS~~DCMS~~ and be signed by the executive head of the requesting agency. Requests must fully describe the circumstances necessitating a non-compliant vehicle.

c) Evaluation of Exception Request: CMS~~DCMS~~ will review each exception request and, if CMS believes an exception is warranted, CMS will submit the exception request to the State Purchasing Officer for final approval. No exception request will be submitted to the State Purchasing Officer for final approval~~granted~~ unless it is clear from the agency request that a non-compliant~~non-complaint~~ vehicle is necessary in order to carry out the functions of the requesting agency.

d) In response to an exception request, CMS~~DCMS~~ may suggest a more economical alternative to the agency head. If the agency head can demonstrate that the alternate vehicle will not allow the agency to carry out its statutory functions, and that no other vehicles meeting the standards are available or could similarly carry out the agency's functions, CMS will recommend to the State Purchasing Officer that the requested exception be granted~~an exception will be granted~~.

e) Rental Vehicles: Agency personnel renting vehicles from private firms are to

utilize the most fuel efficient vehicle available from the rental firm that meets agency needs.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.230 Agency Purchase

With the prior approval of CMS~~DCMS~~, an agency with sufficient appropriation may purchase ~~a~~ vehicles under~~vehicle from~~ a CMS~~DCMS~~ contract or, if approved, through a bid let or awarded in accordance with Section 5040.270. The~~Such~~ vehicle will be assigned to the using agency as long as the use and condition of the vehicle meet standards set forth in this Part. DOV will make purchases of passenger vehicles for agencies under the Governor, excluding Illinois State Police and the Illinois Department of Transportation, and provide them to agencies through its Vehicle Usage Program. Agencies may be delegated authority to purchase vehicles from other sources when in the best interests of the State.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.240 Motor Pool Lease or Rental (Repealed)

~~An agency may lease or rent a vehicle from the DCMS motor pool under conditions established by DCMS pursuant to Section 5040.380 and Section 5040.610. For purposes of this Part, "rental" refers to a term of 30 days or less.~~

(Source: Repealed at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.250 Private Firm Lease or Rental

CMS will determine when it is in the State's best interests to establish contracts for use by executive agencies for vehicle purchase, sharing, rental or lease. Executive agencies will utilize contracts established by CMS for these purposes. Approval of vehicle purchase or lease for more than 30 days is subject to compliance with the requirement of Section 5040.270. For purposes of this Part, "rental" refers to a term of 30 days or less.~~Vehicles may be leased or rented from a private firm upon compliance with the following:~~

~~a) The agency head submits a letter of justification along with a Vehicle Acquisition Request form for DCMS approval.~~

~~b) DCMS shall grant prior approval for reasonable requests if:~~

~~1) need for the vehicles is shown and~~

~~2) a motor pool or suitable surplus vehicle is not available, or~~

~~3) public transportation is not an economic or practicable alternative and~~

~~4) if the proposed vehicle meets fuel economy standards set forth in Section 5040.210.~~

~~c) Prior approval is not needed in an emergency situation but a report detailing the circumstances must be filed with DCMS.~~

~~d) Prior approval is not needed when a vehicle is rented for one week or less while the employee is on travel status in accordance with Governor's Travel Control Board rules (80 Ill. Adm. Code 2800).~~

~~e) For purposes of this Part "rental" refers to a term of 30 days or less.~~

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.270 Requests for Acquisition of Vehicles

All requests to purchase new or used, lease or acquire surplus (including inter-agency transfer) general purpose passenger and light duty vehicles other than ~~motor pool rental or~~ rental require written submission including~~over~~ the signature of the ~~head of the~~ requesting agency head using the current Agency Fleet Request template and approval by the DOV~~CMS,~~ Manager ~~of the Division of Vehicles~~ (located at https://cms.portal.illinois.gov/DOV/vc/default.aspx). The template consists of the following elements: instructions for completing the Agency Fleet Request ~~template~~; annual mileage information; estimated useful service life; vehicle purchase price, repair price, residual value, parking and operating costs; financial information; vehicle and agency information; agency vehicle use information; exception request information and review criteria under Section 5040.210 and subsection (c)(1) of this Section, and flexible or hybrid fuel requirements. DOV will be responsible for passenger vehicle acquisitions for agencies under the Governor, excluding Illinois State Police and the Illinois Department of Transportation. Costs associated with these acquisitions shall be paid by the acquiring agencies pursuant to the applicable quarterly rate schedule for the CMS Vehicle Usage Program.

a) Agency requests shall be submitted by Agency Vehicle Coordinators/Vehicle Use

Officers using the current CMS Agency Fleet Request ~~template~~ maintained on the DOV website~~Division of Vehicles webpage~~ and distributed to Coordinators at least annually. If necessary, CMS may request additional information.

b) All acquisition~~acquisitions~~ requests, whether replacements or additions to fleet, must be justified based on work needs. The need for the vehicle and the type requested must be documented.

c) Requests shall be evaluated using the following non-exhaustive criteria:

1) Whether purchasing a vehicle is the most cost effective solution for the State. The most economical mode of transportation should be used to carry out State business. Cost effective transportation for State employees can be obtained through the use of State-owned vehicles or by paying for miles traveled, including~~such as~~ reimbursement for the use of a personally owned vehicle if operationally feasible. State vehicles should be purchased/owned when that is the lowest cost alternative for the State and when the vehicles will be fully utilized in terms of business mileage.

A) Factors determining which transportation option is cheaper vary, depending on the cost of fuel and the cost of buying and owning vehicles versus the cost of reimbursement. Additional factors to consider when determining if acquiring a vehicle is efficient are: annual overall miles, annual business miles, percentage of commuting miles (if applicable), cargo, passenger carrying, or other special equipment needs. CMS may also approve vehicle acquisitions that are in the State's best interests based on criteria in addition to mileage break-even. For example, developing technologies, including~~such as~~ hybrid or electric vehicles, have been determined to be beneficial to the State due to reduced harmful emissions.

B) A break-even mileage reference point will be maintained by ~~CMS,~~ DOV~~Division of Vehicles~~ for use in determining efficient vehicle purchase decisions. New, used and leased general purpose passenger and light duty vehicles should generally be approved to be acquired when they will be fully utilized at or beyond the current standard set by CMS for economic break-even to ensure the State is providing transportation to employees at the lowest

possible cost. Usage less than economic break-even may be approved by the DOV Manager ~~of the Division of Vehicles~~ upon explanation from the agency head of operational needs justifying lesser usage, when there is no alternative available to carry out agency work functions, or when it is in the State's best interests to do so. As available, vehicles obtained from CMS, Surplus Property should be substituted for new vehicles when operationally efficient to reduce the State's cost per mile.

C) A break-even mileage threshold by vehicle type will be maintained and published on the DOV~~CMS, Division of Vehicles~~ website and through communications with Agency~~agency~~ Vehicle Coordinators/Vehicle Use Officers at least annually for use in making cost effective vehicle and employee transportation decisions. Break-even information will be one of the factors CMS considers when making a determination on a vehicle acquisition request.

D) The formula used to calculate break-even mileage is:

$$\frac{BE - FC}{RR - OC}$$

~~i)~~When~~Formula variables are defined as follows~~:

BE ~~(break-even)~~	=	Break-even − Accumulated miles required to offset the cost of owning a vehicle when it becomes cheaper than paying an employee for the reimbursement of mileage utilizing a personal vehicle for State business use.
FC ~~(fixed cost)~~	=	Fixed cost − The cost of a vehicle divided by its estimated useful life, plus the cost of insurance.

RR ~~(reimbursement rate)~~	=	Reimbursement rate – The rate paid to State employees for use of a personal vehicle for State business as established by the Travel Control Board (80 Ill. Adm. Code 2800) and CMS policy.
OC ~~(operating or variable cost)~~	=	Operating or variable cost – Maintenance, repairs and fuel.

~~ii) The following is an example of break-even calculations for an intermediate/mid-size vehicle typically utilized in fleet:~~

$$\frac{\cancel{9{,}664\text{ mi} - 2{,}603.63}}{\cancel{.51 - .236}}$$

~~In this example, annual break-even mileage is 9,664.~~

2) Availability and utilization of other vehicles already in agency control.

3) Compliance with fuel economy and environmental standards.

d) Agencies requesting specific surplus (including inter-agency transfer) vehicles shall submit a written request to the DOV~~Division of Vehicles~~, utilizing the current Agency Fleet Request ~~template~~ maintained by DOV~~CMS,Division of Vehicle~~ on its website. The Division of Property Control will not release nor approve an inter-agency transfer without prior authorization from DOV~~the Division of Vehicles~~. No State agency may obtain a surplus vehicle unless the vehicle is:

1) inspected and, if applicable, repaired at a State garage to ensure that the vehicle is road worthy and safe to drive; and

2) assigned an equipment number and credit card.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

SUBPART C: USE OF VEHICLES

Section 5040.300 Use of Vehicles

a) Vehicles shall be used in accordance with the policies and conditions set forth in this Section~~herein~~.

b) *Each State agency, with the assistance of the Vehicle Use Officer, shall draft a vehicle use policy. All vehicle use policies, other than those drafted by a constitutional officer, shall be submitted to* DOV *and shall be made publicly available on* CMS' *website.* A State agency's vehicle use policy must be at least as stringent as this Part and *shall include the following:*

1) requirements and procedures *concerning take-home vehicles, including requirements for emergency use of take-home vehicles and restrictions on the use of these vehicles solely for commuting; and*

2) requirements and *procedures* concerning *daily vehicle use logs and mileage recording.* [30 ILCS 617/10]

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.310 Title and Registration

All vehicles purchased under this Part or donated to the State shall be titled to CMS~~DCMS~~ and registered to the using agency. Vehicles purchased exclusively from federal~~Federal~~ funds will be titled to CMS~~DCMS~~ unless federal regulations require other title arrangements. Vehicles that are confiscated by law shall be titled to CMS~~the Department of Central Management Services~~, except that, when~~where~~ an executive department~~Executive Department~~ obtains confiscated vehicles through forfeiture proceedings, the vehicles may be titled to the executive department~~Executive Department~~ if authorized in writing by the Director of CMS~~the Department of Central Management Services~~. Vehicles that are confiscated by law shall be used and disposed of in accordance with applicable law. CMS~~Such~~ authorization may be granted if the executive department~~Executive Department~~:

a) has statutory authority to use the confiscated vehicle in its operations;

b) agrees to report to CMS~~the Department of Central Management Services~~ identification information concerning each confiscated vehicle to be utilized in its operations; and

c) agrees to maintain, process and account for all titles.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.320 License Plates

a) Each vehicle, except as otherwise provided in this Section, shall~~below will~~ display valid Illinois license plates that are distinct from plates issued to the general public.

b) Conventional plates will be issued as allowed by law (see the State Vehicle Identification Act [30 ILCS 610]~~Ill. Rev. Stat. 1981, ch. 127, pars. 133e1-133e4~~) and when necessary to meet operational needs.

c) All requests for conventional plates must be justified by the requesting agency head~~Agency Head~~ and approved by CMS~~DCMS~~. Requests will be granted upon a showing of the following:

1) The agency head details why the conventional plate is necessary for the operations of the agency and how it complies with the referenced statute.

2) The agency head must certify that the vehicle bearing the conventional plate will be used substantially full-time in functions requiring the conventional plate. Occasional needs should be satisfied by private vehicle rental.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.330 Identification of Vehicles

All State-owned or controlled vehicles shall be assigned unique equipment numbers by CMS~~DCMS~~. CMS~~DCMS~~ may use numbering schemes ~~now~~ in effect at selected agencies. Agencies requesting further identification beyond State license plates ~~may request to use~~ (e.g., decal markings) must submit~~in accordance with~~ a uniform identification plan established by the requesting department.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.340 Assignment to Individuals

Vehicles may be assigned to specific individuals if authorized in writing by the head of the agency to which the vehicle is assigned. Agencies will be required to report to CMS~~DCMS~~ annually and when changes occur, including the name of each employee assigned a vehicle, the equipment number and license plate number of the assigned vehicle, employee's headquarters~~,~~ and residence, and any additional information requested by CMS. Authorization~~Such authorization~~ is to be granted only if one or more of the following conditions are met:

a) The vehicle is specially equipped to perform law enforcement services and the law enforcement employee is on call 24 hours a day.

b) The employee's work assignment requires traveling to numerous locations over a considerable territory with infrequent stops at the employee's headquarters as defined in the regulations concerning State employee travel.

c) When the employee is a State official confirmed by the State Senate or acting in the capacity of such a State official; however, in the case of such State officials who are employed by agencies under the Governor, including heads of agencies, the employee must provide written justification to CMS as to why the exclusive assignment of a State vehicle to that employee is in the best interests of the State.

d) The~~When the~~ employee is regularly subject to special or emergency calls from his or her~~his/her~~ residence during non-duty hours.

e) Vehicles usage will be in accordance with the provisions of Section 5040.350~~5040.270 (b) of this Part~~.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.360 Use and Condition Review

a) CMS reserves the right to periodically audit use and condition of State vehicles (e.g., for suspected abuse or improper use).~~DCMS will periodically audit use and condition of State vehicles.~~ Any vehicle that is being used improperly~~,~~ or inefficiently, ~~that~~ is not being maintained, ~~which~~ is in poor condition, or ~~which~~ is not in compliance with this Part will be brought to the attention of the Agency Vehicle Coordinator/Vehicle Use Officer~~Head~~. The~~Such~~ notice will be communicated to the agency~~will be made~~ in writing, detailing the problems, suggesting action by the using agency, and informing the agency of the penalty for non-compliance.

b) It shall then be the responsibility of the agency head~~Agency Head~~ to remedy the deficiencies or justify non-compliance. Failure to do so may result in repairs at CMS~~DCMS~~ discretion, replacement of the vehicle with a more suitable vehicle, or recall of the vehicle, as the situation warrants. No such action will be taken without full opportunity for affected agency input.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.380 Motor Pool (Repealed)

~~a) The DCMS motor pool vehicles are available to all agencies in accordance with this Part.~~

~~b) Responsibilities of pool users:~~

~~1) Employees shall present the pool dispatcher with a properly completed "Central Management Services Motor Pool Vehicle Request Form" (IL 401-0206) for vehicles signed by the Vehicle Coordinator or other authorized person stating:~~

~~A) Employee's name.~~

~~B) Agency name and division.~~

~~C) Account number to be charged.~~

~~D) Destination.~~

~~E) Pick up date and time.~~

~~F) Return date and time.~~

~~2)~~

~~A) Requests for vehicles for more than five (5) consecutive days or those to be used or kept on weekends or holidays must be signed by the Agency Head of the agency requesting vehicle.~~

~~B) If it is determined that the driver cannot return the vehicle as stated~~

~~on the "Vehicle Request Form", the driver should contact his department supervisor or Vehicle Coordinator during normal business hours advising of the reasons. The supervisor or Vehicle Coordinator shall, in turn, contact the closest Motor Pool during normal business hours and request an extension. An extension will be granted unless the vehicle was previously reserved and no alternate vehicles are available. After normal business hours the emergency number shown on the credit card is to be called and an explanation of the circumstances given.~~

~~C)~~ ~~Failure to return a vehicle as scheduled shall result in an additional charge to the user agency as shown in the Rate Schedule (See Section 5040.700) unless an extension is requested by the appropriate user agency personnel and approved by the authorized Division of Vehicles' staff. Extensions shall be granted unless the vehicle has been reserved and substitute vehicles are not available. The additional charge does not relieve the agency from responsibility for paying the rental charge applicable for the period of time the vehicle is retained by the user.~~

~~3)~~ ~~Driver should check for miscellaneous problems such as missing control knobs, wiper blades, etc., before departing the dispatch area.~~

~~4)~~ ~~Any materials, supplies, or tools to be transported should be stored in trunk or arrangements should be made to avoid soiling or damaging the vehicle's interior.~~

~~5)~~ ~~Driver shall inspect the interior and exterior vehicle prior to departure and advise the dispatcher of any noticeable damage. Damages to vehicles while in the care and custody of a State employee shall be billed to the user agency. If damages are the fault of a non-State employee, the Division of Vehicles may allow the vehicle to be repaired at a private garage at that person's expense. In determining whether the work should be contracted out, the Division of Vehicles shall consider the effect on the State Garage, State garage capabilities, the location of the vehicle, the speed in which repairs are needed, cost, and other such factors.~~

~~6)~~ ~~Each driver on completion of trip must:~~

~~A)~~ ~~Return the vehicle to the original motor pool location promptly, except as provided for in subsection (d)(2) below.~~

~~B)~~ ~~Leave the keys and credit card with the pool dispatcher or as directed by Division of Vehicles staff.~~

~~C)~~ ~~Advise the pool dispatcher or attendants the vehicle has been returned.~~

~~D)~~ ~~Complete the DCMS Division of Vehicles: Motor Pool Vehicle Check form (IL 401-1103) and report trouble experienced or suspected. While the driver is not responsible for diagnosing any problem with the vehicle, the driver is responsible for advising DCMS of any difficulties experienced.~~

~~E)~~ ~~Vehicles shall not be transferred to another employee under any circumstances without prior approval of the Division of Vehicles.~~

~~7)~~ ~~All purchases shall be made at State facilities whenever possible. Purchases made at retail or commercial facilities located in close proximity to a State-owned facility shall be charged back to the user agency as an unauthorized purchase unless the user agency has obtained authorization in accordance with Section 5040.420.~~

~~8)~~ ~~In case of needed repair or breakdown, the driver must follow the general instructions in the DCMS Vehicle Operator's Instructions or call the nearest pool dispatcher. See Section IV of the Instructions which should be kept in each vehicle for locations and phone numbers. If repairs cannot be completed immediately, the Motor Pool will provide another vehicle at no cost to the user agency for them to pick up the driver of the disabled vehicle and return the person to their point of origin or approve the rental of a vehicle from a private lessor so the driver can return to point of origin. All costs incurred for rental of the private vehicles will be paid by the user agency.~~

~~e)~~

~~1)~~ ~~In order to guarantee the availability of a vehicle, a reservation must be made by contacting the Motor Pool at the location from which a vehicle is needed, at least 24 hours in advance of pick up time. The following~~

~~information will be necessary:~~

~~A) Name of Agency~~

~~B) Name of division or unit.~~

~~C) Driver's name.~~

~~D) Billing Account Code to be charged.~~

~~E) Date and time to pick up.~~

~~F) Date and time of return.~~

~~G) Destination of driver.~~

~~H) Number of passengers.~~

~~I) Driver's work telephone number and home phone number if vehicle will be picked up during non-work hours.~~

~~J) Amount of cargo (if applicable)~~

~~2) In the event a Motor Pool vehicle is not available, authorization will be given to rent from a private vendor.~~

~~3) Failure to cancel a reservation at least four hours in advance of scheduled pick-up time will result in a charge as shown in the Rate Schedule (see Section 5040.700) to the agency involved.~~

~~4) DCMS shall use the following criteria in assigning Motor Pool vehicles, subject to availability:~~

~~A) Compact/sub-compact or higher mileage vehicles will be assigned for trips within a 50 mile radius of the Pool.~~

~~B) Newer vehicles will be assigned for extended trips.~~

~~C) Large Sedans or wagons for extended trips or trips requiring~~

~~several travelers or special equipment.~~

~~5) State employees not operating Motor Pool vehicles in accordance with DCMS' Rules are subject to suspension of Motor Pool privileges. Suspensions will be made with input of the requesting agency. Notification of suspension will be made to the agency head by the Manager of the Division of Vehicles.~~

~~d) Miscellaneous:~~

~~1) A motor pool car assigned to one motor pool and destined for another area with a motor pool may be parked at the destination motor pool at no charge.~~

~~2) One-way trips are not permissible except in an emergency and when approved by the Division of Vehicles. An additional charge will be assessed for a one-way trip as shown in the Rate Schedule (see Section 5040.700).~~

~~3) In the interest of Energy Conservation, one (1) individual traveling to areas served by Amtrak or other public transportation will not be assigned Motor Pool Vehicles. Exceptions may be granted by the Division of Vehicles when justified by a letter of request signed by the Agency Head or designee.~~

(Source: Repealed at 38 Ill. Reg. 16839, effective July 25, 2014)

SUBPART D: MAINTENANCE

Section 5040.410 Scheduled Inspection and Maintenance

a) Agencies shall have vehicles inspected by CMS or an authorized vendor~~DCMS~~ at least once per year or as required by law and shall maintain vehicles in accordance with the schedules provided by CMS~~DCMS~~ or with other schedules acceptable to CMS~~DCMS~~ that provide for proper care and maintenance of special use vehicles.

~~b) Agencies Acquiring a Surplus Vehicle from the Division of Property Control: Once the requesting agency has obtained written approval from the Division of~~

~~Vehicles' Manager, the Division of Property Control may be contacted and the surplus vehicle acquired in accordance with their procedures. The vehicle must then be brought to a State garage, at which time it will be inspected and repaired if applicable at the expense of the requesting agency to ensure that the vehicle is road worthy and void of any safety hazards prior to being placed back in service. The Division of Vehicles must also be notified in writing or by telephone prior to the vehicle being brought to a State garage so that an equipment number can be assigned and a credit card prepared.~~

b~~e~~) Odometer: Each agency is responsible for the immediate repair and/or replacement of a malfunctioning odometer. In the event a new odometer is required, one of the following conditions must be met:~~.~~

1) If a new odometer is installed and the current vehicle mileage is shown on the odometer, no further action is necessary.

2) If a new odometer is installed and the mileage is left at zero, the DOV Manager ~~of the Division of Vehicles~~ must be ~~immediately~~ notified immediately, in writing, so that the appropriate information can be entered on the vehicle's title~~,~~ and replacement odometer.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.420 CMS~~DCMS~~ Garages

a) All maintenance and repairs to State vehicles shall be performed at CMS~~DCMS~~ garages with the ~~following~~ exceptions allowed in subsection (b).

b) Exceptions: CMS~~DCMS~~ may authorize repairs by private vendors in the following situations:

1) CMS~~DCMS~~ garage is unable to perform the needed services~~ or services can be performed more economically elsewhere~~.

2) CMS~~DCMS~~ garage is remote from the vehicle requiring repairs, and it is inefficient to obtain repairs at the State garage~~ needing repair~~.

3) Repairs~~If repairs~~ are needed in an emergency situation.

c) Authorization: Authorization except in an emergency must precede any repairs. No automotive repair work will be authorized for direct payment unless prior authorization has been obtained from CMS~~DCMS~~. Authorization may be obtained by calling the 24 hour phone number listed in the CMS~~DCMS~~ Vehicle Operator's Instructions found in each vehicle or on the reverse side of the credit card. Reports of emergency repair work must be made in writing and sent to DOV~~the Division of Vehicles~~ within 5 working days after the repairs are completed. A copy of the repair invoice must accompany the emergency repair report.

d) CMS establishes contracts for passenger and other vehicle repair vendors. Executive agencies should contact the nearest State garage for approval to obtain vendor repairs~~Private repair facilities under contract to DCMS are listed annually in the DCMS Division of Vehicles Statewide Guide to Repair Services and in the Vehicle Operator's Instructions and should be used as the primary alternative to DCMS' garages. Location of nearest private garage may be obtained from DCMS or the Vehicle Coordinator~~.

e) To address unsatisfactory repairs or service, the operator of the vehicle or other agency personnel, as appropriate, should return to the DOV State~~Should repairs or maintenance performed at DCMS garages prove unsatisfactory, the operator should return the vehicle to the DCMS~~ garage and review the problem with the CMS~~DCMS~~ supervisor~~ after detailing the problem on DCMS "Uniform Complaint Form"~~. If the ~~original~~ problem is~~remains~~ unresolved after this action is taken, the Shop Supervisor will refer the issue to DOV management who will discuss and resolve it with the Agency Vehicle Coordinator/Vehicle Use Officer ~~should be contacted, at which time the complaint will be reviewed and settled between the Coordinator and the Office of the Division of Vehicles~~.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.430 Warranty Work

Warranty work shall be performed by a CMS~~Department of Central Management Services~~ garage or in a manufacturer's authorized service center as directed by CMS~~DCMS~~. In determining whether the work should be done in-house, DOV~~the Division of Vehicles~~ shall consider the effect on the State garage, State garage capabilities, location of the vehicle and other such factors.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

SUBPART E: MISCELLANEOUS

Section 5040.510 Insurance

The State of Illinois self-insured motor vehicle liability plan ("Plan") provides coverage to vehicles driven by State employees in the scope or course of their employment. Agencies with questions regarding the Plan, or regarding insurance coverage for vehicles driven by employees, may contact the CMS Auto Liability Supervisor at 217-782-0202.~~Drivers of vehicles owned or leased by the State are covered by the State of Illinois self-insured motor vehicle liability plan. Any person driving his/her own vehicle or a privately leased or rented vehicle while on State business must have motor vehicle liability insurance in amounts required by Section 10-101(b) of the Illinois Vehicle Code (Ill. Rev. Stat. 1981, ch. 95½, par. 10-101(b)).~~

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.520 Accidents Report Procedures

a) The~~A~~ driver of any~~a state-owned or leased~~ vehicle that~~which~~ is involved in an accident of any type while he or she is within the scope or course of his or her employment shall report the~~such~~ accident to the appropriate law enforcement agency, the CMS Auto Liability Unit, and, if a State agency owns the vehicle, to that agency~~to DCMS~~ by completing the "Motorist's Report of Illinois Motor Vehicle Accident" form (SR-1, available at http://www.state.il.us/cms/download/pdfs/emp_almtrrep.pdf).

b) ~~Illinois~~ Form SR-1~~ "Motorist's Report of Illinois Vehicle Accident"~~ is to be used for all automobile accidents. These forms will be available from the Unit or as follows:

~~1) In the glove compartment of each State vehicle.~~

1~~2~~) Furnished by a State trooper, if one investigates the accident. In this event, the Trooper's form should be used.

2~~3~~) From the agency insurance representative.

c) ~~The~~ Form SR-1 is to be completed, as nearly as possible, in its entirety, including

a clear description of the accident and the conditions surrounding the accident.

d) When~~Where~~ possible, the name of the other party's insurance company and the insurance company's address should be secured and entered on the Form SR-1 in any available space, clearly indicating the nature of the information.

e) Copies~~Four copies~~ of the Form SR-1 should be distributed as follows~~made (clear reproductions are acceptable) and disturbed as follows (addresses and phone numbers are in the DCMS Vehicle Operator's Instructions)~~:

1) Original to Illinois Department of Transportation.

2) Copy~~A copy~~ to the State's insurance carrier.

A) Name, address and phone number can be found by calling the Auto Liability Unit at 217/782-0202.~~in the DCMS Vehicle Operator's Instructions.~~

B) Any questions regarding this procedure should be directed to the Unit~~Department of Central Management Services, Risk Management Division, Auto Liability Section~~.

~~3) Auto Liability Section, Division of Risk Management, Department of Central Management Services.~~

3~~4~~) Copy to DOV for vehicles owned by CMS only~~Division of Vehicles, Attention: Fleet Management (for motor pool vehicles only)~~.

4~~5~~) Copy to be retained by the employing agency of the driver who was involved in the accident ~~incurring accident~~.

f) In the space on the Form SR-1 calling for policy number, place name of insurance carrier and contract number. This number applies only to State-owned vehicles.

g) In all cases in which~~where~~ there has been a personal injury as a result of motor vehicle accident, or if there has been serious property damage, call the current insurance office (collect, if necessary) at 217-782-0202. A telephone call does not relieve the driver of the requirement of completing the Form SR-1.

h) For ~~all~~ accidents other than those described in subsection (g), ~~other than the above,~~ the Form SR-1 is to be completed as soon as possible and submitted to the office of the current insurance carrier. In no case is this report to be completed later than ~~three (~~3~~)~~ days following an accident. If the State driver is incapable of completing the report because of death or disability, the driver's supervisor should complete the form.

i) In all cases, the completed SR-1 must be received by the Unit no later than 7 calendar days following the accident or the driver and agency risk forfeiture of coverage under the State's auto liability plan.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.530 Tickets

~~a)~~The driver of a State~~state~~-owned or leased vehicle is responsible for all citations for moving or parking violations. Citations received due to mechanical defects are the responsibility of the agency assigned the vehicle. Once notified, agencies are responsible for tracking any State vehicle related fines and associated costs, and ensuring that their employees promptly pay any required fines and associated costs.

~~b)~~ ~~A copy of all moving or equipment violation citations received from a law enforcement agency for state-owned or leased vehicles shall be sent to DCMS within 5 working days of receipt. DCMS will analyze the citations and alert the appropriate Agency Head if it appears that a vehicle is not being operated in accordance with this Part or if a particular driver appears to be an unacceptable risk for purposes of the State's Motor Vehicle Liability Plan.~~

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.540 Credit Card

a) CMS~~DCMS~~ Fleet Cards are utilized for fuel purchases and repairs performed at CMS~~DCMS~~ garage and fueling sites. CMS~~DCMS~~ Fleet Cards or CMS~~DCMS~~ approved Vendor Fleet Cards are utilized for outside purchases of full tanks of fuel. Repairs and maintenance require prior CMS~~DCMS~~ approval. Exceptions to this requirement~~the above~~ are minor repairs and services, including lube, oil and filter; windshield wiper replacements; light bulbs and headlights; and vehicle washes. Additionally, emergency towing and/or emergency tire repair are

approved purchases. Emergency repairs and maintenance require approval~~authorization~~ by CMS~~DCMS~~ the next business day.

b) CMS~~DCMS~~ Fleet Cards are assigned to equipment when placed in service by DOV~~the Division of Vehicles~~. CMS~~DCMS~~ will recover the cost of administering Fleet Card services in its rates.

c) Any State employee involved in the unauthorized use of a CMS~~DCMS~~ or a Vendor Fleet Card may be subject to discipline or criminal prosecution, or both.

d) Agency Vehicle Coordinators/Vehicle Use Officers are responsible for ordering Vendor Fleet Cards and for maintaining inventory control of Vendor Fleet Cards for agency equipment, utilizing CMS'~~DCMS'~~ vendor on-line systems and formats.

e) Personal Identification Numbers (PIN) for Vendor Fleet Cards are required for accountability and to prevent theft and abuse. A PIN is required for each vehicle or driver that maximizes the vendor's system security capabilities.

f) Drivers are responsible for recording accurate mileage information on all Fleet Card transactions.

g) Lost, Stolen or Damaged Fleet Cards

1) Drivers are responsible for the appropriate use of and security of both the CMS~~DCMS~~ and Vendor Fleet Cards once received. Drivers are also responsible for reporting damaged, lost, expired or stolen CMS~~DCMS~~ and Vendor Fleet Cards to their Agency Vehicle Coordinator/Vehicle Use Officers immediately. In the case of expired or damaged cards, upon~~Upon~~ receipt of replacement cards, drivers are responsible for sending the ~~original expired or damaged~~ card being replaced~~back~~ to the Agency Vehicle Coordinator/Vehicle Use Officers.

2) Agency Vehicle Coordinators/Vehicle Use Officers must document to CMS~~DCMS~~ a vehicle's lost, stolen or damaged CMS~~DCMS~~ Fleet Card for replacement.

3) The Agency Vehicle Coordinator/Vehicle Use Officers must notify the Fleet Card vendor immediately to cancel a Vendor Fleet Card that is lost or stolen.

h) CMS~~DCMS~~ may, from time to time, establish limits on CMS~~DCMS~~ and Vendor Fleet Card purchases based on criteria including~~such as~~ tank capacity, historic and anticipated needs, and market rates for fuel and service. Exceptions may be granted on a case-by-case basis for reasons including~~such as~~ extraordinary operating needs, extraordinary economic circumstances and emergency use.

i) Agencies are required to utilize Vendor Fleet Card exception report capabilities and establish internal procedures for addressing issues identified through these reports. Exception report capabilities, as applicable, can include, but are not limited to, purchases that exceed transaction limits, fuel purchases greater than fuel tank capacities, excessive number of purchase transactions per day, and purchases of a fuel type inconsistent with the vehicle being operated. In addition, agencies are required to use any other available exception report capabilities that prevent theft and abuse.

j) CMS~~DCMS~~ establishes twice annual reporting criteria, including card abuse reporting, for this purpose. Agencies shall report the results of exceptions review to CMS~~DCMS~~ on July 1 and January 1 of each year, in the form specified by CMS~~DCMS~~. Agencies shall report the division, date, time, equipment number, license number, driver's name, merchant's name, merchant city, transaction amount, exception issue and the resolution.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.560 Charges

CMS~~DCMS~~ shall charge each agency a fee for the agency's use and/or lease of State vehicles. In addition, CMS shall charge each agency for any costs associated with the maintenance, repair, management and/or replacement of such vehicles~~ for the cost of leasing, renting, repairing, maintaining and administering State vehicles~~. Such fees and costs shall be related to the costs incurred by CMS in connection with the purchase, maintenance and management of the State's vehicle fleet.~~Charges shall be in amount to cover labor, materials and overhead.~~ DOV rates~~Such charges~~ shall be published on the DOV Home Page (accessible to Agency Vehicle Coordinators/Vehicle Use Officer) annually or as~~and when major~~ changes occur.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.570 Payment of Charges

Payment from using agencies is due within 45 days after~~of~~ receipt of invoice from CMS~~DCMS~~. Chronic failure to submit a voucher in the allotted time or chronic late payment ~~shall result in a service charge as shown in the Rate Schedule (see Section 5040.700) added to delinquent bill and~~ may result in suspension of credit card, repair, or vehicle use privileges if the agency fails to take steps to correct payment problems. No such action will be taken without first notifying the agency head of the problem.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.580 Credits

From time to time it may be necessary for CMS~~DCMS~~ to issue credits against invoices billed to agencies. Agencies are to pay invoices upon receipt~~ regardless of any potential credits~~. Credits issued by CMS~~DCMS~~ shall be applied~~used~~ against subsequent invoices.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.600 Designation and Role of the Agency Vehicle Coordinator/Vehicle Use Officer

a) Using agencies are required to designate to DOV~~DCMS~~ an individual (or individuals in agencies with large fleets) to serve as Agency Vehicle Coordinators/Vehicle Use Officers who~~Coordinator(s). Vehicle Coordinators~~ will act as the primary liaison with CMS~~DCMS~~ in matters relating to vehicles, including, but not limited to, acquisition, maintenance~~,~~ and administration under ~~the terms of~~ this Part.

b) The individual or individuals designated as Agency Vehicle Coordinators/Vehicle Use Officers shall be trained by DOV in efficient fleet management practices and fleet policy.

c) Responsibilities of Agency Vehicle Coordinators/Vehicle Use Officers include:

1) assisting the respective State agency in the drafting of vehicle use policies;

2) developing, distributing, publishing and implementing internal agency policies as required in Section 5040.300;

3) communicating CMS' and agency vehicle fleet rules, regulations and policies to agency personnel;

4) tracking internal agency vehicle inventory and location record keeping;

5) implementing and overseeing agency vehicle logs, and monitoring and managing the efficient utilization of agency vehicles relative to breakeven mileage requirements and cost efficiency;

6) overseeing vehicle maintenance, repair, fuel and cost data;

7) tracking vehicle assignment and use; and

8) submitting reports to CMS in a timely manner, and in the format requested, according to all applicable rules in this Part.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.610 DCMS Annual Statement (Repealed)

~~a) DCMS shall publish annually with periodic updates a statement of information relative to the administration of this Part including but not limited to:~~

~~1) Rental, lease, repair, sublet and overhead charges in effect for the current fiscal year.~~

~~2) DCMS Vehicles Division staff listing.~~

~~3) Detail regarding the appropriate office within DCMS to contact for information, authorization, vehicle leases, etc.~~

~~4) Annual vehicle procurement policy.~~

~~5) Motor pool rates of charge and usage requirements.~~

~~b) Statements shall be provided to the executive head and vehicle coordinator(s) of each using agency.~~

(Source: Repealed at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.620 Required Forms and Information

All forms required for compliance with this Part and other information may be obtained from the Department by Agency Vehicle Coordinators/Vehicle Use Officers on the DOV website~~ at address or phone number indicated in the Vehicle Operator's Instructions published elsewhere. Such information must be kept in the glove compartment of each State-owned or leased car~~.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.630 Agency Signature Authority

No signature other than that of the agency head of the requesting agency shall be honored unless the agency head has delegated signature authority to one or more persons. The agency head shall file the~~such~~ delegation, along with any restrictions, with DOV~~the Division of Vehicles~~.

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

Section 5040.700 Rate Schedule

Rates for the following are published by CMS~~DCMS~~ annually or as changes occur through distribution to Agency Vehicle Coordinators/Vehicle Use Officers and on DOV's website.

~~a) Motor pool rental charge~~

a)~~b)~~ Vehicle usage or maintenance feeslease charge

b)~~c)~~ Labor rates

c)~~d)~~ Annual fleet management fees~~Parts costs~~

~~e) Fuel, oil and anti-freeze~~

(Source: Amended at 38 Ill. Reg. 16839, effective July 25, 2014)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Accrediting Persons in the Practice of Medical Radiation Technology

2) Code Citation: 32 Ill. Adm. Code 401

3) Section Number: 401.130 — Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Sections 6 and 7 of the Radiation Protection Act of 1990 [420 ILCS 40/6 and 7]

5) Effective Date of Rule: July 25, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file at the Agency's headquarters, located at 1035 Outer Park Drive, Springfield, Illinois, and is available for public inspection

9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 7422; April 4, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version:

In Section 401.130 (c), restore the stricken text, strike "2008", add "2015", strike "$100" and add "$125".

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: On October 1, 2013, the Agency was notified by the American Registry of Radiologic Technologists that they were increasing the cost of

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENT

the examination for Limited Scope in Practice for Radiography. Since the Agency acts as a pass-through for the payment of the examination, the Agency is adopting this amendment to reflect the increase in cost. In addition, the Agency is updating old language in the Part.

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

Traci Burton
Paralegal Assistant
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

217/785-9860
Fax: 217/524-3698

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENT

TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 401
ACCREDITING PERSONS IN THE PRACTICE OF
MEDICAL RADIATION TECHNOLOGY

Section
401.10 Policy and Scope
401.20 Definitions
401.30 Exemptions
401.40 Application for Accreditation
401.50 Categories of Accreditation
401.60 Examination Requirements (Repealed)
401.70 Examination Requirements
401.80 Approved Program (Repealed)
401.90 Student-in-Training in Limited Diagnostic Radiography
401.100 Initial Issuance of Accreditation
401.110 Duration of Accreditation (Repealed)
401.120 Suspension, Revocation and Denial of Accreditation
401.130 Fees
401.140 Requirements for Renewal of Accreditation
401.150 Reciprocity (Repealed)
401.160 Additional Requirements for Radiographers Performing Mammography (Repealed)
401.170 Civil Penalties

401.APPENDIX A Limited Diagnostic Radiography Procedures by Type of Limited Accreditation
401.APPENDIX B Example Topics Directly Related to Radiologic Sciences (Repealed)
401.APPENDIX C Minimum Training Requirements for Radiographers Performing Mammography (Repealed)
401.APPENDIX D Example Letter of Agreement for Radiologist Assistant
401.APPENDIX E Example Letter of Agreement for Nuclear Medicine Advanced Associate

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF ADOPTED AMENDMENT

SOURCE: Adopted at 7 Ill. Reg. 17318, effective January 1, 1984; emergency amendment at 8 Ill. Reg. 17584, effective September 12, 1984, for a maximum of 150 days; amended at 9 Ill. Reg. 2499, effective February 13, 1985; amended at 10 Ill. Reg. 13259, effective July 28, 1986; amended at 10 Ill. Reg. 21086, effective January 1, 1987; amended at 11 Ill. Reg. 15623, effective September 11, 1987; emergency amendment at 11 Ill. Reg. 19797, effective November 24, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 7603, effective April 18, 1988; amended at 12 Ill. Reg. 18164, effective January 1, 1989; amended at 13 Ill. Reg. 15005, effective September 11, 1989; amended at 14 Ill. Reg. 15341, effective September 4, 1990; amended at 15 Ill. Reg. 7054, effective April 29, 1991; amended at 16 Ill. Reg. 9115, effective June 2, 1992; amended at 20 Ill. Reg. 12595, effective September 6, 1996; amended at 21 Ill. Reg. 13587, effective September 25, 1997; amended at 23 Ill. Reg. 324, effective January 1, 1999; amended at 24 Ill. Reg. 18239, effective December 1, 2000; amended at 27 Ill. Reg. 3471, effective February 17, 2003; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; amended at 31 Ill. Reg. 11622, effective July 26, 2007; amended at 37 Ill. Reg. 14008, effective August 22, 2013; amended at 38 Ill. Reg. 16871, effective July 25, 2014.

Section 401.130 Fees

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

b) The examination fee for Limited Diagnostic Radiography Accreditation shall be $100~~80~~ for the categories of Chest, Extremities, Spine, Skull and Sinuses, or any combination thereof. Effective January 1, 2015~~2008~~, the examination fee shall be $125~~100~~.

c) The fee for registration as a limited Student-in-Training shall be $100~~80~~, which includes the required examination fee. Effective January 1, 2015~~2008~~, this fee shall be $125~~100~~.

d) The appropriate fees are to accompany the application when filing with the Agency. All fees under this Section are non-refundable. An application is filed on the date that it is received and stamped by the Agency.

(Source: Amended at 38 Ill. Reg. 16871, effective July 25, 2014)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

1) Heading of the Part: Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program

2) Code Citation: 68 Ill. Adm. Code 1290

3)

Section Numbers:	Adopted Action:
1290.10	New Section
1290.20	New Section
1290.30	New Section
1290.40	New Section
1290.50	New Section
1290.60	New Section
1290.70	New Section
1290.80	New Section
1290.100	New Section
1290.110	New Section
1290.120	New Section
1290.130	New Section
1290.140	New Section
1290.150	New Section
1290.200	New Section
1290.210	New Section
1290.220	New Section
1290.230	New Section
1290.300	New Section
1290.400	New Section
1290.405	New Section
1290.410	New Section
1290.415	New Section
1290.420	New Section
1290.425	New Section
1290.430	New Section
1290.435	New Section
1290.440	New Section
1290.445	New Section
1290.450	New Section
1290.455	New Section
1290.460	New Section
1290.465	New Section

1290.500	New Section
1290.510	New Section
1290.520	New Section
1290.530	New Section
1290.540	New Section
1290.550	New Section
1290.560	New Section
1290.570	New Section
1290.575	New Section
1290.580	New Section
1290.590	New Section
1290.600	New Section
1290.610	New Section
1290.620	New Section

4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]

5) Effective Date of Rule: July 24, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Date Notice of Proposal published in the *Illinois Register*: April 18, 2014, at 38 Ill. Reg. 8163.

10) Has JCAR issued a Statement of Objection to these Rules? No

11) Differences between Proposal and Final Version: The adopted version in the Definitions (Section 1290.10) deleted "sodas or teas" and "capsules" from the definition of "Medical cannabis" and added it to the definition of "Medical cannabis-infused products". The definition of "Ownership structure" was clairified. Also, the definition of "Financial interest" was expanded to explain that it does not include ownership of investment securities in a publicly-held corporation that is traded on a national securities exchange or over-the-counter market in the United States.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

In Dispensing Organization Authorization Process (Section 1290.40), a provision was added stating that the Division of Professional Regulation will provide instructions on the application to reflect the total maximum number of points available for each required criteria and bonus category and identify the minimum number of points necessary from the required criteria for consideration of the bonus categories. It also states that applications will be reviewed under the same fair point system in an unbiased manner.

In Dispensing Organization − Application Requirements for Authorization (Section 1290.50) and Dispensing Organization − Registration Requirements (Section 1290.110), the adopted version adds clarification for the term "pre-existing" relevant to the 1,000 foot setback requirements. "Pre-existing" means existing as of the date the proposed dispensing organization submitted its application.

In Section 1290.50(b), regarding financial disclosures, language was added to differentiate between dispensing organization backers as individuals and as business entities.

In Section 1290.50(c), one signed statement attesting to proof of $400,000 in liquid assets must be dated within 10 calendar days prior to the application, rather than two statements 30 and 5 days prior to the application.

In Selection Process (1290.60), language was added the tie breaker panel and the tie breaker process further.

In Selection Criteria (Section 1290.70), the adopted version clarified the steps to be taken by the Division and the applicant in the event an application is submitted with incomplete and/or missing exhibits/information. The Division will award points to administratively complete applications based on the clarity, organization and quality of the applicant's responses to required information.

In Section 1290.70(e), character and fitness evaluation criteria for applicants was added due to the serious responsibility vested in a limited number of organizations that will operate dispensaries.

Sections 1290.70(g) and 1290.110(d) specify that the dispensing organizations have a duty to disclose material changes to their application and registration packets.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

In Dispensing Organization Registration Requirements (Section 1290.110), the adopted version adds language that an applicant must have a plan to work with cultivation centers to acquire the medical cannabis to ensure a continuous supply of cannabis.

In Dispensing Organization − Registration Bond (Section 1290.120), the State's reasoning for a surety bond for applicants was clairified, and provided cancellation provisions, notice and bond requirements.

Dispensing Organization Renewals (Section 1290.150) included language that requires the Division provide a notice 90 days prior to the expiration of a registration and that the Division will accept renewal requests 45 days before the date of expiration and renew in that same timeframe as necessary.

In Operational Requirements (Section 1290.300), a provision was added that a dispensing organization should have at least two people working while the dispensary is open.

In Security Requirements (Section 1290.410), all electronic video monitoring must be available on a real time 24-hour a day, every day, live feed.

In Administration (Section 1290.425), physicians who do not certify patients for medical cannabis may act as an independent contractor to conduct quality medical research.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace any emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rule: These adopted rules set forth the requirements for implementation of the Compassionate Use of Medical Cannabis Pilot Program Act that was signed into law on August 1, 2013, and became effective on January 1, 2014. The Act was designed to decriminalize medical cannabis at the State level and to provide access to qualifying patients with verified debilitating medical conditions. The Department is developing a system for selecting, approving, renewing, regulating and disciplining registrations of those chosen to serve as dispensing organizations and dispensing organization agents. These rules set forth the requirements and criteria that will apply to dispensing organizations and dispensaries, including oversight for the dispensing of medical cannabis and cannabis infused products, policies and procedures,

interaction with law enforcement, patient education, recordkeeping, security, inventory and preventing theft and diversion of cannabis.

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

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

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

PART 1290
RULES FOR ADMINISTRATION OF THE COMPASSIONATE
USE OF MEDICAL CANNABIS PILOT PROGRAM

SUBPART A: GENERAL PROVISIONS

Section
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AUTHORITY: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

SOURCE: Adopted at 38 Ill. Reg. 16875, effective July 24, 2014.

SUBPART A: GENERAL PROVISIONS

Section 1290.10 Definitions

Definitions for this Part can be located in Section 10 of the Compassionate Use of Medical Cannabis Pilot Program Act. The following definitions shall also apply to this Part:

"Act" means the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

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

"Address of record" means the address recorded by the Division in the applicant's or registrant's application file or the registration file maintained by the Division.

"Administratively complete" means that a dispensary registration application meets all requirements of the Act and this Part.

"Applicant" means any person who is applying with the Department for authorization to register a dispensary under the Act.

"Area zoned for residential use" means an area zoned exclusively for residential use; provided that, in municipalities with a population over 2,000,000, "an area zoned for residential use" means an area zoned as a residential district or a residential planned development.

"Application date" is the date the application for authorization or registration was delivered to and received by the Division, and the applicant received a receipt noting that date.

"Authorization notice" means the notice sent by the Division to the applicant that has been granted an authorization. The authorization notice will include a registry identification number to be used on all future communication with the Division.

"Batch" means a specific harvest of cannabis or cannabis-infused products that are identifiable by a batch number, every portion or package of which is uniform within recognized tolerances for the factors that were subject to a laboratory test and that appear in the labeling.

"Batch number" means a unique numeric or alphanumeric identifier assigned to a batch by a cultivation center when the batch is first planted.

"Cannabis Control Act" means 720 ILCS 550.

"Cannabis" means *marihuana, hashish and other substances which are identified as including any parts of the plant Cannabis* sativa *and including derivatives or subspecies, such as Indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.* (Section 3 of the Cannabis Control Act)

"CPA" means certified public accountant.

"Damaged" shall have its common meaning and include medical cannabis that is unusable, unused, expired, spoiled, contaminated, deteriorated, mislabeled, undesired, excess, adulterated, misbranded, deteriorated or in containers or packaging that was tampered with or opened.

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

"Director" means the Director of the Illinois Department of Financial and Professional Regulation-Division of Professional Regulation or his or her designee.

"Dispensing organization" or "dispensary organization" means a medical cannabis dispensing organization as defined in the Act.

"Dispensary" means the physical premises where medical cannabis is dispensed by a dispensing organization.

"Dispensing organization agent" or "dispensary agent" means a medical cannabis dispensing organization agent as defined in the Act.

"Dispensing organization agent-in-charge" or "dispensary agent-in-charge" means the person who has day to day control and management over the dispensary.

"Dispensing organization backer" means any person or entity with a direct or indirect financial interest in the dispensing organization, but does not include a person or entity holding an interest not exceeding one percent of the total ownership or interest rights and the person does not participate directly or indirectly in the control, management or operation of the dispensing organization.

"Dispensing Organization District" or "District" means one of the 43 geographically dispersed areas identified in the Act and this Part where one or more dispensing organizations may be located.

"Dispensing organization registration authorization" or "Authorization" is the permission given by the Division to an applicant for a dispensing organization allowing it to file documents to obtain a dispensary registration.

"Dispensing organization registration" or "Registration" authorizes the applicant to open and operate a dispensing organization within the District designated by the Division.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation with the authority delegated by the Secretary.

"DOA" means the Illinois Department of Agriculture.

"DPH" means the Illinois Department of Public Health.

"Excluded offense" means:

a violent crime defined in Section 3 of the Rights of Crime Victims and Witnesses Act or a substantially similar offense that was classified as a felony in the jurisdiction where the person was convicted; or

a violation of a state or federal controlled substance law that was classified as a felony in the jurisdiction where the person was convicted, except that the Department may waive this restriction if the person demonstrates to the Department's satisfaction that his or her conviction was for the possession, cultivation, transfer, or delivery of a reasonable amount of cannabis intended for medical use.

This exception does not apply if the conviction was under state law and involved a violation of an existing medical cannabis law. (Section 10 of the Act)

"Financial interest" means any actual or future right to ownership, investment or compensation arrangement, either directly or indirectly, through business, investment, spouse, parent or child, in the dispensing organization. Financial interest does not include ownership of investment securities in a publicly-held corporation that is traded on a national securities exchange or over-the-counter market in the United States, provided the investment securities held by the person and the person's spouse, parent or child, in the aggregate, do not exceed one percent ownership in the dispensing organization.

"Fingerprint-based criminal history records check" means a fingerprint-based criminal history records check conducted by the ISP in accordance with the Act, 20 Ill. Adm. Code 1265.30 (Electronic Transmission of Fingerprint Requirements) or the Uniform Conviction Information Act (UCIA) [20 ILCS 2635].

"Good standing" means the dispensing organization's registration is not under investigation, is not on probation and is not subject to disciplinary or other restrictions by the Division as defined in the Act or this Part.

"HIPAA" means the Health Insurance Portability and Accountability Act (45 CFR 164).

"ISP" means Illinois Department of State Police.

"Limited access area" means a building, room or other area under the control of the dispensing organization and upon the registered premises with access limited to qualifying patients, designated caregivers, dispensary owners and other dispensary agents or service professionals conducting business with the dispensing organization.

"Livescan" means an inkless electronic system designed to capture an individual's fingerprint images and demographic data in a digitized format that can be transmitted to ISP, for processing. The data is forwarded to the ISP Bureau of Identification (BOI) over a virtual private network (VPN) and then processed by ISP's Automated Fingerprint Identification System (AFIS). Once received at the BOI for processing, the inquiry may then be forwarded to the Federal Bureau of Investigation (FBI) electronically for processing.

"Livescan vendor" means an entity licensed by the Department to provide commercial fingerprinting services under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447].

"Medical cannabis" means cannabis and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), used as an herbal remedy or therapy to treat disease or alleviate symptoms. Medical cannabis can be administered in a variety of ways, including, but not limited to: vaporizing or smoking dried buds; using concentrates; ingesting tinctures or tonics; applying

topicals such as ointments, balms; or consuming medical cannabis-infused food products.

"Medical cannabis container" means a sealed, traceable, food compliant, tamper resistant, tamper evident container or package used for the purpose of containment of medical cannabis from a cultivation center to a dispensing organization. (Section 10(n) of the Act)

"Medical cannabis-infused products" means food, oils, ointments, or other products containing cannabis that are not smoked (e.g., sodas, teas or capsules) as defined in the Act. (Section 10(q) of the Act)

"Monitoring" means continuous and uninterrupted video surveillance of dispensary activities and oversight for potential suspicious actions. Monitoring through video surveillance includes the purpose of summoning a law enforcement officer to the premises during alarm conditions. The Division and law enforcement agencies shall have the ability to access a dispensing organization's monitoring system in real-time via a secure web-based portal.

"Notify" means to send via regular United States mail and United States certified mail.

"Ownership structure" means a description of the business type, structure and identity of each person with an ownership or financial interest in the dispensing organization.

"Person" includes, but is not limited to, a natural person, sole proprietorship, partnership, joint venture, limited liability company, corporation, association, agency, business entity, not-for-profit or organization.

"Principal Officer" includes a prospective dispensing organization or dispensing organization board member, owner, president, vice president, secretary, treasurer, partner, officer, member, shareholder or person with a profit sharing arrangement and is further defined in this Part.

"Promptly" means as soon as reasonably practicable, but not later than five days.

"Registered" or "Registration" means a dispensing organization licensed by the Division to operate a medical cannabis dispensary as defined in the Act.

"Restricted access area" means a building, room or other contiguous area under control of the dispensing organization and upon the registered premises with access limited to dispensary agents only, where cannabis is stored, packaged, sold or processed for sale.

"Registration packet" is the information and documents submitted by a dispensing organization authorized by the Division to register a dispensing organization.

"Secretary" means the Secretary of the Department.

"Third party vendor" means an entity providing industry related goods or services, but does not include common utilities, for example, electric, water, phone or gas.

"Trust" means a fiduciary relationship in which one party, known as a trustor, gives another party, the trustee, the right to hold title to property or assets for the benefit of a third party, the beneficiary.

"Veteran" means person who served in one of the five active-duty Armed Services or their respective Guard or Reserve units, and who was discharged or released from service under conditions other than dishonorable.

SUBPART B: DISPENSING ORGANIZATION DISTRICTS

Section 1290.20 Dispensing Organization Districts

a) To geographically disperse 60 dispensing organizations throughout the State, the following Dispensing Organization Districts are created with the accompanying allocation of registrations.

1) That part of the State, outside of the Chicago metropolitan area, shall be allocated 22 registrations as follows:

A) Illinois State Police Districts 1, 6, 7, 12, 13, 14, 17, 18, 19, 20, 21 and 22 shall each be a Dispensing Organization District and shall be allocated one registration each.

B) Illinois State Police Districts 8, 9, 10, 11 and 16 shall each be a Dispensing Organization District and shall be allocated two registrations each.

2) That part of the State within the Chicago metropolitan area but outside of Cook County shall be allocated 14 registrations as follows:

A) DeKalb County shall be a Dispensing Organization District and shall be allocated one registration.

B) DuPage County shall be a Dispensing Organization District and shall be allocated three registrations.

C) Grundy and Kendall Counties combined shall be a Dispensing Organization District and shall be allocated one registration.

D) Kane County shall be a Dispensing Organization District and shall be allocated two registrations.

E) Lake County shall be a Dispensing Organization District and shall be allocated three registrations.

F) McHenry County shall be a Dispensing Organization District and shall be allocated one registration.

G) Will County shall be a Dispensing Organization District and shall be allocated three registrations.

3) That part of Cook County outside of the City of Chicago shall be allocated 11 registrations as follows:

A) Barrington, Hanover and Palatine Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

B) Elk Grove and Schaumburg Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

C) Maine and Wheeling Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

D) New Trier and Northfield Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

E) Evanston and Niles Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

F) Leyden, Norwood Park and Proviso Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

G) Berwyn, Cicero, Oak Park, River Forest and Riverside Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

H) Lemont, Lyons and Palos Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

I) Calumet, Stickney and Worth Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

J) Bremen, Orland and Rich Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

K) Bloom and Thornton Townships combined shall be a Dispensing Organization District and shall be allocated one registration.

4) The City of Chicago shall be allocated 13 registrations as follows:

A) Jefferson Township shall be a Dispensing Organization District and shall be allocated two registrations.

B) Hyde Park Township shall be a Dispensing Organization District and shall be allocated two registrations.

C) Lake Township shall be a Dispensing Organization District and shall be allocated two registrations.

D) Lakeview Township shall be a Dispensing Organization District and shall be allocated two registrations.

E) North Township shall be a Dispensing Organization District and shall be allocated one registration.

F) Rogers Park Township shall be a Dispensing Organization District and shall be allocated one registration.

G) South Township shall be a Dispensing Organization District and shall be allocated one registration.

H) West Township shall be a Dispensing Organization District and shall be allocated two registrations.

b) The Division has the authority to reallocate registrations by rule based on patient populations, geography, zoning, location or other reasonable criteria.

SUBPART C: APPLICATION REQUIREMENTS FOR A
MEDICAL CANNABIS DISPENSARY REGISTRATION AUTHORIZATION

Section 1290.30 Dispensing Organization Principal Officers

a) In addition to the individuals identified in the dispensing organization's by-laws as principal officers, the following individuals are considered principal officers:

1) If a corporation, the officers of the corporation;

2) If a partnership, the partners;

3) If a limited liability company, the members of the limited liability company;

4) If an association or cooperative, the members of the association or cooperative;

5) If a joint venture, the individuals who signed the joint venture agreement; and

6) If a business organization other than the types listed in subsections (a)(1) through (5), the members of the business organization.

b) A dispensing organization may not be established as a trust. A trust may not have an ownership interest in a registered dispensing organization.

Section 1290.40 Dispensing Organization Authorization Process

a) The Division shall review applications and issue authorizations according to the requirements of the Act and this Part.

1) An applicant shall file an application with the Division for authorization to register a dispensing organization.

2) Applications for authorizations shall be made on forms furnished by the Division. The application shall be signed by all principal officers certifying under penalty of perjury that all information contained in the application is true and accurate.

3) An applicant is limited to one application for authorization per District per application period.

4) The instructions on the application will reflect the total maximum number of points available for each required criteria and bonus point category. The instructions and application will also identify the minimum number of points necessary from the required criteria to be eligible for consideration of the bonus point categories. All applications will be reviewed and points awarded based upon the same point system in a fair and unbiased manner.

5) An applicant may submit separate applications for authorization in up to five Districts.

6) Each application requires one application fee (see Section 1290.80).

7) If submitting an application in more than one District, the applicant shall identify the Districts it has applied in or Districts where it is registered.

8) Each applicant must submit to and qualify through a fingerprint-based criminal history records check as set forth in Section 1290.230.

9) The Division shall review each application to determine whether it meets the minimum criteria and shall determine qualified applicants.

10) The Division may consider the location of a proposed dispensary relevant to other proposed or existing dispensaries, in the same or adjacent Districts, to ensure that dispensaries are geographically dispersed.

11) If the Division determines that the number of qualified applicants exceeds the number of authorizations available, the Division will select the most qualified applicant in that District using the selection process established in Section 1290.60.

12) Qualified applicants chosen through the selection process will receive an authorization issued by the Division.

13) If the Division determines that a District has no qualified applicants or fewer qualified applicants than authorized registrations, the Division shall post a notification on the Division's website detailing the dates of the next open application period.

14) No person or entity shall hold more than five registrations. If a qualified applicant has been granted more than five authorizations or registrations by the Division, the applicant shall promptly notify the Division. No person shall be a principal officer in more than five registered dispensing organizations.

15) If a dispensing organization's registration is void or invalid for any reason, including but not limited to revocation, suspension or nonrenewal, the Division will post a notification on the Division's website detailing the dates of the next open application period.

b) Upon receipt of the authorization notice, the applicant may submit for registration approval.

Section 1290.50 Dispensing Organization − Application Requirements for Authorization

a) Applications must be submitted on Division-provided forms and include the following information:

1) The legal name of the proposed dispensing organization.

2) The name, address, telephone number, date of birth, social security number and e-mail address of the proposed dispensing organization's principal officers. A post office box may not be used.

3) The name of the proposed dispensary.

4) If the entity applying is a sole proprietorship, a copy of creation documents.

5) If the entity applying is a business organization other than a sole proprietorship, the following information for the entity applying:

A) The type of business organization.

B) If a partnership, a copy of any partnership or joint venture documents, and if there is no written agreement, a statement signed by all principal officers affirming there is no agreement.

C) If a limited liability company, a copy of the Articles of Organization, operating agreement, and certificate of good standing issued by the Secretary of State or obtained from the Secretary of State's website dated within seven days prior to the date the application is filed with the Division. Limited liability company applicants shall include a listing of all affiliated persons or business entities holding an ownership interest in the company.

D) If a corporation, the name of the registered agent, a copy of the Articles of Incorporation, Corporate Resolutions if any, and a certificate of good standing issued by the Secretary of State or

obtained from the Secretary of State's website within seven days prior to the date the application is filed with the Division. If using an assumed name, a copy of the assumed name registration issued by the Secretary of State. Corporate applicants shall include a listing of all persons or businesses holding an ownership interest in the corporation.

E) If an unincorporated association, organization or not-for-profit organization, documents or agreements relevant to its creation, ownership, profit sharing and liability. If there are no documents as detailed in this subsection (a)(5)(E), a statement signed by all principal officers stating so.

6) From each principal officer, a statement indicating whether that person:

A) Has held an ownership interest in a dispensing organization or its equivalent in another state or territory of the United States that had the dispensary registration or license suspended, revoked, placed on probationary status or subjected to other disciplinary action.

B) Is a physician that will be on the dispensing organization's board of directors or an employee, pursuant to Section 35(b)(5) of the Act.

C) Is a registered qualified patient or a designated caregiver.

7) Disclosure of whether any principal officer has ever:

A) Filed for bankruptcy;

B) Defaulted on a student loan; or

C) Defaulted on alimony or child support obligation.

8) A resume for each principal officer, including whether that person has an academic degree, certification or relevant experience with a medical cannabis business or in a related industry.

9) A patient education plan detailing the benefits or drawbacks of cannabis strains or products in connection with the debilitating conditions identified in the Act, and initiatives to keep product costs reasonable.

10) A description of the training and education that will be provided to dispensary agents.

11) A copy of the proposed operating by-laws.

12) A copy of the proposed business plan that complies with the requirements in this Part, including, at a minimum, the following:

A) A description of products intended to be offered;

B) A description of services to be offered; and

C) A description of the process of dispensing cannabis from a restricted access area to a limited access area.

13) A copy of the proposed security plan that complies with the requirements in this Part, including:

A) A description of the delivery process by which cannabis will be received from a cultivation center, including receipt of manifests and protocols that will be used to avoid diversion, theft or loss at the dispensary acceptance point;

B) The process or controls that will be implemented to monitor the dispensary, secure the premises, agents, patients and currency, and prevent the diversion, theft or loss of cannabis; and

C) The process to ensure that access to the limited access areas is restricted to qualifying patients, designated caregivers, registered agents, service professionals and security personnel.

14) A proposed inventory control plan that complies with this Part.

15) A proposed qualifying patient recordkeeping plan and verification system that complies with this Part.

16) A copy of the current local zoning ordinance sections relevant to dispensary operations. Documentation, if any, of the approval, the conditional approval or the status of a request for zoning approval from the local zoning office that the proposed dispensary location is in compliance with the local zoning rules and the zoning provisions in Section 130 of the Act.

17) For the building or land to be used as the proposed dispensary:

A) If the property is not owned by the applicant, a written statement from the property owner and landlord, if any, certifying consent that the applicant may operate a dispensary on the premises; or

B) If the property is owned by the applicant, confirmation of ownership.

18) A copy of any proposed marketing or advertising plan or materials.

19) A map of the area surrounding the proposed dispensary, extending a minimum of 1,000 feet from the property line in all directions. The map must clearly demonstrate that the property line of the proposed dispensary is not located within 1,000 feet of the property line of a pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home or part day child care facility. The map must clearly demonstrate that the dispensary is not in an area zoned for residential use and identify the existing adjacent businesses. For purposes of this subsection (a)(19), "pre-existing" means existing as of the date the proposed dispensing organization submitted its application to the Division.

20) A plot plan of the dispensary drawn to scale. The applicant shall submit general specifications of the building exterior and interior layout.

21) A statement that the dispensing organization agrees to respond to the Division's supplemental requests for information.

b) Financial Disclosure

The applicant shall provide a statement disclosing relevant business transactions and financial information connected with the application. Financial disclosures include:

1) The ownership structure of the dispensing organization, including percentage ownership of each person or entity.

2) A current organization chart that includes position descriptions and the names and resumes of each person holding each position. The resumes shall establish specific skills, education, experience or significant accomplishments that are relevant to owning or operating a dispensing organization.

3) Depending on business type as applicable, agreements between any two or more principal officers that relate to the assets, liabilities, property, profit or future profit of the dispensing organization or comparable documents that establish the legal structure of the applicant, operations, management and control.

4) A copy of compensation agreements among any persons having a financial interest in the dispensing organization.

5) The nature, type, terms, covenants and priorities of all outstanding debts, including but are not limited to bonds, loans, mortgages, trust deeds, lines of credit, notes issued or executed, or to be issued or executed, in connection with the proposed dispensary.

6) Audited financial statements for the previous fiscal year, which shall include, but are not limited to, an income statement, balance sheet, statement of retained earnings or owners' equity, statement of cash flows, and all notes to those statements and related financial schedules, prepared in accordance with generally accepted accounting principles, with the accompanying independent auditor's report. The audit must be compiled by and certified by an auditor or CPA. If the applicant was formed within the year preceding the application, provide certified financial statements for the period of time the applicant has been in existence.

7) Complete copies of all federal, state and foreign (with translation) tax returns filed by the principal officers of the proposed dispensing

organization for the last three years, or for the period each principal officer has filed tax returns if less than three years.

8) Name of each dispensing organization backer and complete copies of the most recently filed federal, state and foreign (with translation) personal tax returns filed by each dispensing organization backer. If the dispensing organization backer is a business entity, name the principals or board members of the business entity and provide their personal tax returns.

9) Disclosure of all funding sources used for the proposed dispensing organization, including documentation verifying the source of the funds and copies of closing documents in connection with the purchase of a registered business.

10) Projected total expenditures expected before the dispensary is operational.

11) Projected annual revenue.

12) Projected annual budget.

13) The applicant has a continuing duty to promptly disclose material changes in the financial information provided to the Division. If an applicant is issued a registration, this duty of ongoing disclosure shall continue throughout the registered period.

c) Documentation acceptable to the Division that the applicant has at least $400,000 in liquid assets under its control for each application. Documentation acceptable to the Division includes:

1) A signed statement from an Illinois Licensed CPA or financial institution attesting to proof of $400,000 in liquid assets under the control of a principal officer or the entity applying.

2) The signed statement must be dated within 10 calendar days before the application is submitted.

3) Documentation otherwise requested by the Division in writing.

d) An attestation under penalty of perjury signed and dated by each principal officer identified in subsection (a)(2):

1) That the person has not been convicted of an excluded offense;

2) That the information provided to the Division is true and correct;

3) That, if the proposed organization is issued an authorization, the applicant will not operate until the Division approves the applicant's registration packet, the dispensary is inspected and the applicant obtains a registration from the Division;

4) That the applicant acknowledges receipt and advisement of the notices contained in the application and agrees to and accepts the limitations of liability and the requirement to indemnify, hold harmless and defend the State of Illinois, including:

A) Limitation of Liability − the State of Illinois shall not be liable to the dispensing organization, dispensing organization employees, family members or guests, qualifying patients or caregivers, qualifying patient's or caregiver's employer or employees, family members or guests for any damage, injury, accident, loss, compensation or claim, based on, arising out of or resulting from the registrant's participation in the Compassionate Use of Medical Cannabis Pilot Program, including, but not limited to, the following: arrest, seizure of persons or property, prosecution pursuant to federal laws by federal prosecutors, any fire, robbery, theft, mysterious disappearance or any other casualty; or the actions of any other registrants or persons. This limitation of liability provision shall survive expiration or the early termination of the registration if the registration is granted; and

B) The Division requires each registrant to include a signed statement in the registration packet that, at minimum, certifies that the applicant has actual notice that, notwithstanding any State law:

i) Cannabis is a prohibited Schedule I controlled substance under federal law;

ii) Participation in the Compassionate Use of Medical Cannabis Pilot Program (program) is permitted only to the extent provided by the strict requirements of the Act and this Part;

iii) Any activity not sanctioned by the Act or this Part may be a violation of State law;

iv) Growing, distributing or possessing cannabis in any capacity, except through a federally-approved research program, is a violation of federal law;

v) Use of medical cannabis may affect an individual's ability to receive federal or state licensure in other areas;

vi) Use of medical cannabis, in tandem with other conduct, may be a violation of State or federal law;

vii) Participation in the medical cannabis program does not authorize any person to violate federal law or State law and, other than as set out in Section 25 of the Act, does not provide any immunity from or affirmative defense to arrest or prosecution under federal law or State law; and

viii) Applicants shall indemnify, hold harmless and defend the State of Illinois for any and all civil or criminal penalties resulting from participation in the program.

C) The Division has the authority to include additional certifications in the application that would be sufficient to ensure compliance with the program and all other applicable laws.

e) All proposed principal officers must be natural persons. The Division will communicate with the proposed dispensing organization's principal officers. The Division will not communicate exclusively with a consultant working on behalf of the proposed dispensing organization.

f) The name and resume of the proposed agent-in-charge.

g) The non-refundable application fee (see Section 1290.80).

Section 1290.60 Selection Process

a) The Division will conduct a comprehensive, fair and impartial evaluation of the applications timely received. It will award dispensing organization authorizations on a competitive basis.

b) Applications will be assessed to determine whether they meet the mandatory minimum qualification criteria. Application items are mandatory unless otherwise indicated. An applicant that fails to submit the information required by this Part may be disqualified prior to the review and scoring process.

c) The Division will accept applications, assigning each one a unique identification number. During the selection process, the application will be reviewed and referred to by its unique identification number.

d) An application will be disqualified if one or more of the prospective principal officers has been convicted of an excluded offense.

e) When the Division receives more than one complete and timely filed application for an authorization in a District, the Division will choose the applicant through a selection and scoring process (see Section 1290.70).

f) The Division will rank each complete application based on its total score.

g) Authorizations will be issued to the applicants meeting at least the minimum criteria in each category and with the highest total score overall per District and based on the number of allocated registrations per District.

h) In the event that two or more applicants receive the same total high score, the Division will select the applicant that received the highest score in the security and recordkeeping categories. In the event that the applicants received the same score in the security and recordkeeping categories, the tied applicants will be interviewed by a panel of three Department employees selected by the Director. The panel will interview the applicants based on the information gathered during the application process. The panel will make a written recommendation to the Director, and the Director will review the recommendation and make a final written determination.

i) The Division may issue up to 60 dispensing organization authorizations. If the Division concludes that, during the first request for applications, no qualified applications are timely received for a District or Districts, the Division reserves the right to award fewer than 60 authorizations. If a second round of applications is required, the second round will be conducted in the same manner as the first.

j) An authorization notice will be sent to a successful applicant. The authorization notice will include a registry identification number to be used on all future communication with the Division.

k) Notwithstanding Section 1290.620, nothing in this Part is intended to confer a property or other right, duty, privilege or interest entitling an applicant to an administrative hearing upon denial of an application.

l) To reassign a registration, the Division will publish on its website, and in such other places as the Division deems appropriate, a notice of open applications for dispensary registration. The notice shall include:

1) The number of registrations anticipated to be awarded;

2) Information on how to obtain an application;

3) The deadline for receipt of applications;

4) Acceptable methods for submitting an application; and

5) The available District.

Section 1290.70 Selection Criteria

a) Applicants must submit all required information, including that required in Section 1290.50. Failure by an applicant to submit all required information may result in the application being disqualified.

b) If the Division receives an application with missing exhibits, the Division may issue a notice to the applicant that its application is incomplete. The notice from the Division will identify the missing exhibits. The applicant shall have seven calendar days from the date of the notice to resubmit the incomplete exhibits.

Applications that are still incomplete after this one opportunity to cure, will not be scored and will be disqualified.

c) The Division will award points to administratively complete applications based on the clarity, organization and quality of the applicant's responses to required information. Applicants will be awarded points according to the following categories:

1) Suitability of the Proposed Dispensary

A) A demonstration that the proposed location is suitable for public access, the layout promotes safe dispensing of medical cannabis, it is sufficient in size, power allocation, lighting, parking, handicapped accessible parking spaces, ADA accessible entry and exits, product handling, and storage.

B) A statement of reasonable assurance that the issuance of a registration will not have a detrimental impact on the community.

2) Security and Recordkeeping

A) The security plan will demonstrate the capability for the prevention of the theft or diversion of medical cannabis. The security plan will demonstrate safety procedures for dispensary employees, patients and caregivers, and safe delivery and storage of cannabis and currency. It will evidence compliance with all security requirements in this Part.

B) A plan for recordkeeping, tracking and monitoring inventory, quality control and other policies and procedures that will promote standard recordkeeping and discourage unlawful activity. This plan will include the applicant's strategy to communicate with the Division and ISP on the destruction and disposal of cannabis.

3) Applicant's Business Plan, Financials and Operating Plan

A) The business plan shall describe, at a minimum, how the dispensing organization will be managed on a long-term basis. This shall include a description of the patient verification system,

purchases and denials of sale, confidentiality, and products and services to be offered.

B) The financial plan shall describe, at a minimum, the source of the $400,000 liquid asset requirement and the amount and source of the organization's equity and debt commitment to ensure financial stability, including a demonstration of the immediate and long-term financial health and resources for the design, development and operation of the dispensary.

C) The operating plan shall include, at a minimum, a timetable that provides an estimated time from authorization through year one of registration and the assumptions used as the basis for those estimates. It will include best practices for day-to-day dispensary operation and staffing.

4) Knowledge and Experience

A) The applicant's principal officers must demonstrate experience and qualifications in business management or experience with the medical cannabis industry. This includes ensuring optimal safety and accuracy in the dispensing and sale of cannabis.

B) The applicant must demonstrate knowledge of various cannabis product strains or varieties, and describe the types and quantities of products planned to be sold. This includes confirmation of whether the dispensary plans to sell medical cannabis paraphernalia or edibles.

d) The Division will award additional points for preferred, but not required, initiatives based on the applicant's ability to meet requirements in the following categories:

1) Labor and Employment Practices: The applicant may describe plans to provide a safe, healthy and economically beneficial working environment for its agents, including, but not limited to, codes of conduct, healthcare benefits, educational benefits, retirement benefits, and living wage standards.

2) Research Plan: The applicant may provide the Division with a detailed proposal to conduct, or facilitate, a scientific study or studies related to the medicinal use of cannabis. The applicant may include in its proposal a detailed description of:

A) The methodology of the study to accurately assess the effects of cannabis;

B) The issues to be studied;

C) The methods that will be used to identify and select study participants;

D) The identity of each person or organization associated with the study, including the role of each;

E) The duration of the study and anticipated peer review; and

F) The intended use of the study results.

3) Community Benefits Plan: The applicant may provide a description of plans the applicant has to support the local community, the class of citizens served, or a plan for reduction in product costs for indigent patients that qualify.

4) Substance Abuse Prevention Plan: The applicant may provide a detailed description of any plans it will take to combat substance abuse in its District, including the extent to which the applicant will partner or work with existing substance abuse programs.

5) Local Community/Neighborhood Report: The applicant may provide comments, concerns or support received regarding the potential impact of the proposed location on the local community and neighborhood.

6) Environmental Plan: The applicant may demonstrate an environmental plan of action to minimize the carbon footprint, environmental impact, and resource needs for the dispensary.

7) Verification of Minority-Owned, Female-Owned, Veteran-Owned or Disabled Person-Owned Business: The minority, female, veteran or disabled applicants must own at least 51% of the entity applying for registration. The percentage totals may include any combination of minority, female, veteran or disabled applicants. The minority, female, veteran or disabled applicant must also share in control of management and day-to-day operations of the dispensary. Documentation must be submitted at the time of application that demonstrates the respective status of the applicant, including, but not limited to, certification under the Business Enterprise for Minorities, Females and Persons with Disabilities Act [30 ILCS 575] for minority, female or disabled person applicants, or a DD214 for veteran applicants.

8) Illinois Based Applicants: Documentation that the applicant's principal place of business is headquartered in Illinois, including the names, addresses and verification of the applicant's proposed agents that reside in Illinois. The applicant may also provide a plan for generating Illinois-based jobs and economic development.

e) The Division may verify information contained in each application and accompanying documentation to assess the applicant's character and fitness to operate a dispensary. In addition to the qualifications required in the Act and this Part, the Division may not grant an authorization or registration unless it is satisfied that the applicant is:

1) A person of good character, honesty and integrity;

2) A person whose background, including criminal record, reputation, habits and social or business associations, does not discredit or tend to discredit public confidence and trust in the Illinois medical cannabis industry or the State of Illinois, or pose a threat to the public health, security, safety, morals, good order and general welfare of the State of Illinois;

3) A person who does not create or enhance the dangers of unsuitable, unfair or illegal practices, methods and activities in the conduct of owning a medical cannabis dispensary;

4) A person who does not present questionable business practices and financial arrangements incidental to the conduct of owning a medical cannabis dispensary or otherwise;

5) A person who, either individually or through employees, demonstrates business ability and experience to establish, operate and maintain a business for the type of license for which application is made; and

6) A person who does not associate with, either socially or in business affairs, or employ, persons of notorious or unsavory reputation or who have extensive police records, or who have failed to cooperate with an officially constituted investigatory or administrative body.

f) The Division may, in its discretion, refuse to issue an authorization to any applicant:

1) Who is unqualified to perform the duties required of the applicant;

2) Who fails to disclose or states falsely any information called for in the application;

3) Who has been found guilty of a violation of the Act, or whose medical cannabis dispensary or cultivation center license was suspended, restricted, revoked or denied for just cause in any other state; or

4) For any other just cause.

g) Should the applicant be awarded an authorization, the information and plans provided in the application become a condition of the authorization. Dispensing organizations have a duty to disclose any material changes to the application. Failure to comply with the conditions or requirements in the application may subject the dispensing organization to discipline, up to and including suspension or revocation of its authorization by the Division. Revocation of an authorization shall serve as a final administrative decision by the Division.

Section 1290.80 Fees

The following non-refundable fees shall be paid to the Division.

a) Application Fees:

1) The authorization application fee is $5,000. One application fee is to be submitted with each application.

2) The registration fee is $30,000. One registration fee is required for each registration.

3) The application fee for a dispensing organization agent is $100. This fee includes the agent identification card.

4) The fee for a request to change the Division approved location of a dispensing organization within its assigned District is $5,000.

b) Renewal Fees:

1) The annual renewal fee for a dispensing organization registration is $25,000.

2) The annual renewal fee for a dispensing organization agent identification card is $50.

c) General Fees:

1) The fee for the issuance of a replacement dispensing organization Registration is $50.

2) The fee for the issuance of a replacement dispensing organization agent identification card is $50.

d) All monies collected under the Act shall be deposited in the Compassionate Use of Medical Cannabis Fund in the State treasury.

SUBPART D: DISPENSARY REGISTRATION

Section 1290.100 Dispensing Organization − Registration Process

a) No person may own, operate or act as a dispensing organization or represent that the person or organization is a registered dispensing organization unless first obtaining a registration from the Division.

b) The registration process shall include the following:

1) If the Division issues an authorization to an applicant, the Division will notify the applicant that it may file for a registration with the Division.

2) Only an applicant granted an authorization is permitted to register a dispensing organization.

3) A dispensing organization shall submit to the Division all supporting information and documents in a registration packet. The registration packet shall include all required registration materials in accordance with this Section and this Part. All registration materials shall be submitted together.

4) A dispensing organization must file the registration packet with the Division within 120 days after the date of the authorization notification, unless otherwise authorized by the Division.

5) The Division may identify incomplete or missing information from the registration packet. The Division may request additional information from the applicant, or the Division may deny the registration packet.

6) If a registration packet is denied by the Division, the dispensing organization may refile it within 10 business days with the information or documents that caused its denial. If the registration packet is denied by the Division more than three times, the Division may withdraw the authorization. A letter withdrawing an authorization shall serve as a final administrative decision by the Division.

c) Once all required information and documents have been submitted, the Division will review the registration packet. The Division may request revisions and retains final approval over dispensary features. Once the registration packet is complete and meets the Division's approval, the Division will conditionally approve the registration. Final approval is contingent on the build-out and Division inspection.

d) Upon completion of the dispensary, the dispensing organization shall request an inspection. The Division will inspect the dispensary to confirm compliance with the registration packet, the Act and this Part.

e) A registration will be issued only after the completion of a successful inspection.

f) Once the Division has issued a registration, the dispensary organization shall notify the Division of the proposed opening date.

g) A dispensing organization is not prohibited from applying for a cultivation center permit in connection with DOA's rules.

Section 1290.110 Dispensing Organization − Registration Requirements

a) The registration packet will be consistent with the information contained in the application, and shall provide additional detail on construction, start-up and operation.

b) A person granted an authorization shall submit a registration packet to the Division that includes the following registration requirements:

1) The legal name of the dispensing organization;

2) The name of the dispensary facility;

3) The registry identification number for the dispensing organization;

4) The proposed physical address of the dispensary facility;

5) The address, telephone number and e-mail address of the applicant's principal place of business, if different from the location where the medical cannabis will be dispensed. A post office box is not permitted;

6) The name, address, date of birth and social security number for each proposed dispensing organization agent;

7) The proposed hours of operation;

8) Any proposed text or graphic materials to be shown on the exterior of the proposed dispensary;

9) The distance from the proposed dispensary's property line to the property line of the closest pre-existing public or private preschool or elementary or secondary school or day care center, day care home, group day care home and part day child care facility. For purposes of this subsection (b)(9), "pre-existing" means existing as of the date the proposed dispensing organization submitted its application to the Division.

10) The anticipated date the dispensing organization will be ready for a Division inspection;

11) An attestation under penalty of perjury that the information provided to the Division for registration is true and correct;

12) Certification issued by the local jurisdiction's zoning office authorizing the use of the proposed plot as a dispensary;

13) A site plan drawn to scale of the proposed dispensary showing streets, traffic direction, sidewalks, trees, alleys, property lines, additional buildings on-site, parking areas and handicapped parking spaces, fences, exterior walled areas, garages, vehicle delivery access doors, hangars, security features and outdoor areas as applicable.

14) A floor plan or blueprint drawn to scale of the dispensary building that shall, at a minimum, show and identify:

A) Layout and square footage of each room;

B) Overall square footage of the dispensary facility;

C) Name and function of each room;

D) Doorways or pathways between rooms;

E) Means of ingress and egress;

F) Location of restricted and limited access areas;

G) Location of cannabis storage areas while the dispensary is open for business;

H) Location of cannabis storage areas while the dispensary is closed for business;

I) Location of the sink and refrigerator, if any;

J) Location of all safes or vaults that will be used to store cannabis, cannabis products or currency;

K) Location of each computer used to check qualifying patient cards or designated caregiver registry cards;

L) Location of each computer and cash register used for point of sale transactions and to access the Division's verification system;

M) Location of bullet-proof glass;

N) Location of drawer, grate or conduit through the bullet-proof glass;

O) Location of bullet-proof walls, if any;

P) Location of fire exits;

Q) Location of each toilet facility;

R) Location of a break room and personal storage lockers, if any;

S) Location of patient counseling areas;

T) Location of each video camera;

U) Location of each panic button; and

V) Location of natural and artificial lighting sources.

15) Policies and procedures that comply with the requirements in this Part, outlined in an Operation and Management Practices Plan, including:

A) Inventory control;

B) Qualifying patient and designated caregiver recordkeeping;

C) Point of sale recordkeeping;

D) Security;

E) Patient care education and support;

F) Operations manual, including accessible business hours and safe dispensing; and

G) A staffing plan that ensures adequate staffing, training and education.

16) An explanation of related products or services to be offered, if any, other than cannabis.

17) A plan for working with cultivation centers to acquire medical cannabis and ensure the dispensary has a continuous supply for registered qualifying patients and designated caregivers.

18) The estimated volume of cannabis it plans to store at the dispensary.

19) A detailed description of air treatment systems that will be installed to reduce odors.

20) A description of the features that will provide accessibility to qualifying patients and designated caregivers as required by the ADA.

21) A plan detailing how the dispensing organization will perform a physical inventory of all medical cannabis on a daily basis.

22) An attestation that the dispensing organization will have safes or vaults with dimensions sufficient for storage of cannabis, cash and currency.

23) Documentation that the building meets State and local building and fire codes, and that all local ordinances are met for the proposed location.

24) A reasonable assurance that the issuance of a registration will not have a detrimental impact on the community.

25) A plan to prevent patient overflow in waiting rooms and patient care areas.

26) A signed statement by each principal officer or agent that they will not divert medical cannabis.

27) The registration fee (see Section 1290.80).

28) Any additional information requested by the Division.

c) The registration packet shall be signed and dated by each principal officer.

d) Upon Division approval of the registration packet, the information and plans in the registration packet become a condition of the registration. Dispensing organizations have a duty to disclose any material changes to the information contained in the registration packet.

e) Once all registration documentation is complete and the dispensing organization meets the Division's approval, the Division will issue a conditional approval.

f) After receipt of a conditional approval, and when the dispensing organization is ready to open, it shall contact the Division for an inspection. The dispensary shall not open until it has passed inspection and the Division has issued a registration.

g) Prior to opening, the dispensing organization shall notify the Division of the proposed opening date.

h) A registration must be denied pursuant to Section 115(f) of the Act for any of the following reasons:

1) The applicant failed to submit the materials required by the Act and this Part;

2) The applicant selected a location that is not in compliance with local zoning rules and cannot cure the zoning deficiency in a reasonable time;

3) The applicant does not meet the requirements of Section 130 or 140 of the Act;

4) One or more of the principal officers has been convicted of an excluded offense;

5) One or more of the principal officers has served as an owner or officer of a registered medical cannabis dispensing organization that had its registration revoked;

6) One or more of the principal officers is under 21 years of age; or

7) One or more of the principal officers is a registered qualifying patient or a designated caregiver.

Section 1290.120 Dispensing Organization − Registration Bond

A registration bond is a requirement for the issuance of a registration, maintenance of a registration, or reactivation of a registration. The bond shall be used to guarantee that the dispensing organization timely and successfully completes dispensary construction, operates in a manner that provides an uninterrupted supply of cannabis, faithfully pays registration renewal fees, keeps accurate books and records, makes regulatorily required reports, complies with State tax requirements, and conducts the dispensary in conformity with the Act and this Part. Evidence of financial responsibility shall be provided by one of the following:

a) Establishing and maintaining an escrow or surety account in an Illinois financial institution in the amount of $50,000, with escrow terms, approved by the Division, that it shall be payable to the Division in the event of circumstances outlined in this Section. A financial institution may not return money in an escrow or surety account to the dispensing organization that established the account or a representative of the organization unless the organization or representative presents a statement issued by the Division indicating that the account may be released.

b) Providing a surety bond in the amount of $50,000, naming the dispensing organization as principal of the bond, with terms, approved by the Division, that

the bond defaults to the Division in the event of circumstances outlined in this Section. Bond terms include:

1) The bond must be written by a surety company authorized and licensed through the Illinois Department of Insurance (see 215 ILCS 5/4).

2) The business name and registration number on the bond must correspond exactly with the business name and registration number in the Division's records.

3) The bond must be written on a form approved by the Department.

4) A copy of the bond must be received by the Division within 90 days after the effective date.

5) The bond shall not be canceled by a surety on less than 30 days' notice in writing to the Division. If a bond is canceled and the registrant fails to file a new bond with the Division in the required amount on or before the effective date of cancellation, the registrant's registration may be revoked. The total and aggregate liability of the surety on the bond is limited to the amount specified in the bond.

Section 1290.130 Changes to a Dispensing Organization Registration

a) A registration shall be issued to the specific dispensing organization identified on the application and for the specific location proposed. The registration is valid only for the owner, premises and name designated on the registration and the location for which it is issued.

b) A dispensing organization may not transfer or assign a registration.

c) A dispensing organization shall provide written notice to the Division of the addition or removal of persons or entities listed as principal officers. Notice shall be provided to the Division a minimum of 10 business days prior to the change, unless impracticable and the Division approves a different time in writing.

d) All proposed new principal officers shall be subject to the requirements of the Act and this Part.

e) The Division may prohibit the addition of a principal officer to a dispensing organization for failure to comply with the Act or this Part.

f) A dispensing organization shall provide written notice to the Division of a change in more than 49% of the dispensary ownership. The Division will review the ownership structure to determine whether the change in ownership has had the effect of a transfer of the registration. The dispensing organization shall supply all ownership documents and change of ownership documents requested by the Division.

g) The dispensing organization shall provide the Division with the personal information for all new dispensary agents as required in this Part and all new dispensary agents shall be subject to the requirements of this Part. A dispensing organization agent must obtain an agent card from the Division before beginning work at a dispensary.

h) A principal officer not in compliance with the requirements of the Act and this Part shall be removed from his or her position with the dispensing organization or shall otherwise terminate his or her affiliation. Failure to do so may subject the dispensing organization to discipline, suspension or revocation of its registration by the Division.

i) Prior to remodeling, expansion, reduction or other physical, non-cosmetic alteration of a dispensary, the dispensing organization must notify the Division and confirm the alterations are in compliance with the Act and this Part.

j) It is the responsibility of the registered dispensing organization and its principal officers to promptly notify the Division of any change of the principal place of business address.

Section 1290.140 Request to Relocate a Dispensary

a) A dispensing organization may relocate a dispensary in the District where the dispensary is registered. To relocate a dispensary, the dispensing organization shall submit an application requesting the change and the relocation fee (see Section 1290.80) to the Division.

b) The new dispensary location shall meet all the requirements of the Act and this Part.

c) If the information and documents submitted by the dispensing organization comply with the Act and this Part and the proposed location is acceptable to the Division, the Division will issue a conditional approval to relocate. The dispensary organization may continue to operate at the existing location, until the new location is ready. The dispensary organization may not operate two locations under the same registration number.

d) Once the new dispensary is finished, the dispensing organization shall notify the Division and request an inspection.

e) Prior to issuing a registration and approval to operate, the Division will inspect the dispensary to confirm compliance with the Act and this Part. Final approval for the dispensing organization to operate will be issued by the Division only after the completion of a successful inspection.

f) A dispensing organization shall not dispense medical cannabis at the new location until the Division approves the dispensary and issues an amended registration noting the new location.

g) Once the Division has issued an amended registration, the dispensing organization shall notify the Division of the proposed dispensary opening date.

h) The registration that includes the new address shall retain the expiration date of the previously issued registration.

i) An application for a relocation of a dispensary may not be combined with an application for renewing a dispensing organization registration. The Division shall process each application separately.

j) Should the dispensing organization relocate, it shall inform its existing patients of the new dispensary location.

Section 1290.150 Dispensing Organization Renewals

a) Every dispensing organization registration issued under the Act shall expire annually, on the date it was issued. A registered dispensing organization shall receive written notice 90 days prior to the expiration of its registration that the registration will expire.

b) The Division will accept renewal applications within 45 days before the date a registration expires. Provided the dispensing organization is in compliance with the Act and this Part, and the renewal fee is paid, the Division shall renew the registration within 45 days after the renewal request submission. (See Section 1290.80.)

c) If the dispensary premises is leased, when submitting for renewal the dispensing organization must provide documentation that the registered premises has been leased for the following calendar year.

d) Upon a dispensing organization's request for a renewal, the Division shall consider the dispensing organization's history of compliance with regulations promulgated under the Act, the number and severity of any violations, and the correction of violations, penalties or other enforcement actions.

e) The Director of the Division may deny a dispensing organization's request to renew a registration due to poor compliance history or if it has been disciplined under the Act or this Part.

f) If a renewal fee is not paid before the registration's expiration date, and the dispensing organization has not requested an extension of time to renew, the registration expires on the registration expiration date.

g) Dispensing medical cannabis on an expired registration is unlawful under the Act, unlicensed activity and grounds for discipline.

h) If the Division, after notice to the dispensing organization, denies the request to renew a registration and the registrant contests the non-renewal, it shall be entitled to an administrative hearing in accordance with the hearing rights prescribed in the Act and this Part.

SUBPART E: REGISTRATION OF DISPENSING ORGANIZATION AGENTS

Section 1290.200 Dispensing Organization Agent-in-Charge

a) Every dispensing organization shall designate, at a minimum, one agent-in-charge. The designated agent-in-charge must hold a dispensing organization agent

identification card. Maintaining an agent-in-charge is a continuing requirement for the registration, except as provided in subsection (g).

b) The agent-in-charge shall be a principal officer or a full-time agent of the dispensing organization and shall participate in dispensing organization affairs. Participation in dispensing organization affairs includes, but is not limited to, responsibility for deliveries, oversight of services and dispensary agents, recordkeeping, inventory, dispensary agent training, and compliance with the Act and this Part. Participation in affairs also includes the responsibility for maintaining all files subject to audit or inspection by the Division. These files shall be located in Illinois.

c) The agent-in-charge is responsible for promptly notifying the Division of any change of information required to be reported to the Division.

d) If the dispensing organization is a corporation or a limited liability company, the agent-in-charge is responsible for maintaining the good standing of the corporation or limited liability company with the Secretary of State. If the dispensing organization is a foreign corporation, the agent-in-charge is responsible for maintaining its authorization to conduct business in Illinois in good standing.

e) In determining whether an agent-in-charge participates in dispensing organization affairs, the Division may consider the responsibilities identified in this Section, the number of dispensary agents under the supervision of the agent-in-charge, and the employment relationship between the agent-in-charge and the dispensing organization, including the existence of a contract for employment and any other relevant fact or circumstance.

f) The agent-in-charge is responsible for notifying the Division, on forms provided by the Division, of a change in the employment status of all dispensing organization agents, and the nature and reason for the status change, within five business days after the change.

g) In the event of the separation of an agent-in-charge due to death, incapacity, termination or any other reason, the dispensing organization shall immediately contact the Division and request a temporary certificate of authority allowing the continuing operation. The request shall include the name of an interim agent-in-charge until a replacement is identified, or shall include the name of the

replacement. The Division shall issue the temporary certificate of authority promptly after it approves the request. If a dispensing organization fails to promptly request a temporary certificate of authority after the separation of the agent-in-charge, its registration shall cease until the Division approves the temporary certificate of authority or registers a new agent-in-charge. No temporary certificate of authority shall be valid for more than 90 days. The succeeding agent-in-charge shall register with the Division in compliance with this Part. Once the permanent succeeding agent-in-charge is registered with the Division, the temporary certificate of authority is void. No temporary certificate of authority shall be issued for the separation of an agent-in-charge due to disciplinary action by the Division related to his or her conduct on behalf of the dispensing organization.

h) The dispensing organization agent-in-charge registration shall expire annually on the date it was issued. The agent-in-charge's registration shall be renewed annually. The Division shall review the dispensary's compliance history when determining whether to grant the request to renew.

i) Upon termination of an agent-in-charge's employment, the dispensing organization shall immediately reclaim the dispensary agent identification card. The dispensing organization shall promptly return the identification card to the Division.

j) The Division may revoke an agent-in-charge identification card for any of the following reasons:

1) Submission of misleading, incorrect, false or fraudulent information in the application or renewal application;

2) Violation of the requirements of the Act or this Part;

3) Fraudulent use of the agent-in-charge identification card;

4) Selling, distributing, transferring in any manner, or giving medical cannabis to any unauthorized person;

5) Tampering with, falsifying, altering, modifying or duplicating an agent-in-charge identification card;

6) Failure to notify the Division within five business days after becoming aware that the agent-in-charge identification card has been lost, stolen or destroyed;

7) Failure to notify the Division within five business days after a change in the information provided in the application for an agent-in-charge identification card; or

8) Conviction of an excluded offense following the issuance of an agent-in-charge identification card.

Section 1290.210 Dispensing Organization Agents

a) All principal officers, agents-in-charge and employees of the dispensing organization are dispensing organization agents and shall hold an agent identification card. No person shall begin work at a dispensary prior to holding an agent identification card.

b) Only a dispensing organization principal officer or an agent-in-charge may apply for an agent identification card for himself or herself or other dispensary agents.

c) A dispensing organization agent shall visibly display an agent identification card issued by the Division at all times while at the dispensary.

d) An agent registration application shall be submitted by a dispensing organization principal officer or agent-in-charge on forms provided by the Division, along with the following:

1) The name of the dispensing organization employing the agent, and the address of the dispensary;

2) A full set of fingerprints submitted to ISP as outlined in this Part;

3) A copy of the applicant's valid driver's license or State issued identification;

4) Electronic picture of applicant;

5) A document verifying the applicant's place of residency, such as a bank statement, cancelled check, insurance policy, etc. The document must contain the applicant's full residence address;

6) A sworn statement that the applicant has not been convicted of an excluded offense in any jurisdiction;

7) The applicant's social security number;

8) The registration fee (see Section 1290.80); and

9) Any additional information requested by the Division in the verification process.

e) The Division will deny an application or renewal of an agent identification card for a person convicted of an excluded offense.

f) If no excluded offense is found relating to the fingerprints and the applicant is otherwise qualified under the Act, the Division may approve the application. Within 15 days after approving an application, the Division shall issue an agent identification card that will be valid for the period specified on the face of the card and will be renewable upon the conditions set forth in this Part.

g) Dispensing organization agents have access to restricted access areas. They are responsible for the sale of cannabis and dispensary operations. Agents may accept deliveries from cultivation centers, and must document sales in compliance with the Act and this Part.

h) It is the responsibility of each registered dispensing organization to notify the Division of an agent's change of address.

i) Dispensing organization agents must promptly report any diversion or theft, or suspicion of diversion or theft, of cannabis or currency to the Division.

j) At least 30 days prior to the expiration of an agent identification card, the dispensing organization shall request the Division renew the annual agent identification card, include any information requested by the Division, and authorize ISP to conduct a criminal background check.

k) No dispensing organization shall, after the expiration of an agent identification card, employ or retain the holder of the card in any capacity.

l) Upon termination of employment, the agent identification card shall be immediately returned to the dispensing organization. The dispensing organization shall promptly return the agent identification card to the Division.

m) The agent identification card is not transferable. It is the property of the State of Illinois and shall be surrendered upon demand of the Director.

n) A dispensing organization agent shall promptly report an arrest and any subsequent conviction of an excluded offense to the dispensing organization and to the Division.

o) Should the Division not be able to obtain the State or federal criminal records check from ISP as required by the Act and this Part, the Division may contract with a private detective or investigating agency licensed under the Private Detective, Private Alarm, Private Security, Fingerprint Vendor, and Locksmith Act of 2004 [225 ILCS 447] and in good standing with the Department for the purpose of conducting the records checks.

p) The Division may revoke an agent identification card for any of the following reasons:

1) Submission of misleading, incorrect, false or fraudulent information in the application or renewal application;

2) Violation of the requirements of the Act or this Part;

3) Fraudulent use of the agent identification card;

4) Selling, distributing, transferring in any manner, or giving medical cannabis to any unauthorized person;

5) Tampering with, falsifying, altering, modifying or duplicating an agent identification card;

6) Failure to notify the Division within five business days after becoming aware that the agent identification card has been lost, stolen or destroyed;

7) Failure to notify the Division within five business days after a change in the information provided in the application for an agent identification card or renewal; or

8) Conviction of an excluded offense following the issuance of an agent identification card.

Section 1290.220 Persons with Significant Influence or Control; Disassociation

a) Any individual in connection with the dispensing organization who is not a principal officer or agent, and who may significantly influence or control the activities of the dispensing organization, other than a bank or other licensed lending institution holding a mortgage or other lien, may be subject to a background investigation or an examination of the business relationship with the dispensary.

b) The Division may order the disassociation of any person from the dispensing organization if the person fails to cooperate with the Division's investigation or if the person would be prohibited from being a principal officer pursuant to the Act and this Part. The order issued by the Director shall be directed to the applicant or registrant, and non-compliance with the order may result in the revocation, suspension or other discipline of the registration.

Section 1290.230 State and Federal Criminal History Records Check

a) Persons required to submit to a State and federal criminal history records check for convictions of an excluded offense shall submit to a fingerprint-based criminal history records check by providing a full set of fingerprints in an electronic format to an ISP livescan vendor whose equipment has been certified by ISP or a fingerprint vendor agency licensed by the Department.

b) The ISP will act as the Division's agent, receiving electronic fingerprints and conducting background checks of each individual applying for an agent identification card.

c) ISP will conduct background checks for conviction information contained in the ISP and Federal Bureau of Identification criminal history databases, as permitted.

d) For verification of a statutorily imposed duty to conduct background checks pursuant to the Act, ISP will transmit the results of the background check to the Division and the transmittal shall conclude the verification process.

e) The electronic background checks shall be submitted as outlined in either the Uniform Conviction Information Act [20 ILCS 2635] or 20 Ill. Adm. Code 1265.30 (Electronic Transmission of Fingerprint Requirements).

f) Electronic transmission of fingerprint data to ISP shall be accomplished utilizing livescan procedures or other comparable technology approved for use by ISP.

g) Manual fingerprints will not be accepted and shall not be scanned and converted into an electronic format.

h) Fingerprints shall be taken within the 30 days prior to the application date or renewal date for an agent identification card.

i) Fingerprint images of the individual being fingerprinted, and related alphanumeric identification data submitted, shall be submitted electronically to ISP.

j) If the fingerprints are rejected by ISP, the dispensary agent shall have his or her fingerprints collected electronically by a live scan fingerprint vendor a second time.

k) In the event of equipment malfunction or other special circumstance that make electronic transmission of fingerprint data impractical, the Division may allow limited use of paper fingerprint records.

l) The dispensing organization shall submit to the Division a copy of the livescan request form, with the agent identification card application or renewal and the receipt provided from the livescan fingerprint vendor containing the Transaction Control Number (TCN), as proof that fingerprints have been collected.

m) Dispensary agent identification card applications submitted without a copy of the livescan request form and receipt will be deemed incomplete and will not be processed until fingerprinting is completed.

n) Fees associated with the livescan fingerprint-based criminal history records check shall be the responsibility of the dispensing organization seeking an agent identification card.

SUBPART F: DISPENSARY OPERATION

Section 1290.300 Operational Requirements

a) It is the duty of the Division to enforce the provisions of the Act and this Part relating to the registration and oversight of dispensing organization, unless otherwise provided in the Act.

b) A dispensing organization awarded a registration shall operate in accordance with the representations made in its application and registration packet. It shall be in compliance with the Act and this Part while registered with the Division.

c) Only a dispensing organization that has been issued a registration by the Division shall own and operate a dispensary.

d) A dispensing organization must include the name of the dispensary on the packaging of any cannabis product it sells.

e) All cannabis and cannabis-infused products must be obtained from an Illinois registered cultivation center (see 8 Ill. Adm. Code 1000).

f) A dispensing organization shall maintain compliance with State and local building, fire and zoning requirements or regulations.

g) A dispensing organization shall submit a list of all third party vendors to the Division. Changes to the list of third party vendors shall be promptly provided.

h) A registration shall allow the registrant to operate at a single location.

i) A dispensary may operate between 6 a.m. and 8 p.m. local time.

j) A dispensing organization must keep all lighting outside and inside the dispensary in good working order and wattage sufficient for security cameras.

k) A dispensing organization shall not:

1) Produce or manufacture cannabis.

2) Allow consumption of cannabis at the dispensary.

3) Sell cannabis unless it is pre-packaged and labeled in accordance with this Part, 8 Ill. Adm. Code 1000 and 77 Ill. Adm. Code 946.

4) Sell cannabis or cannabis-infused products to a consumer unless the consumer presents an active registered qualifying patient or designated caregiver card issued by DPH.

5) Enter into an exclusive agreement with any cultivation center.

6) Refuse to conduct business with a cultivation center that has the ability to properly deliver the product and is permitted by DOA, on the same terms as other cultivation centers with whom it is dealing.

7) Operate drive through windows.

8) Transport cannabis to residences of registered qualifying patients or designated caregivers.

9) Operate a dispensary if its video surveillance equipment is inoperative.

10) Operate a dispensary if the point of sale equipment is inoperative.

11) Operate a dispensary if the State's medical cannabis electronic verification system is inoperative.

12) Have fewer than two people working at the dispensary at any time while the dispensary is open.

SUBPART G: SECURITY AND RECORDKEEPING

Section 1290.400 Inventory Control System

a) A dispensing organization agent-in-charge shall have primary oversight of the dispensing organization's medical cannabis inventory control system. The

inventory control system shall be real-time, web-based and accessible by the Division 24 hours a day, seven days a week.

b) A dispensing organization shall establish and implement an inventory control system for its medical cannabis that documents:

1) Each transaction and each day's beginning inventory, acquisitions, sales, disposal and ending inventory.

2) Acquisition of medical cannabis and medical cannabis-infused products from a permitted cultivation center, including:

A) A description of the products including the quantity, strain, variety and batch number of each product received;

B) The name and registry identification number of the permitted cultivation center providing the medical cannabis;

C) The name and registry identification number of the permitted cultivation center agent delivering the medical cannabis;

D) The name and registry identification number of the dispensing organization agent receiving the medical cannabis; and

E) The date of acquisition.

3) The disposal of medical cannabis, including:

A) A description of the products, including the quantity, strain, variety, batch number and reason for the cannabis being disposed;

B) The method of disposal and the name, address and telephone number of the disposal company; and

C) The date of disposal.

c) The agent-in-charge shall conduct and document an audit of the dispensing organization's daily inventory according to generally accepted accounting principles once every 30 calendar days.

1) If the audit identifies a reduction in the amount of medical cannabis in the dispensing organization's inventory not due to documented causes, the dispensing organization shall determine where the loss occurred and immediately take and document corrective action. The dispensing organization shall inform the Division of the loss and the corrective action taken within two business days after first discovery.

2) If the reduction in the amount of medical cannabis in the inventory is due to criminal activity or suspected criminal activity, the dispensing organization shall make a report identifying the circumstances surrounding reduction to the Division and ISP, who may notify local law enforcement authorities.

3) If the audit identifies an increase in the amount of medical cannabis in the dispensing organization's inventory not due to documented causes, the dispensing organization shall determine where the increase occurred and take and document corrective action.

4) The dispensing organization shall submit quarterly audit statements to the Division that shall include, but not be limited to, an income statement, balance sheet and weekly cannabis inventory, including cannabis acquisition, wholesale cost and sales, prepared in accordance with generally accepted accounting principles. Annually, the dispensing organization shall submit an audit including the same information, compiled and certified by an auditor or CPA.

d) A dispensing organization shall:

1) Maintain the documentation required in this Section in a secure locked location at the dispensing organization for five years from the date on the document;

2) Provide any documentation required to be maintained in this Section to the Division for review upon request; and

3) If maintaining a bank account, retain for a period of five years a record of each deposit or withdrawal from the account.

e) A dispensing organization shall not accept returns of medical cannabis. If cannabis is abandoned at the dispensary, it shall be accounted for and destroyed in compliance with this Part.

Section 1290.405 Storage Requirements

a) Authorized On-Premises Storage. A dispensing organization must store inventory on the registered premises. All inventory stored on the registered premises must be secured in a restricted access area and tracked consistently with the inventory tracking rules.

b) A dispensary premises shall be of suitable size and construction to facilitate cleaning, maintenance and proper operations.

c) A dispensary shall maintain adequate lighting, ventilation, temperature, humidity control and equipment.

d) Containers storing medical cannabis that have been tampered with or opened shall be separated from other medical cannabis products until they are disposed.

e) Medical cannabis that was tampered with or damaged shall not be stored at the registered premises for more than one week.

f) The dispensary shall be maintained in a clean and orderly condition.

g) The dispensary shall be free from infestation by insects, rodents, birds or pests.

h) The dispensary storage areas shall be maintained in accordance with the security requirements (see Section 1290.410).

i) Medical cannabis must be stored at appropriate temperatures and under appropriate conditions to help ensure that its identity, strength, quality and purity are not adversely affected.

Section 1290.410 Security Requirements

a) A dispensing organization shall implement security measures to deter and prevent entry into and theft from restricted access areas containing cannabis or currency.

b) A dispensing organization shall submit changes to the floor plan or security plan to the Division for pre-approval.

c) The dispensing organization shall implement security measures to protect the premises, registered qualifying patients, designated caregivers and dispensing organization agents including, but not limited to the following:

1) Establish a locked door or barrier between the facility's entrance and the limited access area. The limited access area shall only be accessible to registered qualifying patients, designated caregivers, principal officers and agents, service professionals conducting business with the dispensing organization, and persons authorized by the Act and this Part;

2) Prevent individuals from remaining on the premises if they are not engaging in activity permitted by the Act or this Part;

3) Develop a policy that addresses the maximum capacity and patient flow in the waiting rooms and patient care areas;

4) Dispose of cannabis in accordance with this Part;

5) During hours of operation, store all cannabis in established restricted access area accessible only to specifically authorized agents. The minimum number of dispensary agents essential for efficient operations shall be in the restricted access areas;

6) When the dispensary is closed, store all cannabis and currency in a secure locked safe or vault and in a manner as to prevent diversion, theft or loss;

7) Keep all safes, vaults and any other equipment or cannabis storage areas securely locked and protected from unauthorized entry;

8) Keep an electronic daily log of dispensary agents with access to the safe or vault and knowledge of the access code or combination;

9) Keep all locks and security equipment in good working order;

10) The security system shall be operational at all times.

11) Prohibit keys, if applicable, from being left in the locks, or stored or placed in a location accessible to persons other than specifically authorized personnel;

12) Prohibit accessibility of security measures, including combination numbers, passwords or electronic or biometric security systems to persons other than specifically authorized agents;

13) Ensure that the outside perimeter of the dispensary premises is sufficiently lit to facilitate surveillance;

14) Ensure that trees, bushes and other foliage outside of the dispensary premises do not allow for a person or persons to conceal themselves from sight;

15) Develop emergency policies and procedures for securing all product and currency following any instance of diversion, theft or loss of cannabis, and conduct an assessment to determine whether additional safeguards are necessary; and

16) Develop sufficient additional safeguards in response to any special security concerns, or as required by the Division.

d) The Division may request or approve alternative security provisions that it determines are an adequate substitute for a security requirement specified in this Part. Any additional protections may be considered by the Division in evaluating overall security measures.

e) A dispensing organization shall provide additional security as needed and in a manner appropriate for the community where it operates.

f) Restricted Access Areas

1) All restricted access areas must be identified by the posting of a sign that shall be a minimum of 12" x 12" and that states "Do Not Enter – Restricted Access Area – Access Restricted to Authorized Personnel Only" in lettering no smaller than one inch in height.

2) All restricted access areas shall be clearly described in the floor plan of the registered premises, in the form and manner determined by the Division, reflecting walls, partitions, counters and all areas of entry and exit. The floor plan shall show all storage, disposal and retail sales areas.

3) All restricted access areas must be secure, with locking devices that prevent access from the limited access areas.

4) All service professionals conducting business with the dispensing organization and visitors must obtain a numbered visitor identification badge prior to entering a restricted access area, and shall be escorted at all times by a dispensary agent authorized to enter the restricted access area. All visitors must be logged in and out, and that log shall be maintained for five years on-site and available for inspection by the Division at all times. All visitor identification badges shall be returned upon exit.

g) Security and Alarm

1) A dispensing organization shall have an adequate security plan and security system to prevent and detect diversion, theft or loss of cannabis, currency or unauthorized intrusion using commercial grade equipment installed by an Illinois licensed private alarm contractor or private alarm contractor agency that shall, at a minimum, include:

A) A perimeter alarm on all entry points and perimeter windows;

B) A failure notification system that provides an audible, text or visual notification of any failure in the surveillance system. The failure notification system shall provide an alert to designated dispensing organization agents within five minutes after the failure, either by telephone, email or text message;

C) A duress alarm, panic button and alarm, holdup alarm or after hours intrusion detection alarm that by design and purpose will directly or indirectly notify, by the most efficient means, the Public Safety Answering Point (PSAP) for the law enforcement agency having primary jurisdiction;

D) Unobstructed video surveillance of all enclosed dispensary areas, unless prohibited by law, including all points of entry and exit that shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed so all areas are captured, including, but not limited to, safes, vaults, sales areas and areas where cannabis is stored, handled, dispensed or destroyed. Cameras shall be angled to allow for facial recognition, the capture of clear and certain identification of any person entering or exiting the dispensary area and in lighting sufficient during all times of night or day;

E) Unobstructed video surveillance of outside areas, the storefront and the parking lot, that shall be appropriate for the normal lighting conditions of the area under surveillance. Cameras shall be angled so as to allow for the capture of facial recognition, clear and certain identification of any person entering or exiting the dispensary, the immediate surrounding area and license plates of vehicles in the parking lot;

F) Twenty-four hour recordings from all video cameras available for immediate viewing by the Division upon request. Recordings shall not be destroyed or altered and retained for at least 90 days. Recordings shall be retained as long as necessary if the dispensing organization is aware of the loss or theft of cannabis or a pending criminal, civil or administrative investigation, or legal proceeding for which the recording may contain relevant information;

G) The ability to immediately produce a clear, color still photo from the surveillance video, either live or recorded;

H) A date and time stamp embedded on all video surveillance recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture;

I) The ability to remain operational during a power outage and ensure all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage; and

J) All video surveillance equipment shall allow for the exporting of still images in an industry standard image format, including .jpg, .bmp and .gif. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.

2) All security system equipment and recordings shall be maintained in good working order, in a secure location so as to prevent theft, loss, destruction or alterations.

3) Access to rooms where surveillance monitoring recording equipment resides shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their jurisdiction, security system service personnel and the Division. A current list of authorized dispensary agents and service personnel that have access to the surveillance room must be available to the Division upon request.

4) All security equipment shall be inspected and tested at regular intervals, not to exceed 30 calendar days from the previous inspection and test to ensure the systems remain functional.

5) The security system shall provide protection against theft and diversion that is facilitated or hidden by tampering with computers or electronic records.

h) To monitor the facility and prevent unauthorized access to medical cannabis at the dispensary, the dispensing organization shall incorporate the following:

1) Security equipment to deter and prevent unauthorized entrance into restricted access areas that includes devices or a series of devices to detect unauthorized intrusion that may include a signal system interconnected with a radio frequency method, cellular, private radio signals or other mechanical or electronic device.

2) Electronic monitoring including:

A) All monitors must be 19-inches or greater;

B) A video printer capable of immediately producing a clear still photo from any video camera image;

C) Video cameras recording all points of entry and exit from the dispensary, the limited access areas, the restricted access areas and that are capable of identifying activity occurring adjacent to the building, with a recording resolution that shall be sufficient to distinctly view the entire area under surveillance;

D) A video camera or cameras recording at each point of sale location allowing for the identification of the dispensary agent distributing the cannabis and any qualifying patient or designated caregiver purchasing medical cannabis. The camera or cameras shall capture the sale, the individuals and the computer monitors used for the sale;

E) Storage of video recordings from the video cameras for at least 90 calendar days;

F) A failure notification system that provides an audible and visual notification of any failure in the electronic monitoring system;

G) Sufficient battery backup for video cameras and recording equipment to support recording in the event of a power outage; and

H) All electronic video monitoring must be available on a real time 24-hour a day, every day, live feed accessible by the Division.

3) The dispensing organization shall maintain policies and procedures that include:

A) security plan with protocols for patient, caregiver and agent safety and management and security of cannabis and currency;

B) Restricted access to the areas in the dispensary that contain cannabis to authorized agents;

C) Identification of authorized agents;

D) Controlled access and prevention of loitering both inside and outside the facility;

E) Conducting electronic monitoring; and

F) Use of a panic button.

Section 1290.415 Recordkeeping

a) Dispensing organization records must be maintained electronically and be available for inspection by the Division upon request. The dispensing organization shall develop recordkeeping policies and procedures consistent with this Part.

b) Required written records include, but are not limited to, the following:

1) Operating procedures;

2) Inventory records, policies and procedures;

3) Security Records;

4) Audit records;

5) Staffing plan; and

6) Business records that shall include manual or computerized records of:

A) Assets and liabilities;

B) Monetary transactions;

C) Written or electronic accounts that shall include bank statements, journals, ledgers and supporting documents, agreements, checks, invoices and vouchers; and

D) Any other financial accounts reasonably related to the dispensary operations.

7) Storage and transfer of records. If a dispensary closes due to insolvency, revocation, bankruptcy or for any other reason, all records must be preserved at the expense of the dispensing organization for at least three years in a form and location in Illinois acceptable to the Division. The dispensing organization shall keep the records longer if requested by the Division. The dispensing organization shall notify the Division of the location where the dispensary records are stored or transferred.

8) All other records, policies and procedures required by the Act and this Part.

Section 1290.420 Cleaning and Sanitation

A dispensing organization shall ensure that any building or equipment used by a dispensing organization for the storage or sale of medical cannabis is maintained in a clean and sanitary condition.

Section 1290.425 Administration

a) A dispensing organization shall operate continuously and maintain an uninterrupted supply of medical cannabis for qualifying patients and designated caregivers.

b) A dispensary shall be open for a minimum of 35 hours a week, except as otherwise authorized by the Division.

c) A dispensing organization shall establish, maintain and comply with written policies and procedures as submitted in an Operations and Management Practices Plan, approved by the Division, for the security, storage, inventory and distribution of cannabis. These policies and procedures shall include methods for identifying, recording and reporting diversion, theft or loss, and for correcting errors and inaccuracies in inventories. At a minimum, dispensing organizations shall ensure the written policies and procedures provide for the following:

1) Conduct mandatory and voluntary recalls of cannabis products. The procedure shall be adequate to deal with recalls due to any action initiated

at the request of the Division and any voluntary action by the dispensing organization to remove defective or potentially defective cannabis from the market or any action undertaken to promote public health and safety by replacing existing cannabis with improved products or packaging;

2) Prepare for, protect against, and handle any crises that affects the security or operation of a dispensary in the event of strike, fire, flood or other natural disaster, or other situations of local, State or national emergency;

3) Ensure that outdated, damaged, deteriorated, misbranded or adulterated cannabis is segregated from other cannabis and destroyed. This procedure shall provide for written documentation of the cannabis disposition;

4) Ensure the oldest stock of a cannabis product is distributed first. The procedure may permit deviation from this requirement, if such deviation is temporary and appropriate;

5) Train agents to adhere to confidentiality requirements, specific uses of cannabis or cannabis-infused products, instruction regarding regulatory inspection preparedness and law-enforcement interaction; awareness of the legal requirements for maintaining status as an agent and other topics as specified by the dispensing organization or the Division. The dispensing organization shall maintain evidence of all training provided for every agent in its files and subject to inspection and audit by the Division. At a minimum, agents shall receive eight hours of training annually;

6) Develop and maintain business records consistent with industry standards, including by-laws, consents, manual or computerized records of assets and liabilities, audits, monetary transactions, journals, ledgers and supporting documents, including agreements, checks, invoices and vouchers;

7) Inventory control, including:

A) Tracking qualifying patient records, including purchases, denials of sale and confidentiality; and

B) Disposal of unusable or damaged cannabis as required by the Act and this Part; and

8) Patient education and support, including:

A) Updated information about the purported effectiveness of various forms and methods of medical cannabis administration;

B) Updated information about the purported effectiveness of strains of medical cannabis on specific conditions;

C) Current educational information issued by DPH about the health risks associated with the use or abuse of cannabis;

D) Whether possession of cannabis is illegal under federal law;

E) Information about possible side effects;

F) Prohibition on smoking medical cannabis in public places; and

G) Offer any other appropriate patient education or support materials.

d) A dispensing organization shall maintain copies of the policies and procedures on the dispensary premises and provide copies to the Division upon request.

e) A dispensing organization shall review dispensing organization policies and procedures at least once every 12 months from the issue date of the registration and update as needed or as requested by the Division.

f) A dispensing organization shall ensure that each principal officer and each dispensary agent has a current agent identification card in the agent's immediate possession when the agent is at the dispensary.

g) A dispensing organization shall ensure that any identifying information about a qualifying patient or caregiver is kept in compliance with the privacy and security rules of HIPAA (45 CFR 164).

h) A dispensing organization shall provide prompt written notice to the Division, including the date of the event, when a dispensing organization agent no longer:

1) Serves as a principal officer of the dispensing organization; or

2) Is employed by the dispensing organization.

i) A dispensing organization shall promptly document and report any loss or theft of cannabis from the dispensary to the appropriate law enforcement agency and the Division. It is the duty of any agent who becomes aware of the loss or theft to report it as provided in this Part. If the dispensing organization knows that a principal officer or dispensary agent has been arrested for or convicted of an excluded offense, the dispensing organization shall promptly notify the Division.

j) A dispensing organization shall post the following information in a conspicuous location in an area of the dispensary accessible to consumers:

1) The dispensing organization's registration; and

2) The hours of operation.

k) A dispensing organization shall not:

1) Allow a physician to conduct a physical examination of a patient for purposes of diagnosing a debilitating medical condition at the dispensary;

2) Allow a physician to hold a direct or indirect economic interest in the dispensary if the physician recommends the use of medical cannabis to qualifying patients or is in a partnership or other fee or profit-sharing relationship with a physician who recommends medical cannabis;

3) Accept referral of patients from a physician; or

4) Allow a physician to advertise at the dispensary.

l) A physician may work as an independent contractor with a dispensing organization, provided that the physician's involvement is limited exclusively to designing, implementing or conducting non-proprietary medical research or studies.

m) Violation of any requirement under this Section may subject the dispensing organization to discipline, up to and including revocation of its registration.

Section 1290.430 Dispensing Medical Cannabis

a) Before a dispensing organization agent dispenses medical cannabis to a qualifying patient or a designated caregiver, the agent shall:

1) Verify the identity of the qualifying patient or the designated caregiver;

2) Verify the validity of the qualifying patient or designated caregiver's registry identification card;

3) Enter the qualifying patient or designated caregiver's registry identification number listed on the qualifying patient or designated caregiver's registry identification card into the medical cannabis electronic verification system;

4) Verify that the qualifying patient or designated caregiver has a current authorization by DPH to purchase medical cannabis;

5) Verify that the amount of medical cannabis the qualifying patient or designated caregiver is requesting would not cause the qualifying patient to exceed the limit on obtaining no more than two and one-half ounces of medical cannabis during any 14-calendar-day period, unless approved by DPH; and

6) Enter the following information into the medical cannabis electronic verification system for the qualifying patient or designated caregiver:

A) The dispensing organization agent's registry identification number;

B) The dispensing organization's registry identification number;

C) The amount, type and strain of medical cannabis dispensed;

D) Identity of the individual to whom the medical cannabis was dispensed, whether the qualifying patient or the qualifying patient's designated caregiver; and

E) The date and time the medical cannabis was dispensed.

b) Any dispensary that sells edible cannabis-infused products must do so in compliance with the Act and this Part.

Section 1290.435 Signage

Any dispensing organization that sells edible cannabis-infused products must display a placard that states the following: "Edible cannabis-infused products were produced in a kitchen not subject to public health inspections that may also process common food allergens." The placard shall be no smaller than 24 inches tall by 36 inches wide, with typed letters no smaller than 2 inches. The placard shall be clearly visible and readable by customers and shall be written in English. (Section 80(a) of the Act) The signage shall be placed in the area where edible cannabis-infused products are sold, and may be translated into additional languages as needed.

Section 1290.440 Recall of Medical Cannabis

a) A dispensing organization must establish a policy for communicating a recall for cannabis or a cannabis-derived product that has been shown to present a reasonable or a remote probability that use of or exposure to the product will cause serious adverse health consequences. This policy should include:

1) A mechanism to contact all customers who have, or likely have, obtained the product from the dispensary. The communication must include information on the policy for return of the recalled product;

2) A mechanism to contact the cultivation center or vendor that manufactured the cannabis;

3) Communication with the Division, DOA and DPH within 24 hours; and

4) Outreach via media, as necessary and appropriate.

b) Any recalled cannabis product must be disposed of by the dispensing organization.

Section 1290.445 Report of Loss or Theft of Cannabis

a) Any principal officer or agent of a dispensing organization shall promptly document and report any loss or theft of cannabis from the dispensary to the appropriate ISP District and the Division.

b) The dispensing organization shall promptly make the report to the Division by phone, and in writing deposited in the U.S. mail, postage prepaid, within 48 hours after having reasonable cause to believe that cannabis has been lost or stolen from the dispensary or of the discovery of the loss or theft.

c) The report to the Division shall include the name and address of the dispensary, the amount and type of cannabis lost or stolen, the circumstances surrounding the loss or theft, the date and time of the loss or theft, the date the loss or theft was discovered, the person who discovered the loss or theft and the person responsible for the loss or theft if known and any other information that the reporter believes might be helpful in establishing the cause of the loss or theft.

d) Persons required to make reports or cause reports to be made under this Section include the dispensing organization and employees of the State of Illinois who are involved in investigating or regulating dispensaries if the report has not been made by the dispensary organization.

e) In addition to the persons required to report loss or theft of cannabis, any other person may make a report to the Division, or to any law enforcement officer, if the person has reasonable cause to suspect loss or theft of cannabis.

f) A person required to make reports or cause reports to be made under this Section who fails to comply with the requirements of this Section is guilty of, at a minimum, a Class A misdemeanor.

g) The Division shall initiate an administrative investigation of each report of loss or theft under the Act and this Part.

h) If, during the investigation of a report made pursuant to this Section, the Division obtains information indicating possible criminal acts, the Division shall refer the matter to the appropriate law enforcement agency for further investigation or prosecution. The Division shall make the entire file of its investigation available to the appropriate law enforcement agencies.

Section 1290.450 Destruction and Disposal

a) Cannabis and cannabis-infused products must be destroyed by rendering it unusable following the methods set forth in this Section.

b) At least seven days prior to rendering cannabis unusable and disposing of it, the dispensing organization shall notify the Division and ISP. Notification shall include the date and time the cannabis will be rendered unusable and disposed. If the dispensing organization's policy designates the destruction of cannabis on the same day and time weekly, communication of that day and time shall be sufficient to comply with this subection (b). Any change in the date and time must be communicated to the Division and ISP.

c) The allowable method to render cannabis waste unusable is by grinding and incorporating the cannabis waste with other ground materials so the resulting mixture is at least 50% non-cannabis waste by volume. Other methods to render cannabis waste unusable must be approved by the Division before implementation. Material used to grind with the cannabis falls into two categories, compostable waste and non-compostable waste.

1) Compostable Mixed Waste: Cannabis waste to be disposed as compost feedstock or in another organic waste method (for example, anaerobic digester) may be mixed with the following types of waste materials:

A) Food waste;

B) Yard waste;

C) Vegetable based grease or oils; or

D) Other wastes as approved by the Division (e.g., agricultural material, biodegradable products and paper, clean wood, fruits and vegetables, plant matter).

2) Non-compostable Mixed Waste: Cannabis waste to be disposed in a landfill or by another disposal method may be mixed with the following types of waste materials:

A) Paper waste;

B) Cardboard waste;

C) Plastic waste;

D) Soil; or

E) Other wastes as approved by the Division (e.g., non-recyclable plastic, broken glass, leather).

d) Cannabis waste rendered unusable following the methods described in this Section can be disposed. Disposal of the cannabis waste rendered unusable may be delivered to a permitted solid waste facility for final disposition. Examples of acceptable permitted solid waste facilities include:

1) Compostable Mixed Waste: Compost, anaerobic digester or other facility with approval of the jurisdictional health department.

2) Non-compostable Mixed Waste: Landfill, incinerator or other facility with approval of the jurisdictional health department.

e) All waste and unusable product shall be weighed, recorded and entered into the inventory system prior to rendering it unusable. Verification of this event shall be performed by an agent-in-charge and conducted in an area with video surveillance.

f) Electronic documentation of destruction and disposal shall be maintained for a period of at least five years.

Section 1290.455 Dispensary Advertisements

a) No registered dispensing organization shall place or maintain, or cause to be placed or maintained, an advertisement of cannabis or a cannabis-infused product in any form or through any medium:

1) Within 1,000 feet of the perimeter of a school grounds, playground, recreation center or facility, child care center, public park or library, or any game arcade admission to which is not restricted to persons age 21 years or older;

2) On or in a public transit vehicle or public transit shelter; or

3) On or in a publicly-owned or-operated property.

b) This Section does not apply to a noncommercial message.

Section 1290.460 Closure of a Dispensary

If a dispensing organization decides not to renew its registration or decides to close its business, it shall promptly notify the Division, not less than three months prior to the effective date of the closing date or as otherwise authorized by the Division.

Section 1290.465 Zoning Rules Related to Dispensary

No local municipality or jurisdiction shall impose zoning ordinances, special use permits, conditions or requirements that conflict with the Act or this Part, that concern or address issues or subject matters that are within the regulatory jurisdiction of the Division, or that would otherwise place unreasonable restrictions on the location of dispensaries contrary to the mandate of the Act that dispensing *organizations shall be geographically dispersed throughout the State to allow all registered qualified patients reasonable proximity and access to a dispensing organization.* (Section 115(a) of the Act.)

SUBPART H: DISCIPLINE

Section 1290.500 Investigations

a) Dispensing organizations are subject to random and unannounced dispensary inspections and cannabis testing by the Division and ISP.

b) The Division and its authorized representatives may enter any place, including a vehicle, in which cannabis is held, stored, dispensed, sold, produced, delivered, transported, manufactured or disposed of and inspect in a reasonable manner, the place and all pertinent equipment, containers and labeling, and all things including records, files, financial data, sales data, shipping data, pricing data, personnel data, research, papers, processes, controls and facility, and inventory any stock of cannabis and obtain samples of any cannabis or cannabis product, any labels or containers for cannabis, or paraphernalia.

c) The Division may conduct an investigation of an applicant, application, dispensing organization, principal officer, dispensary agent, third party vendor or any other party associated with a dispensing organization for an alleged violation

of the Act or this Part or to determine qualifications to be granted a registration by the Division.

d) The Division may require an applicant or dispensing organization to produce documents, records or any other material pertinent to the investigation of an application or alleged violations of the Act or this Part. Failure to provide the required material may be grounds for denial or discipline.

e) Every person charged with preparation, obtaining or keeping records, logs, reports or other documents in connection with the Act and this Part, and every person in charge, or having custody, of those documents shall, upon request by the Division, make the documents immediately available for inspection and copying by the Division, the Division's authorized representative or others authorized by law to review the documents.

f) All information collected by the Division in the course of an examination, inspection or investigation of a registrant or applicant, including, but not limited to, any complaint against a registrant filed with the Division and information collected to investigate a complaint, shall be maintained for the confidential use of the Division and shall not be disclosed, except as otherwise provided in the Act.

Section 1290.510 Grounds for Discipline

a) The Division, after notice to the registrant, may place on probation, temporarily suspend, suspend, refuse to issue or renew or revoke a dispensing organization registration or agent identification card in any case in which the Division finds any of the following:

1) Material misstatement in furnishing information to the Division;

2) Violations of the Act or this Part;

3) Obtaining an authorization or registration by fraud or misrepresentation;

4) A pattern of conduct that demonstrates incompetence or unfitness;

5) Aiding or assisting another person in violating any provision of the Act or this Part;

6) Failing to respond to a written request for information by the Division within 30 days;

7) Engaging in unprofessional, dishonorable or unethical conduct of a character likely to deceive, defraud or harm the public;

8) Discipline by another U.S. jurisdiction or foreign nation;

9) A finding by the Division that the registrant, after having his or her registration placed on suspended or probationary status, has violated the terms of the suspension or probation;

10) Conviction, entry of a plea of guilty, nolo contendere or the equivalent in a state or federal court of a principal officer or agent-in-charge to an excluded offense, a felony, or of two or more misdemeanors involving moral turpitude during the previous five years as shown by a certified copy of a court record;

11) Excessive use or addiction to alcohol, narcotics, stimulants or any other chemical agent or drug;

12) A finding by the Division of a substantial discrepancy in a Division audit of medical cannabis;

13) A finding by the Division of a substantial discrepancy in a Division audit of capital or funds;

14) A finding by the Division of acceptance of medical cannabis from a source other than a cultivation center registered by DOA;

15) An inability to operate using reasonable judgment, skill or safety due to physical or mental illness or other impairment or disability, including without limitation, deterioration through the aging process or loss of motor skills or mental incompetence;

16) Failing to report to the Division within the timeframes established, or if not identified, 14 days, of any adverse final action taken against the dispensing organization or an agent by a licensing jurisdiction in any state

or any territory of the United States or any foreign jurisdiction, any governmental agency, any law enforcement agency or any court defined in this Section;

17) Failing to comply with a subpoena issued by the Division;

18) Failure to promptly inform the Division of any change of address;

19) Disclosing customer names, personal information or protected health information in violation of any State or federal law;

20) Operating a dispensary before obtaining a registration from the Division;

21) Dispensing cannabis to any person other than a qualifying patient or designated caregiver with a valid registry identification card;

22) A principal officer or agent-in-charge failing to report to the Division when he or she knows or should have known that an agent was using medical cannabis when the agent does not have a qualifying patient registry identification card;

23) Dispensing cannabis when prohibited by the Act or this Part;

24) Any fact or condition which, if it had existed at the time of the original application for the registration, would have warranted the denial of the registration;

25) Permitting a person without a valid agent identification card to be employed by the dispensing organization;

26) Failure to assign an agent-in-charge as required by this Part;

27) Personnel insufficient in number or unqualified in training or experience to properly operate the dispensary business;

28) Any pattern of activity that causes a harmful impact on the community; and

29) Failing to prevent diversion, theft or loss of medical cannabis.

b) If the Division determines that the dispensing organization committed a violation, the Division may take any disciplinary or non-disciplinary action as the Division may deem proper, including fines not to exceed $10,000 for each violation.

c) If the Division determines that a person holds an interest in more than five dispensary registrations in violation of this Part, the Division will suspend the registrations of all dispensaries held by that person until the person is divested from all dispensing organizations that exceed the limit provided for in this Part.

d) A notice of violation issued by the Division shall include a clear and concise statement of each violation, the statute or rule violated, the discipline sought and a notice of opportunity for hearing.

e) If a dispensing organization contests the violation, it shall provide written notice to the Division requesting a hearing within 10 days after service of the notice of violation.

f) Upon receipt of the request for hearing, the Division shall confirm receipt of the notice and hold an administrative hearing as provided in the Act and this Part.

g) If a dispensing organization does not contest a revocation notice, it may surrender its registration by written notice to the Division and return its registration.

h) The effective date of nonrenewal or revocation of a registration by the Division shall be any of the following:

1) Until otherwise ordered by the circuit court, revocation is effective on the date set by the Division in the revocation notice, or upon final action after hearing under the Act and this Part, whichever is later;

2) Until otherwise ordered by the circuit court, nonrenewal is effective on the date of expiration of the existing registration, or upon final action after hearing under the Act and this Part, whichever is later; however, a registration shall not be deemed to have expired if the Division fails to respond to a timely request for renewal under this Act or for a hearing to contest nonrenewal under this Part.

i) All fines imposed under this Section shall be paid within 60 days after the effective date of the order imposing the fine or as otherwise specified in the order.

j) A circuit court order establishing that an agent-in-charge or principal officer holding a registration is a person in need of mental health treatment may operate as a suspension of the registration.

Section 1290.520 Temporary Suspension

a) The Director may temporarily suspend a registration or an agent registration without a hearing if the Director finds that public safety or welfare requires emergency action. The Director shall cause the temporary suspension by issuing a suspension notice in connection with the institution of proceedings for a hearing.

b) If the Director temporarily suspends a registration or an agent registration without a hearing, the registrant is entitled to a hearing within 45 days after the suspension notice has been issued. The hearing shall be limited to the issues cited in the suspension notice, unless all parties agree.

c) If the Division does not hold a hearing within 45 days after the date the suspension notice was issued, then the suspended registration shall be automatically reinstated and the suspension vacated.

d) The suspended registrant may seek a continuance of the hearing date, during which time the suspension remains in effect and the registration shall not be automatically reinstated.

e) Subsequently discovered causes of action by the Division after the issuance of the suspension notice, may be filed as a separate notice of violation. The Division is not precluded from filing a separate cause of action against the suspended registrant.

Section 1290.530 Consent to Administrative Supervision Order

In appropriate cases, the Division may resolve a complaint against a registrant through the issuance of a consent order for administrative supervision. A registrant subject to a consent order shall be considered by the Division to hold a registration in good standing.

Section 1290.540 Subpoenas; Oaths; Attendance of Witnesses

a) The Director or hearing officer may compel by subpoena or subpoena duces tecum the attendance and testimony of witnesses and the production of documents and records pertinent to any inquiry, verification or enforcement action. The fees and mileage shall be paid in the same manner as prescribed in civil cases in the courts of this State.

b) The Director, the hearing officer or a certified shorthand court reporter may administer oaths at any Division-ordered hearing. Notwithstanding any other statute or Division rule to the contrary, all requests for testimony or production of documents or records shall be in accordance with the Act, Civil Administrative Code [20 ILCS 5], the Division's hearing rules (68 Ill. Adm. Code 1110) and this Part.

Section 1290.550 Request for Hearing

The Division shall carry out a request for hearing by an aggrieved person as follows:

a) Upon receipt of a request in writing for a hearing, the hearing officer shall conduct a hearing to review the contested violation.

b) Before the hearing is held, notice of the hearing shall be sent by the hearing officer to the person making the request for the hearing and to the person who issued the contested violation. In the notice the hearing officer shall specify the date, time and place of the hearing that shall be held not less than 10 days after the notice is served. The notice shall designate the violation being reviewed. The notice may be served by delivering it personally to a party or its representative or by mailing it regular and certified mail to the party's address on file with the Division.

Section 1290.560 Findings and Recommendations

a) At the conclusion of a hearing, the hearing officer shall present the Director with a written report of the findings of fact, conclusions of law and recommendations. The report shall state whether the hearing officer finds the respondent liable or not liable. If the hearing officer finds the respondent liable, the hearing officer shall specify the violations. The hearing officer shall promptly serve a copy of the written report on the respondent.

b) The report of findings of fact, conclusions of law and recommendation of the hearing officer shall be a basis for the Director's order refusing to issue, restore or renew a registration, or otherwise discipline a registrant. If the Director disagrees with the recommendations of the hearing officer, the Director may issue an order in contravention of the hearing officer's recommendations. The finding is not admissible as evidence against the person in a criminal prosecution brought for a violation of this Act, but the hearing and finding is not a bar to a criminal prosecution brought for a violation of this Act.

Section 1290.570 Restoration of Registration from Discipline

At any time after the successful completion of a term of indefinite probation, suspension or revocation of a registration, the Division may restore the registration to active status, unless, after an investigation, the Director determines that restoration is not in the public interest. No person or entity whose registration has been revoked may apply for restoration, unless provided for in the Civil Administrative Code of Illinois.

Section 1290.575 Appointment of a Hearing Officer

The Director has the authority to appoint any attorney licensed to practice law in the State of Illinois to serve as the hearing officer in any action for refusal to issue, restore or renew a registration or to discipline a registrant. The hearing officer has full authority to conduct the hearing.

Section 1290.580 Transcript; Record of Proceedings

The Division shall preserve a record of proceedings at the hearing of any case. The notice of hearing, notice of violation and all other documents in the nature of pleadings and written motions filed in the proceedings, the transcript of testimony, the report of the hearing officer, and the orders of the Division shall be the record of the proceedings.

Section 1290.590 Certification of Record; Receipt

The Division shall not be required to certify any record to the court, to file an answer in court or otherwise to appear in any court in a judicial review proceeding until the Division has received payment of the costs of furnishing and certifying the record from the plaintiff, costs that shall be determined by the Division. Failure on the part of the plaintiff to file a receipt in court is grounds for dismissal of the action.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED RULES

SUBPART I: GENERAL

Section 1290.600 Intergovernmental Cooperation

a) Whenever the Division revokes or suspends a registration, it shall notify ISP, DOA, DPH and the police department or sheriff's office whose jurisdiction includes the registrant's dispensing location.

b) If ISP, any municipality, township, county or local law enforcement agency takes action relating to the operation of the registrant's dispensing location, it shall notify the Division of the action taken and the reason for the action within five days.

Section 1290.610 Variances

a) The Director may grant variances from this Part in cases in which:

1) The applicable provision is not statutorily mandated;

2) No party will be injured by the granting of the variance; and

3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

b) An approval for a variance may be revocable, may be granted for a limited period of time or may be granted subject to the conditions as the Director may prescribe.

Section 1290.620 Administrative Decisions

Final administrative decisions of the Division are subject to judicial review under the Administrative Review Law [735 ILCS 5/Art III]. The term "administrative decision" is defined as in Section 3-101 of the Code of Civil Procedure.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Program Description

2) Code Citation: 89 Ill. Adm. Code 676

3)

Section Numbers:	Adopted Action:
676.30	Amendment
676.40	Amendment

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]

5) Effective Date of Rule: July 25, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated is on file in the Agency's principal office and is available for public inspection.

9) Notices of Proposal published in the *Illinois Register*: March 14, 2014; 38 Ill. Reg. 5935

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: DHS made only non-substantive changes to this rule.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking pertains to the Home Services Program, under Division of Rehabilitation Services. The Centers for Medicare and Medicaid Services (federal CMS) has determined the physician certification requirement for HSP eligibility is not necessary and is requiring its removal from HSP rules. DHS will remove the physician certification requirement in this rulemaking.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

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

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

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 676
PROGRAM DESCRIPTION

SUBPART A: GENERAL PROGRAM PROVISIONS

Section
676.10 Program Purpose and Types
676.20 General Program Accessibility
676.30 Definitions
676.40 Service Description

SUBPART B: CASE MANAGEMENT

Section
676.100 Case Files (Repealed)
676.110 Sharing of Customer Information Between HSP and Other DHS Programs
676.120 Documentation of Information
676.130 Customer Signatures and Information Required to Receive Services Under the HSP
676.140 Application by DHS-ORS Employees, Individuals Holding Contracts with DHS, DHS-ORS Advisory Council Members, Family Members of DHS-ORS Employees, or Close Friends of DHS-ORS Employees
676.150 Geographic Case Assignment

SUBPART C: VENDOR PAYMENT

Section
676.200 Vendor Payment
676.210 Reporting and Collection of Misspent Funds

SUBPART D: REFERRAL TO DEPARTMENT ON AGING (DoA)

Section
676.300 Criteria for Referral to DoA
676.310 Disposition of Cases not Appropriate for Referral to DoA

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5095, effective March 21, 1995; amended at 20 Ill. Reg. 6315, effective April 18, 1996; amended at 21 Ill. Reg. 2678, effective February 7, 1997; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 19563, effective October 23, 1998; amended at 23 Ill. Reg. 6445, effective May 17, 1999; amended at 23 Ill. Reg. 13874, effective November 8, 1999; amended at 24 Ill. Reg. 2681, effective February 2, 2000; amended at 28 Ill. Reg. 6445, effective April 8, 2004; amended at 31 Ill. Reg. 12602, effective August 16, 2007; emergency amendment at 35 Ill. Reg. 12105, effective July 15, 2011, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 15626, effective September 15, 2011 for the remainder of the 150 days; emergency amendment at 38 Ill. Reg. 6453, effective February 28, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16958, effective July 25, 2014.

SUBPART A: GENERAL PROGRAM PROVISIONS

Section 676.30 Definitions

For the purposes of this Subchapter, unless otherwise stated, the following terms shall have the following meanings.

a) Activities of Daily Living or (ADLs) – those tasks an individual must do, or thatwhich an individual must have provided for him/her, in order to prevent institutionalization (i.e., bathing, dressing, shopping, cooking, housekeeping, etc.).

b) Customer—

1) A customer is anyone who:

A1) has been referred to HSP for a determination of eligibility for services;

B2) has applied for services through HSP;

C3) is receiving services through HSP; or

D~~4~~) has received services through HSP.

2) If the customer is unable to satisfy any of his/her obligations under the HSP, including, without limitation, the obligation to serve as the employer of the PA, the customer's parent, family member, guardian, or duly authorized representative may act on behalf of the customer and is included within the definition of "customer", as used throughout this Part.

3) For purposes of the PA services performed pursuant to the HSP, the customer shall serve as the employer of the PA. In this capacity, the customer is responsible for controlling all aspects of the employment relationship between the customer and the PA, including, without limitation, locating and hiring the PA, training the PA, directing, evaluating and otherwise supervising the work performed by the PA, imposing (when~~where~~, in the opinion of the customer, it is appropriate or necessary) disciplinary action against the PA, and terminating the employment relationship between the customer and the PA.

c) Counselor − the DHS-ORS staff person or contractual Case Manager who helps to ensure that the funds available under the HSP are properly distributed in accordance with the Service Plan, any applicable waiver programs, and all applicable laws.

d) Determination of Need or (~~(~~DON~~)~~ − the assessment tool used to determine an individual's non-financial eligibility for HSP services based on the individual's impairment and need for care. This form measures the level of risk of institutionalization for the individual.

e) DHS − Illinois Department of Human Services.

f) DPA − Illinois Department of Public Aid.

g) Family − any one related by blood, marriage, or adoption to the individual seeking services through HSP or anyone with whom the individual has a close inter-personal relationship and who resides with the individual.

h) Family Unit − for the purposes of determining financial eligibility, the number of persons derived when counting the individual seeking services through HSP and

the number of persons in the household who are legally responsible for the individual seeking services and for whom the individual seeking services is legally responsible.

i) HCFA − the federal Health Care Financing Administration.

j) Home Services Program or (HSP) − a State and federally funded program designed to allow Illinois residents, who are at risk of unnecessary or premature institutionalization, to receive necessary care and services in their homes, as opposed to being placed in an institution.

k) Home − a private residence where the customer lives thatwhich is not an intermediate care or skilled nursing facility as defined at 77 Ill. Adm. Code 300, or a residential program operated by, or for which funding is provided by, the Illinois Department of Human Services, Office of Mental Health and Office of Developmental Disabilities as defined at 59 Ill. Adm. Code 120. For the purposes of this Subchapter, the term "home" shall include domestic violence shelters as defined in Section 1(c) of the Domestic Violence Shelter Act [20 ILCS 2210/1(c)] and publicly or privately administered shelters designed to provide temporary living accommodations for persons who are homeless.

l) Intermediate Care Facility or (ICF) − a nursing facility that provides regular health related care to its residents, as well as those services necessary for safe and adequate living.

m) Legally Responsible Family Member − a spouse, parent of a child who is under age 18 or a legal guardian of an individual who is under age 18.

n) Medicaid − the Medicaid program administered by HFSDPA under the Public Aid Code [305 ILCS 5/11].

o) Medicaid Waiver − the waiver allowing HSP to claim federal reimbursement for approved levels of in-home care for individuals who would otherwise be placed in institutions for thatsuch care. The Medicaid Waiver is overseen at the federal level by HCFA.

p) Personal Assistant or (PA) − an individual employed by the customer to provide through HSP varied HSP services that have been approved by the customer's physician.

q) Personal Assistant Backup Plan − the plan developed by the customer and designed to ensure that the customer receives the necessary care and services under the HSP in the event that his/her regular PA is unavailable or unwilling to perform his/her obligations under the HSP. The customer is responsible for designating the backup personal assistant.

r) Physician − a licensed doctor of medicine (M.D.) or doctor of Osteopathy (D.O.) licensed pursuant to the Medical Practice Act [225 ILCS 60].

s) Prescreening − an assessment to determine an individual's need for institutional care at the ICF or SNF level and~~care,~~ to ensure Medicaid payment for such a placement is appropriate, and the assessment of~~as to~~ whether ~~or not~~ HSP services are an appropriate alternative to institutional care for the individual.

t) Service Cost Maximum or ~~(~~SCM~~)~~ − the maximum monthly amount that~~which~~ may be expended for HSP services for an eligible individual. This amount is determined based on the individual's DON score and the specific programmatic component of HSP through which the individual is being served.

u) Service Plan − specifically, the Home Services Program Service Plan (IL 488-1049), Home Services Program Service Plan Addendum (IL 488-1050) or the Interim Agreement (IL 488-2344) forms, on which all services to be provided to an individual through HSP are listed.

v) Services − the necessary tasks provided to an individual, in one or more of the areas listed in Section 676.40 and listed on the individual's Service Plan, through HSP with the intent of preventing the unnecessary institutionalization of the individual.

w) Skilled Nursing Facility or ~~(~~SNF~~)~~ − a facility that provides regular and on-going nursing level care to its residents due to the residents' medical conditions, as well as those services necessary for safe and adequate living.

(Source: Amended at 38 Ill. Reg. 16958, effective July 25, 2014)

Section 676.40 Service Description

The following is a listing of the services available through HSP. The service level, combination

of services, and amount of services for which a customer is eligible is dependent upon the needs of the customer as identified~~determined~~ during the determination of eligibility (see 89 Ill. Adm. Code 682).

a) Personal Assistant (PA) Services – services provided by an individual employed by the customer.~~ HSP Services provided by a PA must be approved by the customer's physician.~~

b) Adult Day Care (ADC) Services – direct care and monitoring of customers in a community-based setting for any portion of a 24-hour day for the purpose of promoting social, physical, and emotional health and well being and offering an alternative to an institutional setting. ADC services are provided only when the social, emotional, and physical needs of the customer cannot be met in the home through other available services.

c) Homemaker Services – general support provided by trained and professionally supervised individuals to maintain, strengthen, and safeguard the functioning of an individual in his/her home when no responsible person is available or capable of monitoring those~~such~~ services. Homemaker~~Such~~ services include the actual completion of, and the training in, completion of ADLs.

d) Maintenance Home Health Services – services provided for a customer, in his/her home, that are~~ in accordance with a care plan~~ prescribed or recommended by a physician or other health care professional. These services include three basic categories of care, which are:

1) direct health care provided by a registered nurse (RN) and/or a licensed practical nurse (LPN);

2) direct health care provided by a Certified Nurse Aid (CNA) who is supervised by an~~a~~ RN or LPN; and

3) in-home therapy, including the areas of physical, occupational and speech therapy.

e) Home Delivered Meals – prepared food brought to the customer's home. Usually, home delivered meals consist of a hot lunch and a smaller dinner meal that may be refrigerated and eaten later. These services are provided when available and when they are more cost effective than PA services for an eligible individual who

has a need for care in the area of meal preparation but who can adequately feed him/herself.

f) Electronic Home Response Services (EHRS) – a 24-hour per day emergency communication link to assistance outside the customer's home for customers who have no other persons available for assistance should an emergency arise.

g) Assistive Equipment – items necessary to accommodate the customer's loss of function in the completion of his/her Activities of Daily Living (ADLs). This does not include medical supplies, disposable personal hygiene items, or items necessary for medical treatment. (See 89 Ill. Adm. Code 686, Subpart H.)

h) Environmental Modification – services to physically modify the customer's home to accommodate the customer's loss of function in the completion of his/her ADLs. (See 89 Ill. Adm. Code 686, Subpart G.)

i) Respite Services – limited PA, Homemaker, and Maintenance Home Health services provided to a customer to provide for his/her ADLs during periods of time it is necessary for the family/primary care giver to be absent. Respite services are provided to a customer to allow the family/primary care giver relief for vacations, rest, errands, family crises and emergency situations. Respite services are provided in the maximum amount of 240 hours per calendar year and are provided regardless of financial need.

j) Day Habilitation Services – assistance provided to a person with a brain injury to assist with the acquisition, retention and improvement in self-help, socialization and adaptive skills. These services are provided in a setting separate from the residence in which the customer is residing.

k) Pre-Vocational Services – services provided to a person with a brain injury that are aimed at preparing the individual for paid or unpaid employment, but are not job task oriented. Specific services include teaching concepts such as compliance, attendance, task completion, problem solving and safety.

l) Supported Employment Services – services provided to a customer with a brain injury that~~,which~~ consist of paid employment for persons for whom competitive employment is unlikely, when the customer,~~who~~ because of his/~~or~~her disabilities, needs~~ need~~ intensive, ongoing support to perform in a work setting. Supported employment~~Employment~~ includes, but is not limited to, activities needed to

sustain the customer in supported employment (i.e., supervision and training).

m) Behavioral Services – remedial therapies provided to a person with a brain injury to decrease the individual's severe maladaptive behaviors. These services are intended to enable the customer to better manage his or her behavior and to make the customer~~therefore be~~ more capable of living independently.

(Source: Amended at 38 Ill. Reg. 16958, effective July 25, 2014)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Eligibility

2) Code Citation: 89 Ill. Adm. Code 682

3) Section Number: 682.100 — Adopted Action: Amendment

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]

5) Effective Date of Rule: July 25, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: March 14, 2014; 38 Ill. Reg. 5937

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: There were no substantive changes to the rulemaking between the proposed and final version.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking pertains to the Home Services Program, under Division of Rehabilitation Services. The Centers for Medicare and Medicaid Services (federal CMS) has determined the physician certification requirement for HSP eligibility is not necessary and is requiring its removal from HSP rules. DHS will remove the physician certification requirement in this rulemaking.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

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

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

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 682
ELIGIBILITY

SUBPART A: GENERAL APPLICABILITY

Section
682.10 General Applicability

SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA

Section
682.100 General Eligibility Criteria

SUBPART C: FINANCIAL ELIGIBILITY CRITERIA

Section
682.200 Assets Limitation
682.210 Transfer of Assets
682.220 Exempt Assets
682.230 Assets Held in Joint Ownership
682.240 Income Allowances (Repealed)
682.250 Cost Sharing Provisions (Repealed)
682.260 General Exceptions to Cost Share Provisions (Repealed)

SUBPART D: EFFECT OF OTHER SERVICES ON HSP

Section
682.300 Effect of Other Services on HSP

SUBPART E: REDETERMINATION OF ELIGIBILITY

Section
682.400 Redetermination Requirements
682.410 Redetermination Time Frames

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

SUBPART F: GRANDFATHERING PROVISIONS

Section
682.500 Exceptions to Eligibility Standards
682.510 Exceptions to Cost Sharing Provisions (Repealed)
682.520 Exceptions to Service Cost Maximums

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5070, effective March 21, 1995; amended at 20 Ill. Reg. 6307, effective April 18, 1996; amended at 20 Ill. Reg. 15749, effective December 3, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 2226, effective January 12, 1998; amended at 23 Ill. Reg. 3981, effective March 19, 1999; amended at 23 Ill. Reg. 14450, effective December 6, 1999; amended at 24 Ill. Reg. 7724, effective May 12, 2000; amended at 25 Ill. Reg. 6278, effective May 15, 2001; emergency amendment at 28 Ill. Reg. 15183, effective November 8, 2004, for a maximum of 150 days; emergency expired April 6, 2005; amended at 31 Ill. Reg. 428, effective December 29, 2006; emergency amendment at 38 Ill. Reg. 6463, effective February 28, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16968, effective July 25, 2014.

SUBPART B: NON-FINANCIAL ELIGIBILITY CRITERIA

Section 682.100 General Eligibility Criteria

In order to receive services through HSP a customer must:

a) be a citizen of the United States, or be an individual who is living permanently in the United States after having been legally admitted;

b) have applied for, be a recipient of, or be found eligible for Medicaid benefits through HFS and within 60 days after the date of application for HSP provide verification to the HSP counselor of the aforementioned. Customers may be found eligible for Medicaid and be placed on Spend Down. However, a customer is not required to meet the eligibility criteria for Medicaid to receive benefits, nor is Medicaid eligibility or verification of application required to receive Interim Services (see 89 Ill. Adm. Code 682). The customer must agree to apply for Medicaid, and cooperate with HFS, to receive Interim Services. Customers having

applied for HSP services prior to October 1, 1991~~,~~ may choose to apply for Medicaid;

c) be a resident of the State of Illinois;

d) be under the age of 60 at the time of application for HSP services, unless the individual is applying for services under the HSP AIDS Medicaid Waiver or under the HSP Brain Injury Medicaid Waiver, in which case there is no age criteria for application;

e) have a severe disability that~~which~~ is expected to last for at least 12 months or for the duration of life;

f) be an individual with a disability who is in need of long-term care, as determined by the DON score completed as a result of a prescreening (89 Ill. Adm. Code 679) or application for HSP services. In order to be determined to have met this criteria, the individual must receive a DON score of at least 15 points on part A, which includes, if applicable, the 10 points from the Mini-Mental Examination, with a total DON score of at least 29 points; and

~~g) with DHS assistance, obtain certification at least every two years from a physician or from a neuropsychologist for a person with a brain injury (as defined in Section 676.30(r)) that indicates the individual is in need of long-term care and this care can safely and adequately be provided in the individual's home according to the physician and the HSP Service Plan; and~~

g~~h~~) not require in-home services that are expected to cost more than the cost the State would pay for institutional care for an individual with a similar DON score.

(Source: Amended at 38 Ill. Reg. 16968, effective July 25, 2014)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Service Planning and Provision

2) Code Citation: 89 Ill. Adm. Code 684

3)

Section Numbers:	Adopted Action:
684.10	Amendment
684.75	Repealed
684.80	Amendment

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]

5) Effective Date of Rule: July 25, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: March 14, 2014; 38 Ill. Reg. 5939

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: DHS made non-substantive changes to this rulemaking.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking pertains to the Home Services Program, under Division of Rehabilitation Services. The Centers for Medicare and Medicaid Services (federal CMS) has determined the physician certification requirement

for HSP eligibility is not necessary and is requiring its removal from HSP rules. DHS will remove the physician certification requirement in this rulemaking.

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

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

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 684
SERVICE PLANNING AND PROVISION

Section
684.10 Service Plan
684.20 Procuring an Appropriate Service Provider
684.30 Family Members as Service Providers
684.40 Distribution of the Service Plan
684.50 Service Plan Content
684.60 Provision of Services
684.70 Service Planning Limitations
684.75 Required Physician's Certification of HSP Service Plan (Repealed)
684.80 Interim Services
684.90 Coordination of HSP and Other Services
684.100 Denial or Termination of HSP Services

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5129, effective March 21, 1995; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18955, effective October 1, 1998; amended at 23 Ill. Reg. 6470, effective May 17, 1999; amended at 23 Ill. Reg. 12644, effective October 4, 1999; amended at 24 Ill. Reg. 2687, effective February 2, 2000; amended at 24 Ill. Reg. 10220, effective June 27, 2000; emergency amendment at 28 Ill. Reg. 15188, effective November 8, 2004, for a maximum of 150 days; emergency expired April 6, 2005; amended at 29 Ill. Reg. 16504, effective October 17, 2005; amended at 31 Ill. Reg. 433, effective December 29, 2006; emergency amendment at 35 Ill. Reg. 12113, effective July 15, 2011, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 15634, effective September 15, 2011, for the remainder of the 150 days; emergency expired February 11, 2012; emergency amendment at 38 Ill. Reg. 6468, effective February 28, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 16973, effective July 25, 2014.

Section 684.10 Service Plan

a) All services to be provided to a customer through HSP must be necessary to meet an unmet care need of the individual or to provide relief to the caregiver for customers eligible for respite care services and listed on an~~a~~ HSP Service Plan that~~which~~ is developed for the customer and~~,~~ agreed to and signed by the customer and counselor.

b) Services provided through HSP to a customer must be:

1) safe and adequate;

2) cost effective; and

3) the most economical in terms of the customer's needs, unless a service is not available at the most economical level. In these~~such~~ instances, the next higher service level may be used as long as services remain within the Service Cost Maximum (SCM) established for the customer. Documentation of an ongoing effort to locate services at the appropriate level must be in the customer's case file.

~~c) The initial HSP Service Plan for a customer must be submitted with all other necessary forms to the customer's physician during the eligibility determination phase of the case (89 Ill. Adm. Code 682.100(g)) for the purpose of review and approval of the plan for care by the physician.~~

(Source: Amended at 38 Ill. Reg. 16973, effective July 25, 2014)

Section 684.75 Required Physician's Certification of HSP Service Plan (Repealed)

~~a) A Physician's Certification (IL 488-1780) shall be obtained from the customer's physician when:~~

~~1) the customer's initial service plan is developed (Section 684.10); and~~

~~2) at least every two years during the redetermination of eligibility.~~

~~b) The services provided to the customer shall not be interrupted while the new Physician's Certification is being secured by DHS-DRS/HSP.~~

(Source: Repealed at 38 Ill. Reg. 16973, effective July 25, 2014)

Section 684.80 Interim Services

Prior to determination of eligibility (see 89 Ill. Adm. Code 682), the customer may receive interim services while an official determination of eligibility (see 89 Ill. Adm. Code 682) is being completed if enough information exists to presumptively establish eligibility based on:

a) DON score;

b) evidence of a disability as described at 89 Ill. Adm. Code 682.100(e) based on medical documentation, counselor observation, or oral information received from a knowledgeable medical professional;

c) the customer's financial eligibility, per 89 Ill. Adm. Code 682: Subpart C; and

d) the customer~~customer's~~ meeting all eligibility criteria as listed in 89 Ill. Adm. Code 682.~~; and~~

~~e) written or verbal approval of the interim service plan from the customer's physician, or neuro-psychologist for a person with brain injury, based upon the appropriateness and safety of the interim service plan agreed to and signed by the customer and the counselor.~~

(Source: Amended at 38 Ill. Reg. 16973, effective July 25, 2014)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Provider Requirements, Type Services, and Rates of Payment

2) Code Citation: 89 Ill. Adm. Code 686

3)

Section Numbers:	Adopted Action:
686.20	Amendment
686.910	Amendment
686.930	Amendment
686.1010	Amendment
686.1025	Amendment
686.1030	Amendment

4) Statutory Authority: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]

5) Effective Date of Rule: July 25, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated is on file in the Agency's principal office and is available for public inspection.

9) Notices of Proposal published in the *Illinois Register*: March 14, 2014, 38 Ill. Reg. 5941

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: DHS made no substantive changes to the rulemaking between the proposed and final version.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? Yes

14) Are there any rulemakings pending on this Part? No

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

15) Summary and Purpose of Rulemaking: This rulemaking pertains to the Home Services Program, under Division of Rehabilitation Services. The Centers for Medicare and Medicaid Services (federal CMS) has determined the physician certification requirement for HSP eligibility is not necessary and is requiring its removal from HSP rules. DHS will remove the physician certification requirement in this rulemaking.

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

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

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER d: HOME SERVICES PROGRAM

PART 686
PROVIDER REQUIREMENTS, TYPE SERVICES, AND RATES OF PAYMENT

SUBPART A: PERSONAL ASSISTANTS

Section
686.10 Personal Assistant (PA) Requirements
686.20 Services That~~Which~~ May Be Provided by a PA
686.25 Criminal Background Check
686.30 Annual Review of PA Performance
686.40 Payment for PA Services

SUBPART B: ADULT DAY CARE PROVIDERS

Section
686.100 Adult Day Care (ADC) Provider Requirements
686.110 Services That Must Be Provided by ADC Providers
686.120 Compliance Review of ADC Providers
686.130 Appeal of Compliance Review for ADC Providers
686.140 Payment for ADC Services

SUBPART C: HOMEMAKER SERVICES

Section
686.200 Homemaker Service Provider Requirements
686.210 Services That Must Be Provided by Homemaker Service Providers
686.220 Compliance Review of Homemaker Service Providers
686.230 Appeal Rights of Homemaker Service Providers
686.235 Enhanced Rate for Health Insurance Costs
686.240 Payment Information for Homemaker Service Providers
686.250 Financial Reporting of Homemaker Service Providers
686.260 Unallowable Expenses for Homemaker Service Providers
686.270 Minimum Homemaker Costs for Homemaker Service Providers
686.280 Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

Section
686.300 Electronic Home Response Services (EHRS) Provider Requirements
686.310 Services Which Must Be Provided by EHRS Providers
686.320 Minimum Specifications for EHRS Equipment
686.330 Compliance Review of EHRS Providers
686.340 Appeal of Compliance Review for EHRS Providers
686.350 Rate of Payment for EHRS Services

SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section
686.400 Maintenance Home Health Provider Requirements
686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section
686.500 Home Delivered Meals Provider Requirements
686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

Section
686.600 Description
686.605 Criteria for the Provision of Environmental Modifications
686.608 Environmental Modification Provider Requirements
686.610 Cost of Environmental Modification (Repealed)
686.615 Environmental Modification Bidding Procedures and Requirements
686.620 Permanency of Environmental Modification
686.630 Reason for Denial of Environmental Modification
686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section
686.700 Description
686.705 Criteria for the Purchase, Rental, or Repair of Assistive Equipment
686.708 Purchase, Rental, or Repair of Assistive Equipment

686.710 Provision of Assistive Equipment (Repealed)
686.715 Assistive Equipment Provider Requirements
686.720 Verification of Receipt of Assistive Equipment (Repealed)
686.722 Assistive Equipment Bidding Procedures and Requirements
686.730 Verification of Receipt of, and Customer Satisfaction with, Assistive Equipment

SUBPART I: RESPITE CARE

Section
686.800 Respite Care Provider Requirements

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section
686.900 Program Overview
686.910 Case Management Provider Responsibilities
686.920 Provider Staffing Requirements, Qualifications, and Training
686.930 Monitoring and Liability of Provider
686.940 Provider Compliance Requirements

SUBPART K: CASE MANAGEMENT SERVICES
TO PERSONS WITH BRAIN INJURIES

Section
686.1000 Program Overview
686.1010 Case Management Provider Responsibilities
686.1020 Case Manager Staffing Requirements, Qualifications and Training
686.1025 Provisional Case Manager
686.1030 Monitoring and Liability
686.1040 Provider Compliance Requirements

SUBPART L: BEHAVIORAL SERVICES
FOR PERSONS WITH BRAIN INJURIES

Section
686.1100 Behavioral Services Provider Requirements
686.1110 Rate of Payment for Behavioral Services

SUBPART M: DAY HABILITATION SERVICES

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

FOR PERSONS WITH BRAIN INJURIES

Section
686.1200 Day Habilitation Services Provider Requirements
686.1210 Rate of Payment for Day Habilitation Services

SUBPART N: PREVOCATIONAL SERVICES
FOR PERSONS WITH BRAIN INJURIES

Section
686.1300 Prevocational Services Provider Requirements
686.1310 Rate of Payment for Prevocational Services

SUBPART O: SUPPORTED EMPLOYMENT SERVICES
FOR PERSONS WITH BRAIN INJURIES

Section
686.l400 Supported Employment Service Provider Requirements
686.1410 Rate of Pay for Supported Employment Services

686.APPENDIX A Acceptable Human Service Degrees

AUTHORITY: Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3].

SOURCE: Adopted at 19 Ill. Reg. 5104, effective March 21, 1995; amended at 20 Ill. Reg. 12479, effective August 28, 1996; recodified from the Department of Rehabilitation Services to the Department of Human Services at 21 Ill. Reg. 9325; amended at 22 Ill. Reg. 18945, effective October 1, 1998; amended at 22 Ill. Reg. 19262, effective October 1, 1998; amended at 23 Ill. Reg. 499, effective December 22, 1998; amended at 23 Ill. Reg. 6457, effective May 17, 1999; amended at 24 Ill. Reg. 7501, effective May 6, 2000; amended at 24 Ill. Reg. 10212, effective July 1, 2000; amended at 24 Ill. Reg. 18174, effective November 30, 2000; amended at 25 Ill. Reg. 6282, effective May 15, 2001; amended at 26 Ill. Reg. 3994, effective February 28, 2002; amended at 28 Ill. Reg. 6453, effective April 8, 2004; amended at 29 Ill. Reg. 16508, effective October 17, 2005; amended at 31 Ill. Reg. 14238, effective September 27, 2007; emergency amendment at 33 Ill. Reg. 7017, effective May 5, 2009, for a maximum of 150 days; emergency expired October 1, 2009; emergency amendment at 38 Ill. Reg. 6473, effective February 28, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 11519, effective May 15, 2014; amended at 38 Ill. Reg. 16978, effective July 25, 2014.

SUBPART A: PERSONAL ASSISTANTS

Section 686.20 Services ~~Which~~ That May Be Provided by a PA

A PA may perform or assist with:

a) household tasks, shopping, or personal care; and

b) incidental health care tasks ~~which~~ that do not require independent judgement, with the permission of the ~~customer's physician,~~ customer~~,~~ and/or family; and

c) monitoring to ensure the health and safety of the customer.

(Source: Amended at 38 Ill. Reg. 16978, effective July 25, 2014)

SUBPART J: CASE MANAGEMENT SERVICES TO PERSONS WITH AIDS

Section 686.910 Case Management Provider Responsibilities

a) Case Management

1) The case management agency (hereafter referred to as provider) shall receive customer referrals from hospitals, the Illinois Department of Public Health's AIDS Hotline, HSP AIDS Unit, other State and local agencies, and other referral services (e.g., doctors and individuals). The provider shall assign a case manager to each customer.

2) The case manager shall have full responsibility for the determination of eligibility, including assessment, development of plans of care, and arrangement and implementation of services to be provided. There shall be two levels of case managers: provisional case managers and case managers. Provisional case managers are those who have not achieved a competency score of 98% or greater for the on-site case reviews done by the HSP AIDS unit, per Section 686.930(d). Assessments, service plans and reassessments completed by case managers may be implemented without consultation with the HSP AIDS Unit. Provisional case managers shall submit all developed plans to the HSP AIDS Unit for approval. Approval of the plan will be based on a review to determine that: the

Determination of Need Assessment on which the plan is developed is complete and accurate; the plan meets the needs identified by the assessment; the plan does not place the customer's health and safety at risk; and the plan is cost effective compared to comparable institutional care~~; and the plan has been approved by the customer's physician~~.

3) The case manager shall have the option of using a Registered Nurse to review and advise the case manager on the health aspects of the assessment and reassessment and to act as a liaison with hospital discharge planner, physician, home health agencies and other medical provider agencies.

b) The case manager shall provide the following services:

1) initial assessment of eligibility and information gathering (89 Ill. Adm. Code 682);

2) development of a care plan and implementation (89 Ill. Adm. Code 684);

3) reassessment of level of care at least every six months for those cases in formal eligibility, three months for those cases that have been presumptively determined eligible for interim services (89 Ill. Adm. Code 684.80), or at such time when the customer's financial or physical condition or need for services changes;

4) networking/coordination/brokering services (i.e., referring and assisting the customer in obtaining other agencies' services);

5) assisting the customer when personal assistance problems develop. Documentation of these problems and the case management team's responses will be kept in the customer's case file;

6) counseling and advocacy;

7) acting as inter-agency liaison (e.g., with other DHS programs, vendors, hospitals);

8) contacting customer a minimum of three times per month, one contact being a face-to-face visit;

9) maintaining and updating customer records; and

10) monitoring the cost effectiveness of the service plan (89 Ill. Adm. Code 679.50).

c) Eligibility for AIDS Waiver

1) Within 10 working days (exceptions being 2 working days for prescreening referrals from cooperating hospitals for interim/emergency services, 5 working days for all other prescreening for interim/emergency services) after receipt of a referral, the case manager shall complete an individual's eligibility determination for the AIDS Waiver program.

2) The case manager shall determine customer eligibility for the AIDS Waiver by completing an assessment from a home visit or while the applicant is hospitalized (89 Ill. Adm. Code 682). To determine customer eligibility, the case manager will utilize the HSP Determination of Need Assessment (89 Ill. Adm. Code 682).

3) The case manager shall assess the customer's limitations in activities of daily living (ADLs) (e.g., cooking, bathing, shopping) and what resources are available to assist the customer in performing the ADLs (89 Ill. Adm. Code 682).

4) Notice of eligibility must be mailed to the HSP AIDS Unit within ten working days after the date on which a completed application is received by the case management contracting agency.

d) The case manager will provide a case action notice to each customer informing him or her of the eligibility determination, of all rights and responsibilities under the case management program, including the customer's right to request an appeal, the appeals procedures promulgated by the Department, the right to receive assistance in filing the request for appeal and information about the services of the Client Assistance Program (CAP) and how to reach CAP.

e) Service Plan

1) If the assessment demonstrates the need for intermediate care facility

(ICF), skilled nursing facility (SNF), or hospital care because of the disability of AIDS/HIV, the case manager shall develop a service plan that will allow the customer to live at home (89 Ill. Adm. Code 684.70).

2) The service plan will be retained during the time the case is opened and for five years after closure, unless an audit exception has occurred. In the case of an audit exception, the service plan will be retained until the audit exception has been resolved. Copies of the service plan will be maintained in the case management team's locations and the HSP AIDS Unit. Closed cases will be retained in the HSP Central Office.

~~3) The service plan shall be approved by the customer's physician. If the plan is not approved by the customer's physician, it cannot be implemented and the customer cannot be served under the AIDS Waiver.~~

3~~4~~) If implementation of services is delayed beyond required time limits in subsection (c) of this Section, the case manager must inform the HSP AIDS Unit and assist the customer to obtain an alternative provider.

f) Records of contact with the customer will be entered and maintained in the customer's confidential case records. All contacts, verbal or written, with or on behalf of a customer shall be documented in a confidential case record. The case manager is responsible for obtaining consents for the release of information as necessary and when required by law or regulation (Confidentiality of Records in 42 USC 290dd-2, the AIDS Confidentiality Act [410 ILCS 305]; 89 Ill. Adm. Code 505, Confidentiality of Information); and the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.).

(Source: Amended at 38 Ill. Reg. 16978, effective July 25, 2014)

Section 686.930 Monitoring and Liability of Provider

a) The HSP AIDS Unit shall monitor the provider to assure compliance with this Subpart by:

1) reviewing and approving the assessment (Section 686.910(c)). The review will be conducted pursuant to the DHS' Home Services Program (89 Ill. Adm. Code 682), the service plan and payments for services;

2) reviewing provisional case managers as set forth in subsection (d)~~ of this Section~~;

3) reviewing, on an annual basis, a random sample 10% of the cases handled in the preceding 12 months or two cases, whichever is greater;

4) the Supervisor of the AIDS Unit visiting, at least annually, all contracting case management agencies.

b) The HSP AIDS Unit shall monitor the service plans of customers served by a case manager to ensure that:

1) The case manager is monitoring the customer's case at least monthly by carrying out at least one face-to-face visit and two other contacts with the customer;

2) The case manager is reassessing the service plan at least every six months for those cases in formal eligibility and every three months for those cases which have been presumptively determined eligible;

3) Each of the reassessments undertaken by the case manager is complete and accurate;

4) Any amendments to the service plan are consistent with the findings of the reassessment; and

5) The service plan remains cost effective (i.e., the cost of the service plan is equal to or less than the State's hospital costs).~~; and~~

~~6) The service plan is approved by the customer's physician.~~

c) DHS~~-~~,ORS, Central Office quality assurance staff shall:

1) monitor the quality of the reviews conducted annually;

2) provide case reviews of selected cases Statewide; and

3) tabulate the findings from all reviews to determine accuracy levels, Statewide need for training and individual training needs.

d) All provisional case managers will work toward meeting the case manager standards within six months after receiving the HSP AIDS Unit's Case Management Training. Complete case manager status will be granted when six case file reviews attain a competency score of 98-100% using the review process described in this subsection (d).

1) The HSP AIDS Unit nurse will review three case files within three months after the date of the provisional case manager's completion of the Case Management Training for the case manager. The case manager will be present and have the case manager Training Manual.

2) The nurse will review each case file using the HSP AIDS Unit case file review quality assurance form.

3) Using the Case Management Training Manual, the nurse will discuss each deficiency with the case manager.

4) A corrective action plan will be developed by the nurse for the case manager to resolve all deficiencies in the case files.

5) The case manager will implement the corrective action plan and complete all items prior to the next review of case files.

6) The nurse will review all files noted in the corrective action plan for compliance with case management practices.

7) The above process will continue until the cases reviewed for the case manager meet a 98-100% compliance score on six case file reviews.

e) Return to Provisional Status

1) A case manager shall return to provisional status when any of the following events occur:

A~~1~~) A review of files, per this Section, results in a score of 89% or less; or

B~~2~~) Within the last year, HSP staff has made five requests for materials

that~~which~~ were not submitted on time.

2) Prior to the initiation of action to return a case manager to provisional status, the Provider of the case manager will be sent a letter outlining the issues. The Provider will have 10 days to respond. The case manager will be returned to provisional status unless the Provider can prove the event causing the action did not occur. Once a case manager is returned to provisional status he/she must complete the measures outlined in subsection (d)~~ of this Section~~.

f) Liability

1) DHS shall assume no liability for actions of the provider under the Agreement.

2) The provider shall agree to hold DHS harmless against any and all liability, loss, damage, cost or expenses arising from wrongful or negligent acts of the provider.

3) The provider shall certify that it has maintained and will maintain liability insurance coverage. Upon request, the provider shall make available policies, certificates of insurance or current letters documenting all insurance coverage.

4) The provider shall remain liable for the performance of any person, organization, unincorporated association or corporation with which it contracts.

(Source: Amended at 38 Ill. Reg. 16978, effective July 25, 2014)

SUBPART K: CASE MANAGEMENT SERVICES TO PERSONS WITH BRAIN INJURIES

Section 686.1010 Case Management Provider Responsibilities

a) Case Managers

1) The Case Manager shall receive referrals from hospitals, other health providers, and other State and local agencies.

2) The Case Manager shall have full responsibility for determining eligibility, including assessment, development of service plans, and arrangement and implementation of services to be provided.

b) The Case Manager shall provide the following services:

1) initial assessment of eligibility and information gathering (89 Ill. Adm. Code 682);

2) development of a care plan and implementation (89 Ill. Adm. Code 684);

3) reassessment of the level of care at least every six months or at such time when the customer's financial, disabling condition or need for services circumstance changes;

4) networking/coordination/brokering services (i.e., referring and assisting the customer in obtaining other agencies' services);

5) counseling and advocacy;

6) contacting the customer a minimum of one time per month;

7) maintaining and updating customer records; and

8) monitoring the cost effectiveness of the service plan (89 Ill. Adm. Code 679.50).

c) Eligibility for the Brain Injury Waiver

1) After receipt of a referral, the Case Manager shall complete an individual's eligibility determination for the Medicaid Waiver for Persons with a Brain Injury within the following timeframes:

A) 2 working days for prescreening referral from cooperating hospitals for interim/emergency services;

B) 5 working days for all other prescreening for interim/emergency services); and

C) 10 working days for an eligibility referral.

2) The Case Manager shall determine customer eligibility for the Brain Injured Waiver by completing an assessment from a home visit or while the customer is hospitalized (89 Ill. Adm. Code 682). To determine customer eligibility, the Case Manager will use the HSP Determination of Need Assessment (89 Ill. Adm. Code 682).

3) The Case Manager shall assess the customer's limitations in activities of daily living (ADLs) (e.g., cooking, bathing, shopping) and the resources available to assist the customer in performing the ADLs (89 Ill. Adm. Code 682).

d) The Case Manager will provide a case action notice to each customer informing him or her of the eligibility determination, of all rights and responsibilities under the case management program, including the customer's right to request an appeal, the appeals procedures promulgated by the Department, the right to receive assistance in filing the request for appeal and information about the services of the Client Assistance Program (CAP) and how to reach CAP. The determination notice must be mailed to the HSP office within 10 working days after the date on which a completed application is received by the Case Manager.

e) Service Plan

1) If the assessment demonstrates the customer is at risk of unnecessary or premature placement in an institution because of his/her brain injury, the Case Manager shall develop a service plan that will allow the customer to live at home (89 Ill. Adm. Code 684.70).

2) The service plan will be retained during the time the case is opened and for five years after closure, unless an audit exception has occurred. In the case of an audit exception, the service plan will be retained until the audit exception has been resolved. Copies of the service plan will be maintained in the Case Manager's location and the HSP office. Closed cases will be retained in the HSP Central Office.

~~3) The service plan shall be approved and signed by the customer's physician or neuro-psychologist. If the plan is not approved by the customer's physician or neuro-psychologist, it cannot be implemented and the~~

~~customer cannot be served under the Brain Injured Waiver.~~

3~~4~~) If implementation of services is delayed beyond required time limits in subsection (c)~~ of this Section~~, the Case Manager must inform the HSP administration and assist the customer in obtaining another provider.

f) Records of contact with customer will be entered and maintained by the Case Manager in the customer's confidential case record. All contacts, oral or written, with or on behalf of a customer shall be documented in a confidential case record. The Case Manager is responsible for obtaining consents for the release of information as necessary and when required by regulation (89 Ill. Adm. Code 505) and the Health Insurance Portability and Accountability Act (42 USC 1320(d) et seq.).

(Source: Amended at 38 Ill. Reg. 16978, effective July 25, 2014)

Section 686.1025 Provisional Case Manager

a) There shall be two levels of case management staff: Provisional Case Manager and Case Manager. A Provisional Case Manager is one who has not achieved a competency score of 98% or greater on the case reviews done by the Home Services Program (HSP) administrative staff per Section 686.1030(d). Assessments, service plans and reassessments completed by a Case Manager may be implemented without consultation with the HSP administrative staff. Provisional Case Managers shall submit all developed plans to HSP for approval. Approval of the plan will be based on a review to determine that: the DON assessment on which the plan is developed is complete and accurate; the plan meets the needs identified by the assessment; and the plan is cost effective compared with comparable institutional care~~; and the plan has been approved by the customer's physician or neuro-psychologist~~.

b) All Provisional Case Managers will work toward meeting Case Manager standards within six months after receiving the HSP Case Manager Training. Case Manager status will be granted when six case file reviews attain a competency score of 98-100% using the review process described in this subsection (b).

1) The HSP administrative staff will review three case files within three months from the end date of the Case Manager Training. The Case

Manager will be present and have the Case Manager Training Manual.

2) The HSP staff will review each case using the HSP case file review quality assurance form.

3) Using the Case Manager Training Manual, HSP staff will discuss each deficiency with the Case Manager.

4) A corrective action plan will be developed by HSP staff for the Case Manager to resolve all deficiencies in the case file.

5) The Case Manager will implement the corrective action plan and complete all items prior to the next review of the case files.

6) HSP staff will review all files noted in the corrective action plan for compliance with case management practices.

7) The above process will continue until the cases reviewed for the Case Manager meet a 98-100% compliance score on six case file reviews.

c) Return to Provisional Status

1) A Case Manager shall return to provisional status when any of the following events occur:

A~~1~~) A review of files, per this Section, results in a score of 89% or less; or

B~~2~~) Within the last year, HSP staff have made five requests for materials that were not submitted on time.

2) Prior to the initiation of action to return a Case Manager to provisional status, the Case Manager will be sent a letter outlining deficiencies and shortcomings. The Case Manager will have 10 days to respond. The Case Manager will be returned to provisional status unless the Case Manager can prove the Department is incorrect.

(Source: Amended at 38 Ill. Reg. 16978, effective July 25, 2014)

Section 686.1030 Monitoring and Liability

a) The HSP staff shall monitor the Case Manager to assure compliance with this Subpart by:

1) reviewing Provisional Case Managers as set forth in subsection (d)~~ of this Section~~;

2) reviewing, on an annual basis, a random sample of 10% of the cases handled in the preceding 12 months or two cases, whichever is greater; and

3) visiting, at least annually, all contracting case management agencies.

b) The HSP supervisory staff shall monitor the service plans of customers served by a Case Manager to ensure that:

1) The Case Manager is monitoring the customer's case by carrying out at least one contact monthly;

2) The Case Manager is reassessing the service plan at least every six months;

3) Each of the reassessments undertaken by the Case Manager is complete and accurate;

4) Any amendments to the service plan are consistent with the findings of the reassessment; and

5) The service plan remains cost effective (i.e., the cost of the service plan is equal to or less than the State's costs for nursing facility care).~~; and~~

~~6) The service plan is approved by the customer's physician or neuro-psychologist.~~

c) Liability

1) DHS is not liable for actions of the Case Manager and the Case Manager must agree to hold DHS harmless against any and all liability, loss,

damage, costs or expenses arising from wrongful or negligent acts of the Case Manager.

2) The Case Management provider shall certify that it has maintained and will maintain liability insurance coverage. Upon request, the Case Management provider shall make available policies, certificates of insurance or current letters documenting all insurance coverage.

3) The Case Management agency shall remain liable for the performance of any person, organization, unincorporated association or corporation with which it contracts.

(Source: Amended at 38 Ill. Reg. 16978, effective July 25, 2014)

ILLINOIS LIQUOR CONTROL COMMISSION

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Public Information, Rulemaking, and Organization

2) Code Citation: 2 Ill. Adm. Code 2075

3) Section Number: 2075.200 Proposed Action: Amend

4) Statutory Authority: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/15-16] and authorized by Section 3-12(a)(2) of the Liquor Control Act [235 ILCS 5/3-12(a)(2)]

5) Effective Date of Rule: August 4, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: Under Section 5-15 of the Illinois Administrative Procedure Act, required rules are adopted when filed and are not subject to 1st or 2nd Notice requirements.

10) Has JCAR issued a Statement of Objection to this rulemaking? JCAR review is not required.

11) Differences between Proposal and Final Version: Under Section 5-15 of the Illinois Administrative Procedure Act, required rules are adopted when filed and are not subject to 1st or 2nd Notice requirements.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? None

13) Will this rulemaking replace any emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

ILLINOIS LIQUOR CONTROL COMMISSION

NOTICE OF ADOPTED AMENDMENT

15) Summary and Purpose of Rulemaking: The adopted amendments allow the Commission to delegate to the administrative staff of the Commission the authority to act on its behalf by an official act.

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

Richard Haymaker
Liquor Control Commission
100 W. Randolph, Suite 7-801
Chicago IL 60601

312/814-1804

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

ILLINOIS LIQUOR CONTROL COMMISSION

NOTICE OF ADOPTED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION
SUBTITLE E: MISCELLANEOUS STATE AGENCIES
CHAPTER XXIV: ILLINOIS LIQUOR CONTROL COMMISSION

PART 2075
PUBLIC INFORMATION, RULEMAKING AND ORGANIZATION

SUBPART A: PUBLIC INFORMATION

Section
2075.10 Submissions and Requests
2075.20 Materials Which can be Inspected

SUBPART B: RULEMAKING

Section
2075.100 Current Rulemaking Procedures

SUBPART C: ORGANIZATION

Section
2075.200 Current Description of Agency's Organization

2075.APPENDIX A RuleMaking Chart
2075.APPENDIX B Organization Chart

AUTHORITY: Implementing Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/15-16] and authorized by Section 3-12(a)(2) of the Liquor Control Act [235 ILCS 5/3-12(a)(2)].

SOURCE: Public Information Rules adopted at 3 Ill. Reg. 1, p. 177, effective December 26, 1978; Rulemaking Rules adopted at 3 Ill. Reg. 1. p. 173, effective December 26, 1978; amended at 7 Ill. Reg. 7946; effective June 17, 1983; Organization Rules adopted at 3 Ill. Reg. 1, p. 170, effective December 26, 1978; codified at 8 Ill. Reg. 15929; amended at 20 Ill. Reg. 7511, effective June 1, 1996; amended at 23 Ill. Reg. 12677, effective October 4, 1999; amended at 27 Ill. Reg. 17380, effective November 10, 2003; amended at 38 Ill. Reg. 16997, effective August 4, 2014.

SUBPART C: ORGANIZATION

ILLINOIS LIQUOR CONTROL COMMISSION

NOTICE OF ADOPTED AMENDMENT

Section 2075.200 Current Description of Agency's Organization

a) The Illinois Liquor Control Commission consists of 7 members, the Chairman and 6 Commissioners, who are appointed by the Governor with the advice and consent of the Senate.

b) The Secretary of the Commission, who is appointed by the Governor, keeps a record of all proceedings, transactions, communications and official acts of the Commission and is the custodian of all records and performs such other duties as the Commission may prescribe.

c) The Administrative head of the Commission is the Executive Director, appointed by the Governor, who reports directly to the 7 members.

d) The Chief of Investigations oversees the activities of the Liquor Control Special Agents and reports directly to the Executive Director.

e) The Chief Technical Advisor is the legal consultant for the Commission and reports directly to the Executive Director.

f) Support staff consists of such Attorneys, inspectors, clerks and other employees as may be necessary to carry out the provisions of the Illinois Liquor Control Act or to perform the duties and exercise the powers conferred by law upon the Commissioners, and are also directly accountable to the Executive Director.

g) The Liquor Control Special Agents investigate complaints made against licensees and conduct routine inspections of licensees and are accountable to the Chief of Investigations.

h) The Commission may delegate to the administrative staff of the Commission the authority to act on its behalf.

i) Any such delegation of authority to the administrative staff of the Commission should occur by an official act of the Commission.

AGENCY NOTE: For organization chart, see Appendix B.

(Source: Amended at 38 Ill. Reg. 16997, effective August 4, 2014)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Revocation Procedures for Conservation Offenses

2) Code Citation: 17 Ill. Adm. Code 2530

3)

Section Numbers:	Adopted Action:
2530.10	Amendment
2530.20	Amendment
2530.35	Renumbered/Amendment
2530.40	Amendment
2530.50	Amendment
2530.60	Amendment
2530.220	Amendment
2530.230	Amendment
2530.240	Amendment
2530.245	Amendment
2530.250	Amendment
2530.255	Amendment
2530.260	Amendment
2530.270	Amendment
2530.275	New Section
2530.280	Amendment
2530.300	Renumbered/Amendment
2530.310	Amendment
2530.320	Repealed
2530.330	Renumbered
2530.340	Renumbered
2530.350	Repealed
2530.355	New Section
2530.360	Amendment
2530.370	Amendment
2530.380	Amendment
2530.390	Amendment
2530.410	Amendment
2530.420	Amendment
2530.470	Amendment
2530.482	Amendment
2530.484	Amendment
2530.486	Amendment
2530.490	Repealed

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

2530.500	Amendment
2530.600	Amendment
2530.610	New Section
2530.800	New Section
2530.810	New Section
2530.820	New Section
2530.830	New Section
2530.840	New Section
2530.850	New Section

4) Statutory Authority: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100] and authorized by Sections 5-625, 805-545 and 805-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625, 805/805-545 and 805-550]

5) Effective Date of Rule: July 25, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including all material incorporated by reference, is on file in the Department of Natural Resources' principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: April 4, 2014, 38 Ill. Reg. 7450

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The following is a list of changes made to the rulemaking. Minor changes to correct spelling, punctuation and grammatical errors are not listed:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

The title of SUBPART C was changed to: DEPARTMENT INITIATED REVOCATIONS/SUSPENSIONS BASED UPON COURSE OF CONDUCT

Section 2530.320 was Repealed.

A new Section 2530.355 – General Procedures of Hearings, was added.

A new Section 2530.800 - Applicability, was added which resulted in the subsequent Sections being relabeled as follows:

"2530.800" relabeled to "2530.810"
"2530.810" relabeled to "2530.820"
"2530.820" relabeled to "2530.830"
"2530.830" relabeled to "2530.840"
"2530.840" relabeled to "2530.850"

In the Authority Note, a reference to "805-518" of the Civil Administrative Code was added.

New subsections 2530.10(c), (d) and (e) were added and the subsequent subsections relabeled.

Subsection 2530.280(e) was removed.

Subsections 2530.310(c) and (d) were removed.

Section 2530.320 was repealed.

Subsection 2530.420(f) – replaced "Complaints" with "Revocations/Suspensions".

Subsection 2530.470(b)(8) was added.

Subsection 2530.486 - after "party" added "or for administrative review".

Subsection 2530.610(a) – 1st column, 1st row of the table, changed "Eviction from State property" to "Notice of Eviction from Department lands".

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 2530.810(b)(3), changed "chapter and section number" to "the citation" and changed "statute" to "portions of the State or federal statute, the Illinois Administrative Code or the Code of Federal Regulations".

Subsection 2530.830 – changed "130.15 (Gaming on Department of Natural Resources Properties)" to "130.150 (Camping on Department of Natural Resources Properties)".

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part was amended in conjunction with PA 97-1136. Changes were made to clarify procedures and ensure consistency and fairness in revocation and suspensions of licenses and privileges governed by the Department. Procedures on eviction from Department lands [20 ILCS 805/805-518] have also be added.

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

Shelly Knuppel, Legal Counsel
Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

217/782-1809

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER f: ADMINISTRATIVE SERVICES

PART 2530
REVOCATION PROCEDURES
FOR CONSERVATION OFFENSES

SUBPART A: GENERAL RULES

Section
2530.10 Applicability
2530.20 Definitions
2530.30 Filing
2530.35 Parties
2530.40 Documents
2530.50 Computation of Time
2530.60 Appearances

SUBPART B: SUMMARY REVOCATION/SUSPENSION
BASED ON ACCUMULATION OF POINTS

Section
2530.110 Applicability (Recodified)
2530.130 Rules Proposed by Member of Public (Recodified)
2530.140 Authorization of Hearing (Recodified)
2530.150 Notice of Hearing (Recodified)
2530.160 Hearing Officer (Recodified)
2530.180 Written Submission (Recodified)
2530.190 Record (Recodified)
2530.200 Revision of Proposed Rules (Recodified)
2530.210 Filing and Publication of Final Rules (Recodified)
2530.220 Applicability
2530.230 Point System
2530.240 Points
2530.245 Single Incident Rule
2530.250 Groups
2530.255 Types of Offenses
2530.260 Computation of Suspension Period

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

2530.270 Summary Revocation/Suspension Procedures
2530.275 Notice of Revocation/Suspension
2530.280 Request for Hearing to Appeal Summary Revocation/Suspension~~and Hearing~~

SUBPART C: DEPARTMENT INITIATED REVOCATIONS/SUSPENSIONS BASED UPON COURSE OF CONDUCT~~COMPLAINT~~

Section
2530.300~~340~~ ~~Notice and Complaint (~~Department Initiated Revocation/Suspension Based Upon Course of Conduct~~ Proceeding)~~
2530.310 Applicability
2530.320 General Procedures (Repealed)
2530.330 Parties (Renumbered)
2530.340 Notice and Complaint (Department Initiated Proceeding) (Renumbered)

SUBPART D: HEARINGS OF CONTESTED CASES

2530.350 Service (Department Initiated Proceeding) (Repealed)
2530.355 General Procedures of Hearings
2530.360 Time and Location~~Notice~~ of Hearing
2530.370 Prehearing Conferences
2530.380 Authority of Hearing Officer
2530.390 Order of Administrative Hearings
2530.400 Official Notice
2530.410 Default
2530.420 Evidence
2530.430 Motions and Answers
2530.470 Administrative Record
2530.480 Briefs and Oral Arguments
2530.482 Decision, Order and Disposition
2530.484 Compelling Appearance at Hearing
2530.486 Recording of Hearing
2530.488 Hearing on Timber Buyers – Second and Subsequent Suspensions
2530.490 Decision and Order (Repealed)

SUBPART E: INTERSTATE WILDLIFE VIOLATOR COMPACT

Section
2530.500 Interstate Wildlife Violator Compact Membership

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

SUBPART F: REINSTATEMENT OF PRIVILEGES

Section
2530.600 Reinstatement Procedures
2530.610 Reinstatement Fees

SUBPART G: STATUTORILY MANDATED SUSPENSIONS

Section
2530.700 Suspension of Operating Privileges

SUBPART H: EVICTION FROM DEPARTMENT LANDS

Section
2530.800 Applicability
2530.810 Immediate Eviction and Removal from Department Lands for up to 90 Days
2530.820 Request for Hearing to Appeal Immediate Eviction and Removal
2530.830 Eviction and Removal from Department Lands for Longer than 90 Days
2530.840 Department Request for Eviction and Removal Longer than 90 Days
2530.850 Procedures for Eviction/Removal Hearings

AUTHORITY: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100] and authorized by Sections 5-625, 805-518, 805-545 and 805-550 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625, 805-518, 805-545 and 805-550].

SOURCE: Filed December 21, 1977; effective December 31, 1977; codified at 5 Ill. Reg. 10664; amended at 6 Ill. Reg. 10687, effective August 25, 1982; Subpart B recodified to 2 Ill. Adm. Code 825: Subpart B at 8 Ill. Reg. 4133, effective March 19, 1984; amended at 10 Ill. Reg. 20201, effective November 25, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 25 Ill. Reg. 3659, effective February 26, 2001; amended at 25 Ill. Reg. 14126, effective October 22, 2001; amended at 28 Ill. Reg. 9990, effective July 6, 2004; amended at 31 Ill. Reg. 9215, effective June 18, 2007; amended at 32 Ill. Reg. 17481, effective October 24, 2008;

amended at 35 Ill. Reg. 13268, effective July 26, 2011; recodified at 38 Ill. Reg. 6747; amended at 38 Ill. Reg. 17001, effective July 25, 2014.

SUBPART A: GENERAL RULES

Section 2530.10 Applicability

The rules in this Part govern the practice and procedures related to formal hearings and other actions conducted under the jurisdiction of the Department of Natural Resources that do not have defined hearing procedures including:~~for revocation of licenses and suspension of privileges for conservation offenses.~~

a) Summary revocation of licenses and/or suspension of privileges based upon accumulation of points from determinations of guilt by a court of law;

b) Revocation of licenses and/or suspension of privileges sought by the Department based upon course of conduct with at least one determination of guilt by a court of law;

c) Revocation of licenses and/or suspension of privileges pursuant to the Interstate Wildlife Violator Compact policy on reciprocity;

d) Statutorily mandated suspensions;

e) Reinstatement of privileges;

f) The immediate eviction and removal from Department lands for up to 90 days; and

g) The eviction and removal from Department lands for longer than 90 days sought by the Department based upon the course of conduct.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.20 Definitions

In this Part the following terms shall have the meanings ascribed~~specified below~~:

"Arrest" means the issuance of a State or federal citation or a notice to appear, or

the filing of a complaint by a State or federal prosecutor.

"Contested case" means an adjudicatory proceeding, not including rate making, rulemaking, quasi-legislative, informational or similar proceedings, in which the individual legal rights, duties or privileges of a party are required by law to be determined by an agency only after an opportunity for hearing. [5 ILCS 100/1-30]

"Department" means the Illinois Department of Natural Resources. [520 ILCS 5/1.2d]

"Determination of guilt by a court of law" means a case disposition, including supervision or conditional discharge, by a circuit court of the State of Illinois or a United States District Court in an Illinois District for an offense that is a violation of any of the provisions of the Fish and Aquatic Life Code [515 ILCS 5], the Wildlife Code [520 ILCS 5], the Timber Buyers Licensing Act [225 ILCS 735], the Ginseng Harvesting Act [525 ILCS 20], the Endangered Species Protection Act [520 ILCS 10] or any violation of similar federal statutes or rules.

"Director" means the director of the Illinois Department of Natural Resources. [520 ILCS 5/1.2e]

"Hearing Officer" *means the presiding officer or officers at the initial hearing before the Department and each continuation.* [5 ILCS 100/1-15]

"License" includes the whole or part of any Department permit, stamp, license, certificate, approval, registration, or similar form or permission required by law. [5 ILCS 100/1-35]

"Licensing" includes the Department procedures respecting the grant, denial, renewal, revocation, suspension, annulment, withdrawal or amendment of a license. [5 ILCS 100/1-40]

"Office of Law Enforcement" means the Department of Natural Resources' Office of Law Enforcement.

"Party" means such person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. [5 ILCS 100/1-55]

"Person" means any individual, partnership, corporation, association, governmental subdivision, or public or private organization of any character other than an agency. [5 ILCS 100/1-60]

"Single incident" means a set of acts or events occurring at the same location, date and time giving rise to violations of State or federal laws.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.35 ~~2530.330~~ Parties

a) The Department, when initiating a revocation/suspension proceeding, shall be designated the Complainant. Any adverse party shall be designated as the Respondent.

b) In the case of a summary~~license~~ revocation/suspension appeal or an eviction and removal appeal, ~~pursuant to Section 2530.280,~~ the party appealing shall be designated as the Petitioner and the Department designated as the Respondent.

c) Misnomer of a party is not ground for dismissal, but the name of any party may be corrected at any time.

(Source: Section 2530.35 renumbered from Section 2530.330 and amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.40 Documents

a) Documents shall clearly show the title of the proceeding in connection with which they are filed, and shall designate the nature of the relief sought.

b) Except as otherwise provided, two copies of all documents, including complaints, motions~~, petitions for proposed rules~~, and petitions for review shall be filed with the Department.

c) Each document filed shall be signed by the party or by his or her authorized representative.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 2530.50 Computation of Time

a) Computation of time relating to filings, motions, other pleadings and orders ~~any period of time prescribed by this Part~~ shall begin ~~with~~ the first business day following the day on which the act, event or development initiating such period of time occurs, and shall run until the end of the last day, or the next following business day if the last day is a Saturday, Sunday or legal holiday. If~~Where~~ the period of time is five days or less, Saturdays, Sundays, and legal holidays shall be excluded in the computation of time.

b) Notice requirements shall be construed to mean notice dispatched by means reasonably calculated to be received by the prescribed date.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.60 Appearances

a) Any person may appear in a contested case as follows:

1) A natural person may appear in his or her own behalf or by an attorney at law licensed and registered to practice in the State of Illinois, or both.

2) A business, nonprofit or government organization shall appear by an attorney licensed and registered to practice in the State of Illinois.

b) Attorneys not licensed and registered to practice in the State of Illinois may appear on motion.

c) An attorney appearing in a representative capacity shall file a written notice of appearance with the Department, together with proof of service on all parties or their respective attorneys at least 5 days prior to any hearing.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

SUBPART B: SUMMARY REVOCATION/SUSPENSION
BASED ON ACCUMULATION OF POINTS

Section 2530.220 Applicability

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

This Subpart governs the practices and procedures related to revocation of licenses and suspension of privileges under the jurisdiction of the Department of Natural Resources when the~~such~~ revocation and/or suspension is based upon one or more determinations of guilt by a court of law and accumulation of points as described in this Subpart.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.230 Point System

a) Any person found guilty by a circuit court of the State of Illinois (including supervision or conditional discharge) or a United States District Court in an Illinois District of an offense that is a violation of any of the provisions of the Fish and Aquatic Life Code ~~[515 ILCS 5]~~, the Wildlife Code ~~[520 ILCS 5]~~, the Timber Buyers Licensing Act ~~[225 ILCS 735]~~, the Ginseng Harvesting Act ~~[525 ILCS 20]~~, the Endangered Species Act ~~[520 ILCS 10]~~, or any similar violation of federal statutes or rules, or any violation under Section 48-3(b) of the Criminal Code of 2012 [720 ILCS 5/48-3(b)] shall be assessed points as set out in Section 2530.240.

b) Licenses, permits and stamps shall be revoked, and privileges shall be suspended, based upon the accumulated points. The assessed accumulated points remain until:

1) In cases involving Type I offenses (see Section 2530.255), 18 months has elapsed since the date of arrest for offense;

2) In cases involving Type II offenses, 36 months has elapsed since the date of arrest for offense;

3) An order of the Circuit Court or the Director terminates the suspension and the applicable reinstatement fee has been paid and processed by the Department; or

4) An order of the Circuit Court has expunged the underlying record of the offense, the Office of Law Enforcement has received notice of the expungement, and the applicable reinstatement fee has been paid.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.240 Points

a) Unless otherwise specified in subsection (b), points shall be assessed by classification of offense as follows:

1) For a petty offense – 3 points

2) For a Class C Misdemeanor – 6 points

3) For a Class B Misdemeanor – 9 points

4) For a Class A Misdemeanor – 12 points

5) For a Class 4 Felony – 24 points

6) For a Class 3 Felony or Higher – 60 points

b) Points for the following violations shall be assessed as follows:

1) For any violation committed during a period of suspension – 60 points

2) For offenses under the Timber Buyers Licensing Act:

A) For any person previously suspended once under Group C (Timber Buyers Licensing Act), a minimum of 60 points and up to a maximum of 120 points shall be assessed for a second suspension. The actual number of points and length of suspension shall be determined at a hearing or by the Hearing Officer in the event of a default, as defined in Section 2530.410~~to be assessed shall be determined in accordance with Section 2530.488~~.

B~~3~~) For any person previously suspended twice under Group C (Timber Buyers Licensing Act), a minimum of 120 points and up to a maximum of 900 points shall be assessed for a third or subsequent suspension. The actual number of points and length of suspension shall be determined at a hearing or by the Hearing Officer in the event of a default, as defined in Section 2530.410~~to be assessed shall be determined in accordance with Section 2530.488~~.

3~~4~~) Federal offenses shall be assessed points based upon the classification of offense for the corresponding Illinois violation, rather than the federal classification of the offense.

4~~5~~) For any person found guilty of Section 2.33(cc) of the Wildlife Code ~~[520 ILCS 5/2.33(cc)]~~ – 13 points.

5~~6~~) For any person found guilty of Section 2.38 of the Wildlife Code ~~[520 ILCS 5/2.38]~~ – 13 points.

6~~7~~) For any person found guilty of Section 20-120(h) of the Fish and Aquatic Life Code ~~[515 ILCS 5/20-120(h)]~~ – 13 points.

7~~8~~) For any person found guilty of Section 20-125(d) of the Fish and Aquatic Life Code ~~[515 ILCS 5/20-125(d)]~~ – 13 points.

8) For any person found guilty of Section 48-3(b)(9) or (b)(10) of the Criminal Code of 2012 – 13 points.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.245 Single Incident Rule

a) In the event that multiple findings of guilt are entered against an individual arising out of a single incident ~~or act~~ (same date and location of violation), full points shall be assessed only for the finding of guilt with the highest point level with additional points assessed for the remaining findings of guilt as follows:

1) For a petty offense – 1 point

2) For a Class C misdemeanor – 2 points

3) For a Class B misdemeanor – 3 points

b) The single incident rule shall not be applied, however, in any cases in which~~where~~ the highest level violation is a Class A misdemeanor or higher (12 points or greater) or in cases in which~~where~~ violations occurred while the individual was suspended.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.250 Groups

a) Group A = Wildlife Code, Endangered Species Protection Act – Wildlife, ~~and~~ Federal Offenses – Wildlife, and Section 48-3(b) of the Criminal Code of 2012 – Wildlife

b) Group B = Fish and Aquatic Life Code, Endangered Species Protection Act – Aquatic Life, ~~and~~ Federal Offenses – Aquatic Life, and Section 48-3(b) of the Criminal Code of 2012 – Aquatic Life

c) Group C = Timber Buyers Licensing Act

d) Group D = Ginseng Harvesting Act, Endangered Species Protection Act – Plants, Federal Offenses – Plants

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.255 Types of Offenses

a) Type I Offenses = Those offenses related to commercial/business activities covered under Timber Buyer, Taxidermist, Aquaculture, Aquatic Life Dealer, Minnow Dealer, Mussel Dealer, Commercial Roe Dealer, Commercial Fisherman, Commercial Musselor, Commercial Roe Harvester, Game and Game Bird Breeder, Wild Game Food Dealer, Furbearing Animal Breeder, Fur Tanner, Class A Nuisance Wildlife Control Operator, ~~or~~ Migratory Waterfowl Hunting Area or Charter Fishing licenses and permits.

b) Type II Offenses = All other offenses related to activities covered under licenses and permits and offenses of hunter or fisherman interference under the Criminal Code. (Example: hunting, trapping, sport fishing, etc.)

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.260 Computation of Suspension Period

All offenses shall be classified by type and by group for computation of points.

a) For Type I offenses, any person who, within an 18 month period, accumulates 13 or more points in a single group as set out in Section 2530.250 shall have all commercial/business licenses, permits and stamps relevant to that group revoked, and the person's privilege to engage in those activities shall be suspended for a period of time that equals one month for each point accumulated. All accumulated points shall remain in effect for 18 months from the date of the arrest that resulted in the point accumulation and shall not be removed or reduced by a period of suspension. Any second or subsequent suspension imposed upon an individual shall be served consecutively to any earlier suspension, if still in effect, commencing on the date the earliest suspension expires.

1) EXAMPLE~~Example~~: An individual operates as a commercial game bird breeder and a migratory waterfowl hunting area, and is found guilty of violations relating to his/her commercial game bird breeding operation, resulting in points sufficient to result in revocation/suspension. A revocation shall be imposed upon both the individual's game bird breeding license and his/her migratory waterfowl hunting area permit. In addition, ~~and~~ the person's privilege to obtain any Type I license under the Wildlife Code is suspended for the appropriate period of time.

2) EXAMPLE~~Example~~: Found guilty of no taxidermy license, possession of untagged specimens and failure to keep proper records (a Class B misdemeanor~~Misdemeanor~~ and 2 Petty Offenses) as a result of a single incident. No revocation/suspension imposed, 11 points assessed (9+1+1).

3) EXAMPLE~~Example~~: Found guilty of same violations as in subsection (a)(2~~1~~) (a Class B misdemeanor~~Misdemeanor~~ and 2 Petty Offenses), but on different dates. Revocation/suspension shall be imposed, as full 15 points apply (9+3+3).

4) EXAMPLE~~Example~~: Found guilty of buying timber without a license and failure to pay harvest fees (both Class A misdemeanors~~Misdemeanors~~, 12 points each). Revocation/suspension imposed, regardless of whether findings are the result of a single incident or separate occurrences, 24 points applied.

b) For Type II offenses: Any person who, within a 36 month period, accumulates 13 or more points in a single group as set out in Section 2530.250 shall have all

licenses, permits and stamps relevant to that type and group revoked, and the person's privilege to engage in the activity covered by the type and group shall be suspended for a period of time that equals one month for each point accumulated. Lifetime licenses issued pursuant to Section ~~515 ILCS 5~~ 20-45(f) of the Fish and Aquatic Life Code shall only be revoked for felony violations or for violations committed during a period of suspension. The privileges of lifetime license holders shall be suspended, however, in accordance with the provisions of this Section. All accumulated points shall remain in effect for 36 months from the date of the arrest that resulted in the point accumulation and shall not be removed or reduced by a period of suspension. Any second or subsequent suspension imposed upon an individual shall be served consecutively to any earlier suspension, if still in effect, commencing on the date the earliest suspension expires.

1) EXAMPLE~~Example~~: Found guilty of hunting by use of lights from a vehicle (Class A misdemeanor~~Misdemeanor~~) and taking an over limit of quail (petty offense) – hunting license, trapping license, migratory waterfowl stamp and habitat stamp revoked – Type II privileges authorized under Group A suspended for 15 months from date of notice.

2) EXAMPLE~~Example~~: Found guilty of a Class B misdemeanor~~Misdemeanor~~ under the Wildlife Code and a Class B Misdemeanor under the Fish Code – no revocation or suspension as there is no 13 point accumulation in any one group.

3) EXAMPLE~~Example~~: Person in subsection (b)(1) completes 15 month suspension; two months later (less than 36 months from first violation) the person again hunts by use of lights from a vehicle, for which person is found guilty – appropriate licenses and stamps revoked and person suspended for 27 months (15+12).

4) EXAMPLE~~Example~~: Found guilty of two Class B misdemeanors~~Misdemeanors~~ (normally 9 points each) under the Wildlife Code for violations arising out of a single incident – due to Single Incident Rule, reduced points are assessed (9+3) and no suspension is imposed.

5) EXAMPLE~~Example~~: Person in subsection (b)(1) is found guilty of a violation under the Wildlife Code that occurred during the time that the person's privileges were suspended – 60 additional points assessed and a

second suspension is imposed, to run consecutively after the first suspension (75 months total).

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.270 Summary Revocation/Suspension Procedures

a) All Illinois Circuit Court~~circuit~~ clerks shall report ~~the disposition of Natural Resources cases~~ to the Office of Law Enforcement, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271, the disposition of cases involving a violation of any of the provisions of the Fish and Aquatic Life Code, the Wildlife Code, the Timber Buyers Licensing Act, the Ginseng Harvesting Act, the Endangered Species Protection Act and Section 48-3(b) of the Criminal Code of 2012.

b) Points shall be assessed to the individual by the Office of Law Enforcement~~Department~~ once reports of disposition are received from the circuit clerk. The Department shall not be responsible or liable for the delay or failure of a circuit clerk in the reporting of dispositions. Any delay or failure of a circuit clerk in the reporting of dispositions does not affect the Department's ability to revoke or suspend privileges pursuant to this Part.

c) Whenever sufficient points have been accumulated for suspension as set out in Section 2530.260, the suspension shall be imposed by the Department on a quarterly basis as follows:

1) For any dispositions received during the first quarter of the calendar year (January-March), suspensions shall begin on April 30.

2) For any dispositions received during the second quarter of the calendar year (April-June), suspensions shall begin on July 30.

3) For dispositions received during the third quarter of the calendar year (July-September), suspensions shall begin on October 30.

4) For dispositions received during the fourth quarter of the calendar year (October-December), suspensions shall begin on January 30.

~~d) Any person suspended under subsection (c) shall be notified by mail that any~~

~~licenses, stamps or permits held by that person pursuant to the statutes or administrative rules of the type and group in which the points were accumulated are immediately revoked, and the notice shall further inform the person how many points have been assessed and for how long his/her privileges have been suspended.~~

~~e)~~ ~~For Type I (commercial/business type) suspensions, the notice shall also include instructions that no new business may be taken in, effective immediately with the suspension, and that existing business must cease within 30 days after the effective date of the suspension. Proof that all existing business has ceased may be in the form of written correspondence to all current clients notifying them of the suspension and their alternatives.~~

~~f)~~ ~~Notices shall be mailed to the last known address of the person through the U.S. mail, and an affidavit of mailing shall be proof that the notice was received 4 days after being mailed. Revocation and suspension shall be effective 4 days after notice is deposited in a U.S. mailbox.~~

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.275 Notice of Revocation/Suspension

a) As set out in this Subpart B, any person who has accumulated sufficient points to have a license revoked and/or privileges suspended shall be notified by mail that any licenses, stamps or permits held by that person pursuant to the statutes or administrative rules for the type and group in which the points were accumulated are immediately revoked. The notice shall further inform the person how many points have been assessed and for how long their privileges are suspended.

b) At any time after imposition of revocation/suspension, the Office of Law Enforcement may withdraw the revocation/suspension if the Office of Law Enforcement finds the revocation/suspension was issued in error.

c) For Type I (commercial/business type) suspensions, the notice shall also include instructions that no new business may be taken in, effective immediately with the suspension, and that existing business must cease within 30 days after the effective date of the suspension. Proof that all existing business has ceased may be in the form of written correspondence to all current clients notifying them of the suspension and their alternatives.

d) Notices shall be mailed to the last known address of the person through U.S. mail, and an affidavit of mailing shall be proof that the notice was received 4 days after being mailed. The effective date of the suspension will be the date indicated in the Notice of Suspension letter. Revocation and suspension shall be effective 4 days after notice is deposited in the U.S. mailbox.

(Source: Added at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.280 Request for Hearing to Appeal Summary Revocation/Suspension~~and Hearing~~

a) Any person who is mailed notice of suspension and revocation shall have the right to appeal by filing two copies of a Petition for Hearing. Both copies of the Petition for Hearing shall be mailed to or filed with the Office of Legal Counsel, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271. Petitions~~Such petition~~ must be received by the Department~~ of Natural Resources~~ no later than 34 days after notice was mailed for the petition to be considered.~~ No action will be taken on an untimely petition and the revocation or suspension will be considered final.~~

b) If the petition is not timely received by the Office of Legal Counsel at the Department of Natural Resources, the summary revocation/suspension will be considered final without further notice.

c) The petition shall be styled "In re the suspension of ____, PETITION FOR HEARING". The petition shall contain sufficient facts in justification of a hearing and be signed by the petitioner (person whose privileges were suspended).

~~c) Any petition not denied within 30 days after receipt by the Department shall be deemed granted and a hearing shall be set pursuant to the provisions of Subpart C: Hearings of Contested Cases.~~

d) The petition shall also state if the petitioner paid a civil penalty through the Circuit Court for an illegal take as a result of the related (conservation) violations of the Fish and Aquatic Life Code, the Wildlife Code or the Endangered Species Protection Act.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

SUBPART C: DEPARTMENT INITIATED REVOCATIONS/SUSPENSIONS BASED UPON COURSE OF CONDUCT~~COMPLAINT~~

Section 2530.300~~2530.340~~ ~~Notice and Complaint(~~Department Initiated Revocation/Suspension Based Upon Course of Conduct~~Proceeding)~~

a) Proceedings for revocation/suspension based upon course of conduct with at least one determination of guilt by a court of law ~~under this Subpart C, other than those imposed under Subpart B,~~ shall be commenced by the service of a notice and a complaint upon the respondent.

b) The complaint shall contain the following:

1) A reference to the provision of the law or rules of which the respondent was found guilty ~~(including supervision and conditional discharge)~~ by a court of law, including a description sufficient to advise respondent of the basis for revocation/suspension;

2) A description of any/all the violations committed by respondent in a guilty finding ~~violation~~ sufficient to advise respondents of the basis for revocation/suspension;

3) A concise statement of the relief that the complainant seeks; and

4) A statement that the relief stated in the complaint shall be granted if the respondent does not answer, respond or attend a hearing as set out in this Part.

c) A copy of the notice and complaint shall either be served personally on the respondent or his or her authorized agent or shall be served by registered or certified mail with return receipt signed by the respondent or his or her authorized agent. Proof of service of the complaint shall be made by affidavit of the person making personal service or by properly executed registered or certified mail receipt.

(Source: Section 2530.300 renumbered from Section 2530.340 and amended at 38 Ill. Reg. 17001, effective July 25, 2014)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 2530.310 Applicability

This Subpart governs practices ~~hearings~~ and ~~related~~ procedures under the jurisdiction of~~used in suspension or revocation of a license issued by~~ the Department for the following:~~both license revocation appeals pursuant to Subpart B and Department-initiated revocation/suspension proceedings.~~

a) Summary revocation of licenses and/or suspension of privileges based upon accumulation of points from determinations of guilty by a court of law;

b) Revocation of licenses and/or suspension of privileges sought by the Department based upon course of conduct, with at least one determination of guilt by a court of law;

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.320 General Procedures (Repealed)

~~a) The Director of the Department of Natural Resources shall designate a Hearing Officer. The Hearing Officer does not have to be an attorney. Staff members of Law Enforcement, witnesses and the Director shall not serve as Hearing Officers. The appointed Hearing Officer shall not have direct involvement in the case or have an interest in the decision to be reached. Mere familiarity with the facts shall not disqualify a Hearing Officer.~~

~~b) In the case of a license revocation pursuant to Subpart B, no hearing shall be granted unless, within 34 days after mailing of Notice of Revocation and Suspension by the Department, a petition requesting hearing, citing the justification for such hearing, has been filed with the Office of Legal Counsel, Illinois Department of Natural Resources, One Natural Resources Way, Springfield IL 62702-1271.~~

(Source: Repealed at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.330 Parties (Renumbered)

(Source: Section 2530.330 renumbered to Section 2530.35 at 38 Ill. Reg. 17001, effective July 25, 2014)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 2530.340 Notice and Complaint (Department Initiated Proceeding) (Renumbered)

(Source: Section 2530.340 renumbered to Section 2530.300 at 38 Ill. Reg. 17001, effective July 25, 2014)

SUBPART D: HEARINGS OF CONTESTED CASES

Section 2530.350 Service (Department Initiated Proceeding) (Repealed)

~~a) A copy of the notice and complaint shall either be served personally on the respondent or his authorized agent, or shall be served by registered or certified mail with return receipt signed by the respondent or his authorized agent. Proof of service of the complaint shall be made by affidavit of the person making personal service, or by properly executed registered or certified mail receipt.~~

~~b) Any pleadings, motions or discovery notices, after issuance of the complaint, shall be served personally or by First Class United States Mail, and copies thereof shall be filed with the Hearing Officer with proof of service. Proof of service of any paper other than the complaint shall be by certificate of attorney, affidavit or acknowledgment.~~

~~c) Notice of license revocation and suspension of privileges shall be mailed to the last known address of the person through the U.S. mail. An affidavit of mailing shall be proof that the notice was received 4 days after being mailed.~~

(Source: Repealed at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.355 General Procedures of Hearings

a) Upon timely receipt of a Petition or Complaint for Hearing, the Director of the Department of Natural Resources or his or her designee shall designate a Hearing Officer. The Hearing Officer shall be a licensed attorney. Staff members of the Office of Law Enforcement, witnesses and the Director shall not serve as Hearing Officers. The appointed Hearing Officer shall not have direct involvement in the case or have an interest in the decision to be reached. Mere familiarity with the facts shall not disqualify a Hearing Officer.

b) The Hearing Officer shall set a date, time and place for a hearing to be held within 90 days after receipt of a timely request for hearing.

c) The hearing shall be held in the offices of the Department in Springfield, Illinois or in such other place as the Hearing Officer shall, for stated cause, designate. The Hearing Officer shall give notice at least 15 days prior to the date of the hearing to the parties, in accordance with this Part.

d) Failure to comply with this Part may not be used as a defense to a proceeding under this Part, but any person adversely affected by a failure of compliance may have the hearing postponed if prejudice is shown, upon motion to the Hearing Officer.

e) Any pleadings, motions or orders shall be served by First Class United States mail or by electronic mail at the address provided by the Hearing Officer, and copies shall be sent to all parties and the Hearing Officer, with proof of service. Proof of service of any paper other than the petition shall be by certificate of service.

(Source: Added at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.360 Time and Location~~Notice~~ of Hearing

a) Within 60 days after the service of the Department's Complaint or within 60 days after receipt of a Petition for Hearing, the Hearing Officer shall set a date and time for a pre-hearing conference and a date, time and place for hearing.

b~~a~~) ~~Time and Location of Hearing~~

~~1)~~ ~~The Hearing Officer shall set a date, time and place for hearing that shall be not later than 90 days after receipt of a timely request for hearing.~~ ~~2)~~The hearing shall be held in the offices of the Department in Springfield, Illinois or in such other place as the Hearing Officer shall for stated cause designate. He shall give notice at least 15 days prior to the date of the hearing to the parties, in accordance with this Part.

c~~b~~) Failure to comply with the provisions of this Part may not be used as a defense to a proceeding under this Part, but any person adversely affected by a~~such~~ failure of compliance may have the hearing postponed if prejudice is shown, upon motion to the Hearing Officer.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.370 Prehearing Conferences

a) Upon motion of a party and/or upon written notice by the Hearing Officer~~ in any proceeding~~, the parties or their attorneys may be directed to appear at a specific time and place for a pre-hearing conference, before the~~prior to or during the course of~~ hearing, for the purpose of formulating issues and considering:

1~~a~~) the simplification of issues;

2~~b~~) the necessity or desirability of amending the pleadings for the purpose of clarification, amplification or limitation;

3~~c~~) the possibility of making admissions of certain averments of facts or stipulations concerning the use of either or both parties of matters of public record to avoid unnecessary introduction of proof;

4~~d~~) the limitation of the number of witnesses;

5~~e~~) the propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits; ~~and~~

6) in hearings or in defaults involving accumulation of points assessed due to violations of the Timber Buyers Licensing Act, mitigation and aggravation factors, if applicable, in determining the appropriate number of points and length of suspension of the Petitioner; and

7) such other matters as may aid in the simplification of the evidence and disposition of the proceeding.

b) At the pre-hearing conference, the Hearing Officer shall set a date for hearing within 60 days unless agree to otherwise or for good cause.

c) Action taken at the pre-hearing conference shall be recorded in an order prepared by the Hearing Officer.

~~f) such other matters as may aid in the simplification of the evidence and disposition of the proceeding.~~

~~g) Action taken at the conference shall be recorded in a memorandum prepared and certified by the Hearing Officer.~~

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.380 Authority of Hearing Officer

The Hearing Officer shall have the duty to conduct a fair hearing, to take all necessary action to avoid delay, to maintain order, and to ensure development of a clear and complete record. He shall have all powers necessary to these ends, including but not limited to the power to:

a) Rule upon offers of proof and receive evidence and rule upon objections to the introduction of evidence;

b) Regulate the course of the hearings and the conduct of the parties and their counsel in those hearings~~therein~~;

c) Interrogate witnesses;

d) Hold pre-hearing conferences for settlement, simplification of the issues, or any other proper purpose;~~.~~

e) Determine the timing and form of motions and responses by the parties;

f) Rule on the necessity or desirability of amending the pleadings for the purpose of clarification, amplification or limitation;

g) Rule on motions, issues on admissions or stipulations;

h) Rule on the limitation of the number of witnesses and limitation of issues and evidence;

i) Issue or deny the issuance of subpoenas requested by the parties;

j) Consider factors in mitigation and aggravation in determining the appropriate length of suspension sentencing;

k) Rule on such other matters as may aid in the simplification of the evidence and disposition of the proceeding; and

l) Rule on the propriety of prior mutual exchange between or among the parties of prepared testimony and exhibits and other discovery. No discovery described by Supreme Court Rule 201 will be permitted prior to a hearing, except by permission of the Hearing Officer.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.390 Order of Administrative Hearings

The following shall be the order of all administrative hearings, subject to modification by the Hearing Officer for good cause;

a) Presentation, argument and disposition of motions preliminary to a hearing on the merits of the matters raised in the complaint/petition;

b) Presentation of opening statements;

c) Presentation of Complainant's/Petitioner's case in chief;

~~d) Respondent's case in chief;~~

d~~e~~) Presentation of Complainant's/Petitioner's ~~case in~~ rebuttal case;

e~~f~~) Statements from interested citizens, if authorized by the Hearing Officer;

f~~g~~) Presentation of~~Respondent's~~ closing argument, which may include legal argument;

~~h) Complainant's/Petitioner's closing argument, which may include legal argument;~~

g~~i~~) Presentation and argument of all motions prior to final order.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.410 Default

Failure of a party to appear on the date set for pre-hearing or hearing~~, or failure to proceed~~ as ordered by the Hearing Officer~~Department~~ shall constitute a default.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.420 Evidence

a) The Hearing Officer will receive evidence that is admissible under the law of the rules of evidence of Illinois pertaining to civil actions. In addition, the Hearing Officer may receive material, relevant evidence that would be relied upon by reasonably prudent persons in the conduct of serious affairs that is reasonably reliable and reasonably necessary to resolution of the issue for which it is offered.

b) The Hearing Officer shall exclude from consideration immaterial, irrelevant~~,~~ and repetitious evidence.

c) When the admissibility of disputed evidence depends upon an arguable interpretation of substantive law, the Hearing Officer shall admit that~~such~~ evidence.

d) The Hearing Officer may order the record of any relevant prior proceeding before the Department or part thereof incorporated into the record of the present proceeding.

e) Relevant scientific or technical articles, treatises or materials may be introduced into evidence subject to refutation or disputation through any introduction of comparable documentary evidence or expert testimony.

f) Department Initiated Revocations/Suspensions~~Aggravation and Mitigation~~ ~~1)~~A party may introduce evidence as grounds that would demonstrate factors in mitigation or factors in aggravation of the relief sought in the complaint~~/petition~~.

~~2) The Hearing Officer shall take the following matters into consideration, if applicable, in contested cases in which the relief the Department, as the Complainant, seeks is suspension or revocation of a license or permit issued by the Department:~~

~~A) the Respondent's history of past conservation offenses;~~

~~B) any findings of guilt against the Respondent for offenses under other Acts that were related to those conservation offenses for~~

~~which suspension or revocation is sought;~~

~~C)~~ ~~whether the Respondent's course of conduct constituted a threat to the biological balance of any species protected by the Act under which suspension or revocation is sought;~~

~~D)~~ ~~whether the Respondent's course of conduct constituted a threat to the safety of the Respondent, Department Officials, or others;~~

~~E)~~ ~~any evidence of the Respondent's ignorance of a material fact that led to his/her unlawful conduct;~~

~~F)~~ ~~the degree of cooperation exhibited by the Respondent with Department Officials;~~

~~G)~~ ~~the degree to which the Respondent profited economically as a result of his/her unlawful conduct;~~

~~H)~~ ~~whether the Respondent has ever committed an illegal or unlawful taking or harvesting or has damaged State property in violation of the Fish and Aquatic Life Code [515 ILCS 5], the Wildlife Code [520 ILCS 5], the Endangered Species Protection Act [520 ILCS 10], the Timber Buyers Licensing Act [225 ILCS 735] or the Ginseng Harvest Act [525 ILCS 20] and whether the Respondent compensated the State for the illegal or unlawful taking, harvesting or damage in accordance with the appropriate Act; and~~

~~I)~~ ~~any other evidence offered and noted by the Hearing Officer as demonstrating factors in mitigation or factors in aggravation of the relief sought in the complaint.~~

g~~3~~) The Hearing Officer shall take only the following matters into consideration in hearings for cases of suspension/revocation based on accumulation of points imposed under Subpart B:

1~~A~~) was the Petitioner found guilty of the offenses outlined in the Notice of Suspension;

2~~B~~) were points for those offenses properly assessed; and

3~~C~~) was suspension/revocation properly imposed.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.470 Administrative Record

a) The record~~transcript~~ of the hearing approved by the Hearing Officer and all exhibits offered in connection with the hearing shall constitute the administrative record, and it shall be so certified by the Hearing Officer.

b) The administrative record in a contested case shall include:

1) all pleadings (including all notices and responses thereto), motions and rulings;

2) evidence admitted or preserved~~received~~;

3) a statement of matters officially noticed;

4) offers of proof, objections and rulings thereon;

5) proposed findings and exceptions;

6) any decision, opinion or report by the Hearing Officer, including findings of fact and conclusions of law;

7) the Department's final order; and~~all staff memoranda or data submitted to the Hearing Officer or members of the agency in connection with their consideration of the case.~~

8) A recording of the hearing that adequately ensures the preservation of the proceedings or a transcript of the recording, if one is made at the request of another party.

c) Findings of fact shall be based exclusively on the evidence and on matters officially noticed.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.482 Decision, Order and Disposition

a) Decision and Order

1) Findings of facts shall be based exclusively on the evidence and on matters officially noticed.

2) The Department shall prepare a written order and opinion for all final determinations. The order shall include findings of fact and conclusions of law and shall be signed by the Director after considering the Hearing Officer's recommendations.

3) Findings shall include specific references to principal supporting items of evidence in the record.

4) Findings of fact and conclusions of law must be separately stated.

5) The Department's final order may include any or all of the following:

A) A direction to cease and desist from violations of the Department's rules and orders;

B) Suspension of licenses, permits or privileges;

C) Revocation of a license or permit; or

D) Other determinations that may be appropriate.

6) The Department shall notify all parties or their agents by mail of any final order.

7) The Department's order shall be the final administrative decision of the Department, noting that it is appealable to the Circuit Court, pursuant to the Administrative Review Law [735 ILCS 5/Art. III].

b) Unless precluded by law, the Department may dispose of a case by stipulation, agreed order, settlement, consent order or default. The Department may impose a suspension of privileges for up to 60 months, or longer if a suspension is pursuant

to the Timber Buyers Licensing Act or if denial of access privileges under Section 805-518 of the Civil Administrative Code is imposed.

c) The suspension of privileges shall remain in effect until payment of appropriate reinstatement fees, as found in Section 2530.610, and processing of those fees by the Office of Law Enforcement.

d) Failure of a party to appear on the date set for a pre-hearing or hearing, or failure to proceed as ordered by the Hearing Officer, shall constitute a default. If a party fails to appear, the Hearing Officer shall make a finding and prepare an order for the Director. No further action will be taken on the matter and the suspension/revocation will be imposed as stated in the Complaint or Notice of Suspension.
~~Unless precluded by law, the Department may dispose of a contested case by stipulation, agreed settlement, consent order, or default.~~

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.484 Compelling Appearance at Hearing

The appearance at the Hearing of a party or a person who at the time of the hearing is an officer, director or employee of a party may be required by serving the party with a notice designating the person who is required to appear, if the Hearing Officer rules that the appearance of that~~such a~~ person is necessary to assist in the resolution of the issue raised in the proceeding. A party may subpoena any witness, no earlier than receipt of the notice of hearing and no later than 14 days before the hearing, by requesting that the Hearing Officer issue a subpoena to compel the attendance of the witness. If the party or person is a non-resident of the State, the Hearing Officer shall provide by order the~~such~~ terms and conditions in connection with that party's or person's~~his~~ appearance at the hearing as are just, including payment of the party's or person's~~his~~ reasonable expenses. The notice also may require production at the hearing of documents or tangible things. The party requesting the appearance of any person shall pay that person's reasonable expenses unless the person whose appearance is requested is an employee of a party to the Hearing.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.486 Recording of Hearing

The Hearing shall be recorded~~ stenographically or~~ by a~~such other~~ means that~~as to~~ adequately

ensures~~ensure~~ the preservation of the~~such testimony or oral~~ proceedings, as described in Section 2530.470, and shall be transcribed on request of any party or for administrative review. However, the party requesting ~~such~~ a transcription shall be responsible for all costs associated with the transcription.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.490 Decision and Order (Repealed)

~~a) The Department shall prepare a written order and opinion for all final determinations. The order shall include findings of fact and conclusions of law and shall be signed by the Director after considering the Hearing Officer's recommendations and the factors listed in Section 2530.420(f)(2) or (f)(3).~~

~~b) Findings shall include specific references to principal supporting items of evidence in the record.~~

~~c) Findings of fact and conclusions of law must be separately stated.~~

~~d) The Department's final order may include any or all of the following:~~

~~1) A direction to cease and desist from violations of the Department's rules and orders;~~

~~2) Suspension of licenses or permits;~~

~~3) Revocation of a license or permit. A person who has had a license revoked or privileges suspended shall not be issued any license or permit by the Department for a period not to exceed the maximum allowed by law. Such a person shall not legally possess a license or permit or engage in the activity such a license or permit would allow should that person obtain a license or permit during that period;~~

~~4) Such other determinations that may be appropriate.~~

~~e) The Department shall notify all parties or their agents either personally or by mail of any final order.~~

~~f) The Department's order shall be the final administrative decision of the Department.~~

(Source: Repealed at 38 Ill. Reg. 17001, effective July 25, 2014)

SUBPART E: INTERSTATE WILDLIFE VIOLATOR COMPACT

Section 2530.500 Interstate Wildlife Violator Compact Membership

As authorized by Section 805-545 of the Civil Administrative Code of Illinois ~~[20 ILCS 805/805-545]~~, the Department shall be a member of the Interstate Wildlife Violator Compact.

a) The Interstate Wildlife Violator Compact is an agreement that recognizes suspension of hunting, fishing and trapping licenses in member states. The Compact provides that information on convictions in the other states in participating states shall be forwarded to the home state of the violator. The home state shall treat convictions in the other states as if they had occurred in that state for the purposes of license suspension actions. The Compact not only assures equal treatment of residents and non-residents of participating states, but also enhances the law enforcement services and deterrent value of time spent patrolling by uniformed officers. This means that illegal activities in one state can affect a person's hunting or fishing privileges in all participating states. Any person whose license privileges or rights are suspended in a member state may also be suspended in Illinois. If a person's hunting, fishing or trapping rights are suspended in Illinois, they may also be suspended in members states as well. This cooperative interstate effort will enhance the Department's ability to protect and manage Illinois' wildlife resources.

b) The following states are current members of the Interstate Wildlife Violation Compact:

Alabama, Alaska, Arizona, California, Colorado, Florida, Georgia, Idaho, Illinois, Iowa, Indiana, Kansas, Kentucky, Louisiana, Maryland, Michigan, Minnesota, Mississippi, Missouri, Montana, Nevada, New Mexico, New York, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Utah, Vermont, Virginia, Washington, West Virginia, Wisconsin, Wyoming. This list does not preclude enforcement of suspensions imposed in states not included in this list that later join as a Compact member.

c) Illinois residents who are cited for aquatic life or wildlife violations in another state that is a member of the Compact, and who do not comply with the citing state's requirements for court appearance, shall receive notice of:

1) revocation of all licenses and permits held under the Fish and Aquatic Life Code and the Wildlife Code issued by the Department; and

2) suspension of all aquatic life and wildlife privileges.

d~~b~~) Persons receiving ~~such~~ notice of revocation/suspension for non-compliance shall have the right to a hearing pursuant to Subpart D~~C~~.

e~~c~~) Any suspension imposed for non-compliance of another Compact state's hunting or fishing laws or regulations (e.g., failure to appear in Court or failure to pay a fine) shall be in effect in the State of Illinois until ~~such time that~~ the Department is notified by the other state that compliance has been reached. Upon receipt of ~~such~~ notice of compliance, the suspension shall be terminated in Illinois and privileges reinstated by the Department. Illinois regulations for reinstatement of privileges (see Subpart F) still apply.

f~~d~~) Pursuant to Section 20-105 of the Fish and Aquatic Life Code ~~[515 ILCS 5/20-105(e)]~~ and Section 3.36 of the Wildlife Code ~~[520 ILCS 5/3.36(f)]~~, suspension of privileges by any Compact member state shall automatically result in suspension for the same period in Illinois.

g) Within 15 days after receipt of the appropriate reinstatement fee, if applicable, and after the Office of Law Enforcement receives an order from a Circuit Court or Department Director that a suspension is terminated and/or will end on a certain date, the Office of Law Enforcement shall notify the Interstate Wildlife Violator Compact that the suspension has been terminated.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

SUBPART F: REINSTATEMENT OF PRIVILEGES

Section 2530.600 Reinstatement Procedures

a) Any person whose privileges have been suspended ~~pursuant to Subpart B of this Part (Summary Revocation/Suspension)~~ may have his or her~~his/her~~ privileges reinstated in one of the following manners:

1~~a~~) through successful completion of the period of suspension;

2~~b~~) as a final determination of a hearing conducted as a result of the person's timely appeal of a summary~~his/her~~ suspension imposed pursuant to Subpart B of this Part or immediate eviction pursuant to Subpart H of this Part; or

3~~c~~) through a written order issued by the Department in accordance with Subpart D~~C~~. ~~of this Part, as outlined in this subsection:~~

~~1) Any person who returns to court to change his/her plea on charges after a period of suspension has been imposed must file, within 34 days after the court action, a petition with the Department accompanied by a $50 filing fee to request that his/her privileges be reinstated. The Department shall set a hearing date pursuant to the provisions of Subpart C: Hearings of Contested Cases. The burden of proof to justify reinstatement shall be upon the applicant. During the hearing, consideration shall be given to the factors listed in Section 2530.420(f).~~

~~2) The mere fact that certain charges were reopened and modified to a lesser class of offense, or reopened and dismissed, shall not be grounds for modification of point totals or automatic reinstatement of privileges.~~

b~~3~~) Once a person's privileges have been reinstated, the Department shall process that information within a reasonable time frame, but in no event shall the processing take longer than ~~a period~~ of 15~~10~~ working days.

(Source: Amended at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.610 Reinstatement Fees

a) The following fees shall be applied to proceedings under this Part:

Type of Suspension	First Suspension	Subsequent Suspensions

Notice of Eviction from Department lands (except 90 day Notice of Eviction suspension)	$50	$100
Administrative (Officer request, etc.)	$50	$100
Non-Compliance (Interstate Wildlife Violator Compact)	$50	$100
Non-Commercial Point Suspension	$50	$100
Commercial Point Suspension	$100	$200
Reckless Operation of Snowmobile or Watercraft/ Failure to Yield to an Emergency Watercraft/Failure to Report a Watercraft Accident	$100	$200
Watercraft/Snowmobile OUI and Refusal	$250	$500

b) Reinstatement fees shall be made by cashier's check, bank check or money order and submitted to:

IDNR Office of Law Enforcement
One Natural Resources Way
Springfield IL 62702

c) All suspensions of privileges remain in effect until the appropriate reinstatement fee is received and processed by the Office of Law Enforcement. The Office of Law Enforcement has 15 business days after receipt of payment to process the reinstatement fee.

(Source: Added at 38 Ill. Reg. 17001, effective July 25, 2014)

SUBPART H: EVICTION FROM DEPARTMENT LANDS

Section 2530.800 Applicability

This Subpart governs practice and procedures under the jurisdiction of the Department for the following:

a) The immediate eviction and removal from Department lands for up to 90 days (see Sections 2530.810, 2530.820 and 2530.830); or

b) The eviction from Department lands for longer than 90 days sought by the Department based upon the course of conduct (see Sections 2430.830, 2530.840 and 2530.850).

(Source: Added at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.810 Immediate Eviction and Removal from Department Lands for up to 90 Days

a) As authorized by Section 805-518 of the Civil Administrative Code, the Department shall have the authority to remove or ban any individual engaged in illegal activities or disorderly conduct from any lands owned, leased or managed by the Department and lands dedicated as Nature Preserves or buffer areas under the Natural Areas Preservation Act, and deny future entry to those lands by way of revocation and/or suspension of access privileges.

b) This immediate eviction and removal shall be served on a Notice of Eviction form. The Notice of Eviction form shall contain, at a minimum, the following information:

1) Name, address and date of birth of person being served;

2) The site or area in which the person is evicted and removed;

3) The nature of the offense, including the citation of the relevant portions of the State or federal statute, the Illinois Administrative Code or the Code of Federal Regulations;

4) The date Notice of Eviction is served;

5) The starting and ending dates of the eviction and removal;

6) Consequences for returning during the period of eviction;

7) Procedures for appealing the eviction; and

8) Other information deemed necessary by the Department.

c) Persons who re-enter land from which they have been evicted and removed may be subject to arrest for criminal trespass of State-supported land in violation of Section 21-5 of the Criminal Code of 2012 or other applicable violations of the law.

d) Persons wishing to appeal an immediate eviction and removal shall do so in writing within 30 days after the date the Notice of Eviction is served.

e) Any person who is issued a Notice of Eviction shall have the right to appeal by filing a Petition for Hearing.

(Source: Added at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.820 Request for Hearing to Appeal Immediate Eviction and Removal

a) Any person who is issued a Notice of Eviction requiring him or her to remove himself or herself from Department lands shall have the right to appeal by filing two copies of a Petition for Hearing.

1) Both copies of the Petition for Hearing shall be mailed to or filed with:

Office of Legal Counsel
Illinois Department of Natural Resources
One Natural Resources Way
Springfield IL 62702-1271

2) The petitions must be received by the Department no later than 30 days after the Notice of Eviction and Removal is served for the petition to be considered.

b) If no petition is received within 30 days by the Office of Legal Counsel, the eviction and removal will be considered final without further notice.

c) The petition shall be styled "In Re the eviction of (name) , PETITION FOR HEARING". The petition shall contain sufficient facts in justification of a hearing and be signed by the Petitioner (person who was evicted).

d) The party filing the petition shall be designated the Petitioner. The Department shall be designated the Respondent.

(Source: Added at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.830 Eviction and Removal from Department Lands for Longer than 90 Days

a) This Section governs the practices and procedures related to the eviction and removal from Department lands for a period of time in excess of 90 days. As authorized by Section 805-518 of the Civil Administrative Code, the Department shall have the authority to remove or ban any individual engaged in illegal activities or disorderly conduct from any lands owned, leased or managed by the Department, and lands dedicated as Nature Preserves or buffer areas under the Natural Areas Preservation Act, and deny future entry to the same by way of revocation and/or suspension of access privileges.

b) In addition to, or in lieu of, the 90 day Notice of Eviction, the Department may request a hearing to evict and remove from Department lands violators of camping regulations as described in 17 Ill. Adm. Code 110.180 (Public Use of State Parks and Other Properties of the Department of Natural Resources) and 130.150 (Camping on Department of Natural Resources Properties). Violators shall only be subject to an eviction for a maximum of 365 days, as described in 17 Ill. Adm. Code 130.150(b).

c) In addition to, or in lieu of, the 90 day Notice of Eviction, the Department may request a hearing to revoke and/or suspend the access privileges authorized by Section 805-515 of the Civil Administrative Code for cases involving illegal activities other than those described in 17 Ill. Adm. Code 110 and 130. Violators shall be evicted from Department lands for crimes committed on any Department land for a period of time equivalent to maximum statutory penalties for the crimes committed under the Criminal Code of 2012, unless otherwise indicated, for the following criminal categories:

1) Petty offenses, up to 6 months eviction;

2) Class C misdemeanors;

3) Class B misdemeanors;

4) Class A misdemeanors;

5) Class 4 felonies;

6) Class 3 felonies;

7) Class 2 felonies;

8) Class 1 felonies; or

9) Class X felonies.

(Source: Added at 38 Ill. Reg. 17001, effective July 25, 2014)

Section 2530.840 Department Request for Eviction and Removal Longer than 90 Days

a) Proceedings for Department requests for eviction from Department lands for a period in excess of 90 days shall be commenced by the service of a notice and a Complaint upon the Respondent.

b) The Complaint shall contain the following:

1) A description of any violations committed by Respondent on Department lands;

2) A concise statement of the relief that the Department seeks; and

3) A statement that the relief stated in the Complaint shall be granted if the Respondent does not answer, respond or attend a hearing as set out in this Part.

c) A copy of the notice and Complaint shall either be served personally on the Respondent or his authorized agent, or shall be served by registered or certified mail with return receipt signed by the Respondent or his or her authorized agent. Proof of service of the Complaint shall be made by affidavit of the person making personal service, or by properly executed registered or certified mail receipt.

(Source: Added at 38 Ill. Reg. 17001, effective July 25, 2014)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF ADOPTED AMENDMENTS

Section 2530.850 Procedures for Eviction/Removal Hearings

All procedures for eviction and removal hearings are found in Subpart D.

(Source: Added at 38 Ill. Reg. 17001, effective July 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Income Tax

2) Code Citation: 86 Ill. Adm. Code 100

3) Section Number: 100.2060 — Adopted Action: New Section

4) Statutory Authority: [35 ILCS 5/201(o)]

5) Effective Date of Rule: July 23, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 832, January 10, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? Yes

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
100.5000	Amended	38 Ill. Reg. 11716; June 6, 2014
100.5020	Amended	38 Ill. Reg. 11716; June 6, 2014
100.6000	New Section	38 Ill. Reg. 11716; June 6, 2014

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

15) Summary and Purpose of Rulemaking: This rulemaking provides guidance on the application of the surcharge imposed under the Compassionate Use of Medical Cannabis Pilot Program. The surcharge is reported on and paid with the income tax return of the taxpayer.

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

Paul Caselton
Deputy General Counsel Income Tax
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-7055

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 100
INCOME TAX

SUBPART A: TAX IMPOSED

Section
100.2000 Introduction
100.2050 Net Income (IITA Section 202)
100.2060 Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

SUBPART B: CREDITS

Section
100.2100 Replacement Tax Investment Credit Prior to January 1, 1994 (IITA 201(e))
100.2101 Replacement Tax Investment Credit (IITA 201(e))
100.2110 Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120 Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130 Investment Credit; High Impact Business (IITA 201(h))
100.2140 Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150 Training Expense Credit (IITA 201(j))
100.2160 Research and Development Credit (IITA Section 201(k))
100.2163 Environmental Remediation Credit (IITA 201(l))
100.2165 Education Expense Credit (IITA 201(m))
100.2170 Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171 Angel Investment Credit (IITA 220)
100.2180 Credit for Residential Real Property Taxes (IITA 208)
100.2185 Film Production Services Credit (IITA Section 213)
100.2190 Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193 Student-Assistance Contributions Credit (IITA 218)
100.2195 Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196 Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197 Foreign Tax Credit (IITA Section 601(b)(3))
100.2198 Economic Development for a Growing Economy Credit (IITA 211)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENT

100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS OCCURRING PRIOR TO DECEMBER 31, 1986

Section
100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Scope
100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) − Definitions
100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Current Net Operating Losses: Offsets Between Members
100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) − Carrybacks and Carryforwards
100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) − Effect of Combined Net Operating Loss in Computing Illinois Base Income
100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) − Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES OCCURRING ON OR AFTER DECEMBER 31, 1986

Section
100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or After December 31, 1986

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NOTICE OF ADOPTED AMENDMENT

100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

Section
100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
100.2480 Enterprise Zone and River Edge Redevelopment Zone Dividend Subtraction (IITA Sections 203(a)(2)(J), 203(b)(2)(K), 203(c)(2)(M) and 203(d)(2)(K))
100.2490 Foreign Trade Zone/High Impact Business Dividend Subtraction (IITA Sections 203(a)(2)(K), 203(b)(2)(L), 203(c)(2)(O), 203(d)(2)(M))

SUBPART F: BASE INCOME OF INDIVIDUALS

Section
100.2510 Subtraction for Contributions to Illinois Qualified Tuition Programs (Section 529 Plans) (IITA Section 203(a)(2)(Y)
100.2580 Medical Care Savings Accounts (IITA Sections 203(a)(2)(D-5), 203(a)(2)(S) and 203(a)(2)(T))
100.2590 Taxation of Certain Employees of Railroads, Motor Carriers, Air Carriers and

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Water Carriers

SUBPART H: BASE INCOME OF TRUSTS AND ESTATES

Section
100.2655 Subtraction Modification for Enterprise Zone and River Edge Redevelopment Zone Interest (IITA Section 203(b)(2)(M))
100.2657 Subtraction Modification for High Impact Business Interest (IITA Section 203(b)(2)(M-1))
100.2680 Capital Gain Income of Estates and Trusts Paid to or Permanently Set Aside for Charity (Repealed)

SUBPART J: GENERAL RULES OF ALLOCATION AND APPORTIONMENT OF BASE INCOME

Section
100.3000 Terms Used in Article 3 (IITA Section 301)
100.3010 Business and Nonbusiness Income (IITA Section 301)
100.3015 Business Income Election (IITA Section 1501)
100.3020 Resident (IITA Section 301)

SUBPART K: COMPENSATION

Section
100.3100 Compensation (IITA Section 302)
100.3110 State (IITA Section 302)
100.3120 Allocation of Compensation Paid to Nonresidents (IITA Section 302)

SUBPART L: NON-BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

Section
100.3200 Taxability in Other State (IITA Section 303)
100.3210 Commercial Domicile (IITA Section 303)
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SUBPART M: BUSINESS INCOME OF PERSONS OTHER THAN RESIDENTS

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100.3300 Allocation and Apportionment of Base Income (IITA Section 304)
100.3310 Business Income of Persons Other Than Residents (IITA Section 304) − In General
100.3320 Business Income of Persons Other Than Residents (IITA Section 304) − Apportionment (Repealed)
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100.3350 Property Factor (IITA Section 304)
100.3360 Payroll Factor (IITA Section 304)
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100.3371 Sales Factor for Telecommunications Services
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100.3380 Special Rules (IITA Section 304)
100.3390 Petitions for Alternative Allocation or Apportionment (IITA Section 304(f))
100.3400 Apportionment of Business Income of Financial Organizations for Taxable Years Ending Prior to December 31, 2008 (IITA Section 304(c))
100.3405 Apportionment of Business Income of Financial Organizations for Taxable Years Ending on or after December 31, 2008 (IITA Section 304(c))
100.3420 Apportionment of Business Income of Insurance Companies (IITA Section 304(b))
100.3500 Allocation and Apportionment of Base Income by Nonresident Partners

SUBPART N: ACCOUNTING

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100.4500 Carryovers of Tax Attributes (IITA Section 405)

SUBPART O: TIME AND PLACE FOR FILING RETURNS

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100.5000 Time for Filing Returns: Individuals (IITA Section 505)
100.5010 Place for Filing Returns: All Taxpayers (IITA Section 505)
100.5020 Extensions of Time for Filing Returns: All Taxpayers (IITA Section 505)
100.5030 Taxpayer's Notification to the Department of Certain Federal Changes Arising in Federal Consolidated Return Years, and Arising in Certain Loss Carryback Years (IITA Section 506)
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100.5140 Composite Returns: Estimated Payments
100.5150 Composite Returns: Tax, Penalties and Interest
100.5160 Composite Returns: Credits on Separate Returns
100.5170 Composite Returns: Definition of a "Lloyd's Plan of Operation"
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100.5220 Designated Agent for the Members
100.5230 Combined Estimated Tax Payments
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100.5250 Liability for Combined Tax, Penalty and Interest
100.5260 Combined Amended Returns
100.5265 Common Taxable Year
100.5270 Computation of Combined Net Income and Tax
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100.7325 Time for Filing Returns and Making Payments for Taxes Required to Be Withheld On or After January 1, 2008 (IITA Section 704A)
100.7330 Payment of Tax Required to be Shown Due on a Return (IITA Sections 704 and 704A)
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100.9210 Waiver of Restrictions on Assessment (IITA Section 907)

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100.9500 Access to Books and Records (IITA Section 913)
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100.9700 Unitary Business Group Defined (IITA Section 1501)
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100.9800 Letter Ruling Procedures

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100.APPENDIX A Business Income Of Persons Other Than Residents
100.TABLE A Example of Unitary Business Apportionment
100.TABLE B Example of Unitary Business Apportionment for Groups Which Include Members Using Three-Factor and Single-Factor Formulas

AUTHORITY: Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

SOURCE: Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18 Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg.

14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195, effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at

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36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014.

SUBPART A: TAX IMPOSED

Section 100.2060 Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

a) In general. *For each taxable year beginning or ending during the Compassionate Use of Medical Cannabis Pilot Program, a surcharge is imposed on all taxpayers on income arising from the sale or exchange of capital assets, depreciable business property, real property used in the trade or business, and Section 197 intangibles of an organization registrant under the Compassionate Use of Medical Cannabis Pilot Program Act* [410 ILCS 130]. (IITA Section 201(o))

b) Definitions. For purposes of this Section:

"Act" means the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

"Organization Registrant" means a corporation, partnership, trust, limited liability company, or other organization, but not an individual, that holds either a medical cannabis cultivation center registration issued by the Department of Agriculture under Section 85 of the Act or a medical cannabis dispensary registration issued by the Department of Financial and Professional Regulation under Section 115 of the Act.

"Transactions Subject to the Surcharge" means *sales and exchanges of capital assets, depreciable business property, real property used in the trade or business, and Section 197 intangibles of an organization registrant.* (IITA Section 201(o)) Although a unitary business group filing combined Illinois returns under IITA Section 502(f) is treated as a single taxpayer and its members are jointly and severally liable for any surcharge imposed on the group, the group itself is not an organization registrant and transactions of any member that is not itself an organization registrant are not subject to the surcharge.

c) Imposition of the Surcharge. The surcharge is imposed on any taxpayer who incurs a federal income tax liability on the income realized on a transaction subject to the surcharge, including individuals and other taxpayers who are not themselves the organization registrant that engaged in the transaction. An entity that is exempt from federal income tax and therefore incurs no liability with respect to a transaction otherwise subject to the surcharge will incur no surcharge. For example:

1) A disregarded entity, whose existence separate from that of its owner is disregarded under 26 CFR 301.7701-3, and a grantor trust will incur no federal income tax liability because income of these entities is taxed to the owner or the grantor. The disregarded entity or grantor trust will therefore incur no surcharge. Rather, the surcharge is imposed on the owner of the entity, or the grantor of the trust, who is taxable on the income from a transaction subject to the surcharge.

2) A partnership incurs no federal income tax liability because its income is taxed to its partners, and so will incur no surcharge. In the case of an organization registrant that is a partnership, the surcharge is imposed on each partner who is taxable on the income from a transaction of the partnership that is subject to the surcharge.

3) A Subchapter S corporation will generally incur no federal income tax liability because its income is taxed to its shareholders, and so will generally incur no surcharge. However, a Subchapter S corporation subject to federal income tax on built-in gains or passive income from transactions subject to the surcharge is subject to the surcharge. The surcharge is imposed on a shareholder for income from transactions of the Subchapter S corporation that are subject to the surcharge, including transactions on which the surcharge is also imposed on the Subchapter S corporation.

4) A trust will incur no federal income tax liability for transactions subject to the surcharge if the income from a transaction subject to the surcharge is distributed or deemed distributed to its beneficiaries, who are then taxed on the income. In those situations, the trust will incur no surcharge, but the beneficiary to whom the income is taxable will incur the surcharge.

d) Amount of the Surcharge. *The amount of the surcharge is equal to the amount of federal income tax liability of the taxpayer for the taxable year attributable to transactions subject to the surcharge*. (IITA Section 201(o))

1) The federal income tax liability attributable to transactions subject to the surcharge means the federal income tax liability of the taxpayer for the taxable year, minus the federal income tax liability of the taxpayer for the taxable year computed as if the transactions subject to the surcharge made in that year had not been made by the organization registrant.

2) If taxpayer is a member of an affiliated group of corporations that files a federal consolidated income tax return, the federal income tax liability attributable to transactions subject to the surcharge means the consolidated federal income tax liability of the affiliated group for the taxable year, minus the federal income tax liability of the affiliated group for the taxable year computed as if the transactions subject to the surcharge for which taxable income or gain was recognized in that taxable year had not been made, multiplied by a fraction equal to the amount of the separate taxable income of that member that is attributable to transactions subject to surcharge divided by the sum of the separate taxable incomes attributable to transactions subject to surcharge of all members of the affiliated group.

e) Transactions Exempt from the Surcharge. Under IITA Section 201(o)(1) and (2), the surcharge does not apply to a transaction if:

1) the transaction occurs in connection with the transfer of the medical cannabis cultivation center registration, medical cannabis dispensary registration, or the property of the organization registrant as a result of any of the following:

A) a bankruptcy, receivership or debt adjustment initiated by or against the organization registrant;

B) the cancellation, revocation or termination of the organization registrant's registration by the Illinois Department of Public Health;

C) a determination by the Illinois Department of Public Health that transfer of the organization registrant's registration is in the best interests of Illinois qualifying patients;

D) the death of an owner of the equity interest in a organization registrant;

E) the acquisition of a controlling interest in the stock or substantially all of the assets of an organization registrant that is a publicly traded company;

F) a transfer by a parent company to a wholly owned subsidiary; or

G) the transfer or sale to or by one person to another person where both persons were initial owners of the registration when the registration was issued; or

2) the cannabis cultivation center registration, medical cannabis dispensary registration, or the controlling interest in a registrant's property is transferred in a transaction to lineal descendants or because of a transaction under 26 USC 351, so long as no gain or loss is recognized.

f) Special Rules and Provisions

1) Because the surcharge is imposed under Article 2 of the IITA, the taxpayer's surcharge liability for a taxable year is included in the tax liability for which estimated payments must be made for that taxable year. (See IITA Section 804(f).)

2) Because the surcharge is imposed under IITA Section 201, refunds of overpayments of the surcharge may be made from funds in the Income Tax Refund Fund. (See IITA Section 901(d)(1).)

(Source: Added at 38 Ill. Reg. 17043, effective July 23, 2014)

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1) Heading of the Part: Retailers' Occupation Tax

2) Code Citation: 86 Ill. Adm. Code 130

3)

Section Numbers:	Adopted Action:
130.311	Amendment
130.745	Amendment
130.801	Amendment

4) Statutory Authority: 35 ILCS 120/2-10

5) Effective Date of Rule: July 25, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 8294, April 18, 2014

10) Has JCAR issued a Statement of Objection to this Rulemaking? No

11) Differences between Proposal and Final Version: No substantive changes were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? Yes

Section Numbers:	Proposed Action:	*Illinois Register* Citation:
130.321	Amendment	38 Ill. Reg. 7555, April 4, 2014
130.350	Amendment	38 Ill. Reg. 8785, April 25, 2014
130.351	Amendment	38 Ill. Reg. 8785, April 25, 2014
130.2080	Amendment	38 Ill. Reg. 9171, May 2, 2014
130.Illustration A	Amendment	38 Ill. Reg. 9171, May 2, 2014

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130.601	Repealed	38 Ill. Reg. 13161, June 27, 2014
130.605	Amendment	38 Ill. Reg. 13161, June 27, 2014
130.610	Repealed	38 Ill. Reg. 13161, June 27, 2014

15) Summary and Purpose of Rulemaking: PA 98-122 enacted the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130]. The Act permits regulated sales of medical cannabis by registered medical cannabis dispensing organizations to qualifying patients or designated caregivers who have been issued and possess registry identification cards issued by the Department of Public Health. PA 98-122 also amended the Retailers' Occupation Tax Act. Beginning January 1, 2014, "prescription and nonprescription medicines and drugs" includes medical cannabis and medical cannabis infused products sold by a registered dispensing organization under the Compassionate Use of Medical Cannabis Pilot Program Act [35 ILCS 120/2-10]. Section 130.311 of the Department's rules is amended to reflect that "prescription and nonprescription medicines and drugs" includes medical cannabis and medical cannabis infused products sold by a registered dispensing organization and that these products are subject to Retailers' Occupation Tax at the 1% rate, plus applicable local taxes. Cannabis paraphernalia is subject to Retailers' Occupation Tax at the general merchandise rate of 6.25%. Section 130.745 is amended to provide that the Department of Revenue will notify the Department of Financial and Professional Regulation and the Department of Public Health upon revocation of, or a decision not to renew, a certificate of registration issued to a medical cannabis dispensing organization operated under the Compassionate Use of Medical Cannabis Pilot Program Act. Section 130.801 is amended to add language that states that all books and records kept by dispensing organizations under the Compassionate Use of Medical Cannabis Pilot Program Act pursuant to rules adopted by the Illinois Department of Financial and Professional Regulation shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. Section 130.311(d) also is amended to remove an existing redundancy and correct a cross reference to another subsection of the rule.

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

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

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217/782-2844

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

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TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section
130.101 Character and Rate of Tax
130.105 Responsibility of Trustees, Receivers, Executors or Administrators
130.110 Occasional Sales
130.111 Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115 Habitual Sales
130.120 Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section
130.201 The Test of a Sale at Retail
130.205 Sales for Transfer Incident to Service
130.210 Sales of Tangible Personal Property to Purchasers for Resale
130.215 Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220 Sales to Lessors of Tangible Personal Property
130.225 Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section
130.305 Farm Machinery and Equipment
130.310 Food, Soft Drinks and Candy
130.311 Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products
130.315 Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320 Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321 Fuel Used by Air Common Carriers in International Flights
130.325 Graphic Arts Machinery and Equipment Exemption
130.330 Manufacturing Machinery and Equipment
130.331 Manufacturer's Purchase Credit
130.332 Automatic Vending Machines

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130.335 Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled Devices
130.340 Rolling Stock
130.341 Commercial Distribution Fee Sales Tax Exemption
130.345 Oil Field Exploration, Drilling and Production Equipment
130.350 Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351 Aggregate Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment

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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
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130.435 State and Local Taxes Other Than Retailers' Occupation Tax
130.440 Penalties
130.445 Federal Taxes
130.450 Installation, Alteration and Special Service Charges
130.455 Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

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130.501 Monthly Tax Returns – When Due – Contents
130.502 Quarterly Tax Returns
130.505 Returns and How to Prepare
130.510 Annual Tax Returns
130.515 First Return
130.520 Final Returns When Business is Discontinued
130.525 Who May Sign Returns
130.530 Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535 Payment of the Tax, Including Quarter Monthly Payments in Certain Instances

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130.540 Returns on a Transaction by Transaction Basis
130.545 Registrants Must File a Return for Every Return Period
130.550 Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551 Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552 Alcoholic Liquor Reporting
130.555 Vending Machine Information Returns
130.560 Verification of Returns

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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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130.701 General Information on Obtaining a Certificate of Registration
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130.710 Procedure When Security Must be Forfeited
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130.720 Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725 Display
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Section
130.801 General Requirements
130.805 What Records Constitute Minimum Requirement
130.810 Records Required to Support Deductions
130.815 Preservation and Retention of Records
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Permissible

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130.910 Criminal Penalties

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Section
130.1101 Definition of Federal Area
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SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

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130.1201 General Information
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SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

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130.1301 When Lessee of Premises Must File Return for Leased Department
130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section

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130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale
130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for Certificates of Resale
130.1410 Requirements for Certificates of Resale (Repealed)
130.1415 Resale Number – When Required and How Obtained
130.1420 Blanket Certificate of Resale (Repealed)

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Section
130.1501 Claims for Credit – Limitations – Procedure
130.1505 Disposition of Credit Memoranda by Holders Thereof
130.1510 Refunds
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SUBPART P: PROCEDURE TO BE FOLLOWED UPON SELLING OUT OR DISCONTINUING BUSINESS

Section
130.1601 When Returns are Required After a Business is Discontinued
130.1605 When Returns Are Not Required After Discontinuation of a Business
130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section
130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section
130.1801 When Powers of Attorney May be Given
130.1805 Filing of Power of Attorney With Department
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130.1945	Co-operative Associations
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130.1952	Sales of Building Materials to a High Impact Business
130.1953	Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
130.1954	River Edge Redevelopment Zones
130.1955	Farm Chemicals
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130.1965	Florists and Nurserymen
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130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps, Discount Coupons, Automobile Rebates and Dealer Incentives
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
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130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors

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130.2156 Vendors of Steam
130.2160 Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165 Veterinarians
130.2170 Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section
130.2500 Direct Payment Program
130.2505 Qualifying Transactions, Non-transferability of Permit
130.2510 Permit Holder's Payment of Tax
130.2515 Application for Permit
130.2520 Qualification Process and Requirements
130.2525 Application Review
130.2530 Recordkeeping Requirements
130.2535 Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Card
130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration
130.ILLUSTRATION C Food Flow Chart

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

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

at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987; amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15,

2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003, for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. 4226, effective March 6, 2008; emergency amendment at 32 Ill. Reg. 8785, effective May 29, 2008, for a maximum of 150 days; emergency expired October 25, 2008; amended at 32 Ill. Reg. 10207, effective June 24, 2008; amended at 32 Ill. Reg. 17228, effective October 15, 2008; amended at 32 Ill. Reg. 17519, effective October 24, 2008; amended at 32 Ill. Reg. 19128, effective December 1, 2008; amended at 33 Ill. Reg. 1762, effective January 13, 2009; amended at 33 Ill. Reg. 2345, effective January 23, 2009; amended at 33 Ill. Reg. 3999, effective February 23, 2009; amended at 33 Ill. Reg. 15781, effective October 27, 2009; amended at 33 Ill. Reg. 16711, effective November 20, 2009; amended at 34 Ill. Reg. 9405, effective June 23, 2010; amended at 34 Ill. Reg. 12935, effective August 19, 2010; amended at 35 Ill. Reg. 2169, effective January 24, 2011; amended at 36 Ill. Reg. 6662, effective April 12, 2012; amended at 38 Ill. Reg. 12909, effective June 9, 2014; amended at 38 Ill. Reg. 17060, effective July 25, 2014.

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section 130.311 Drugs, Medicines, Medical Appliances and Grooming and Hygiene Products

a) General. With respect to prescription and non-prescription medicines, drugs, medical appliances, modifications to a motor vehicle for the purpose of rendering it usable by a disabled person and insulin, urine testing utensils, syringes and needles used by diabetics, for human use, the tax is imposed at the rate of 1%. Grooming and hygiene products do not qualify for the 1% rate, regardless of whether the products make medicinal claims. Grooming and hygiene products are taxed at the general merchandise rate of 6.25%. *Beginning January 1, 2014, "prescription and nonprescription medicines and drugs" includes medical*

cannabis and medical cannabis infused products sold by a registered dispensing organization under the Compassionate Use of Medical Cannabis Pilot Program Act [35 ILCS 120/2-10]. Medical cannabis, including medical cannabis infused products, sold by registered dispensing organizations under the Compassionate Use of Medical Cannabis Pilot Program Act, is subject to Retailers' Occupation Tax at the 1% rate, plus applicable local taxes. Cannabis paraphernalia is subject to Retailers' Occupation Tax at the general merchandise rate of 6.25%.

AGENCY NOTE: Medical cannabis is subject to tax under both the Metro East Mass Transit District Retailers' Occupation Tax (as provided in 70 ILCS 3610/5.01) and the Regional Transportation Authority Retailers' Occupation Tax (taxed at the rate established for prescription and nonprescription medicines in Cook County and at the rate established for general merchandise in all other areas of the metropolitan region that are subject to the tax, as provided in 70 ILCS 3615/4.03).

b) Medicines and Drugs. Except for grooming and hygiene products described in subsection (c), a medicine or drug is any pill, powder, potion, salve or other preparation for human use that purports on the label to have medicinal qualities. Medicines prescribed by veterinarians for animals are subject to the high rate of tax. A written claim on the label that a product is intended to cure or treat disease, illness, injury or pain or to mitigate the symptoms of such disease, illness, injury or pain constitutes a medicinal claim.

1) Examples of medicinal claims that will qualify the product for the low rate of tax include, but are not limited to:

A) "medicated";

B) "heals (a medical condition)";

C) "cures (a medical condition)";

D) "for relief (of a medical condition)";

E) "fights infection";

F) "stops pain";

G) "relief from poison ivy or poison oak";

H) "relieves itching, cracking, burning";

I) "a soaking aid for sprains and bruises";

J) "relieves muscular aches and pains";

K) "cures athlete's foot";

L) "relieves skin irritation, chafing, heat rash and diaper rash";

M) "relief from the pain of sunburn";

N) "soothes pain".

2) The use of the terms "antiseptic", "antibacterial" or "kills germs" may or may not constitute a medicinal claim.

A) The use of these terms in conjunction with a claim that the product kills germs in general does not constitute a medicinal claim.

B) However, a claim that a product is for use as an antiseptic to kill germs to prevent infection in cuts, scrapes, abrasions and burns does constitute a medicinal claim.

3) Examples of claims that do not constitute medicinal claims include, but are not limited to:

A) "cools";

B) "absorbs wetness that can breed fungus";

C) "deodorant" or "destroys odors";

D) "moisturizes";

E) "freshens breath";

F) "antiperspirant";

G) "sunscreen";

H) "prevents";

I) "protects".

c) Grooming and Hygiene Products. *Beginning September 1, 2009, "nonprescription medicines and drugs" does not include grooming and hygiene products. "Grooming and hygiene products" includes, but is not limited to, soaps and cleaning solutions, shampoo, toothpaste, mouthwash, antiperspirants, and sun tan lotions and* sun *screens, unless those products are available by prescription only, regardless of whether the products meet the definition of "over-the-counter drugs". "Over-the-counter drug" means a drug for human use that contains a label that identifies the product as a drug as required by 21 CFR 201.66. The "over-the-counter drug" label includes a "Drug Facts" panel or a statement of the "active ingredients" with a list of those ingredients contained in the compound, substance or preparation.* [35 ILCS 120/2-10]

1) As a result, on or after September 1, 2009:

A) nonprescription medicines and drugs that are grooming and hygiene products do not qualify for the 1% rate of tax for medicines and drugs under subsection (b). Grooming and hygiene products do not qualify for the 1% rate, regardless of whether the products make medicinal claims or meet the definition of over-the-counter drugs. Grooming and hygiene products are taxed at the general merchandise rate of 6.25%.

B) products available only with a prescription are not "grooming and hygiene products".

2) Examples of products that are grooming and hygiene products include, but are not limited to:

A) all shampoos, hair conditioners and hair care products;

B) shaving creams or lotions;

C) deodorants;

D) moisturizers;

E) breath spray;

F) all condoms, with and without spermicide;

G) baby diapers and adult diapers, pantiliners and pads;

H) baby powder;

I) contact lens solutions;

J) hand sanitizers;

K) acne products;

L) skin creams, lotions, ointments and conditioners;

M) foot powders;

N) foot wear insoles that are intended to eliminate odor;

O) feminine hygiene products; and

P) lip balms.

3) The following products are not grooming and hygiene products and may qualify for the 1% rate if they meet the requirements of subsection (b):

A) hydrocortisone creams or ointments;

B) anti-itch creams or ointments;

C) vaginal creams or ointments;

D) nasal sprays;

E) eye drops;

F) topical pain relievers;

G) ice/heat creams;

H) rubbing alcohol;

I) denture creams or adhesives; and

J) styptic pencils.

4) Nonprescription medicines and drugs and products that are not grooming and hygiene products do not qualify for the 1% rate of tax unless they meet the requirements of subsection (b) of this Section.

5) Products that are taken orally and ingested, such as vitamins, supplements and weight gain or weight loss products, are not grooming and hygiene products.

d) Medical Appliances: A medical appliance is an item that is used to directly substitute for a malfunctioning part of the human body.

1) For purposes of this Section, an item that becomes part of the human body by substituting for any part of the body that is lost or diminished because of congenital defects, trauma, infection, tumors or disease is considered a medical appliance. Examples of medical appliances that will qualify the product for the low rate of tax include, but are not limited to:

A) breast implants that restore breasts after loss due to cancer;

B) heart pacemakers;

C) artificial limbs;

D) dental prosthetics;

E) crutches and orthopedic braces;

F) dialysis machines (including the dialyzer);

G) wheelchairs; and

~~H) artificial limbs; and~~

H~~I~~) mastectomy forms and bras.

2) Corrective medical appliances such as hearing aids, eyeglasses, contact lens and orthodontic braces qualify as medical appliances subject to the low rate of tax.

3) Sterile band-aids, dressings, bandages and gauze qualify for the low rate because they serve as a substitute for skin.

4) Items transferred incident to cosmetic procedures are not considered medical appliances. For purposes of this Section, a cosmetic procedure means any procedure performed on an individual that is directed at improving the individual's appearance and that does not prevent or treat illness or disease, promote the proper function of the body or substitute for any part of the body that is lost or diminished because of congenital defects, trauma, infection, tumors or disease. Cosmetic procedures include, but are not limited to, elective breast, pectoral or buttock augmentation.

5) Diagnostic equipment shall not be deemed to be a medical appliance, except as provided in Section 130.311(e)~~130.310(d)~~. Other medical tools, devices and equipment such as x-ray machines, laboratory equipment and surgical instruments that may be used in the treatment of patients but that do not directly substitute for a malfunctioning part of the human body do not qualify as medical appliances. Sometimes a kit of items is sold where the purchaser will use the kit items to perform treatment upon himself or herself. The kit will contain paraphernalia and sometimes medicines. An example is a kit sold for the removal of ear wax. Because the paraphernalia hardware is for treatment, it generally does not qualify as a medical appliance. However, the Department will consider the selling price of the entire kit to be taxable at the reduced rate when the value of

the medicines in the kit is more than half of the total selling price of the kit.

6) Supplies, such as cotton swabs, disposable diapers, toilet paper, tissues and towelettes and cosmetics, such as lipsticks, perfume and hair tonics, do not qualify for the reduced rate.

7) Medical appliances may be prescribed by licensed health care professionals for use by a patient, purchased by health care professionals for the use of patients or purchased directly by individuals. Purchases of medical appliances by lessors that will be leased to others for human use also qualify for the reduced rate of tax.

e) *Insulin, urine testing materials, syringes and needles used in treating diabetes in human beings qualify for the reduced rate of tax.* (Section 2-10 of the Act)

f) Modifications Made to a Motor Vehicle for the Purpose of Rendering It Usable by a Disabled Person

1) Effective August 17, 1995, *modifications made to a motor vehicle, as defined in Section 1-146 of the Illinois Vehicle Code* [625 ILCS 5/1-146], *for the purpose of rendering it usable by a disabled person, qualify for the reduced rate of tax* (Section 2-10 of the Act). The low rate applies to modifications that enable a disabled person to drive a vehicle or that assist in the transportation of disabled persons. Examples of such modifications include, but are not limited to, special steering, braking, shifting or acceleration equipment or equipment that modifies the vehicle for accessibility, such as a chair lift.

2) For purposes of this subsection (f), the term "disabled person" has the same meaning as a "person with disabilities" in Section 1-159.1 of the Illinois Vehicle Code [625 ILCS 5/1-159.1].

g) Reporting

1) The retailer must keep an actual record of all sales and must report tax at the applicable rates, based on sales as reflected in the retailer's records. Books and records must be maintained in sufficient detail so that all

receipts reported with respect to drugs, medicines and medical appliances can be supported.

2) Suppliers that sell items to health professionals must collect tax based on the actual use of the items. Health professionals that purchase items that may or may not qualify for the low rate, depending upon the ultimate use of the items by the health professionals, may provide their suppliers with certificates that identify the percentage of items being purchased that qualify for the low rate, e.g., that are purchased to be used to replace a malfunctioning part of the body. (For example, cosmetic versus reconstructive procedures.)

A) The certificate should contain the following information:

i) The seller's name and address;

ii) the purchaser's name and address;

iii) a description of the medical appliances being purchased;

iv) the percentage of the medical appliances being purchased that qualify for the low rate;

v) the purchaser's signature or the signature of an authorized employee or agent of the purchaser and date of signing; and

vi) if the purchaser is registered with the Department, the purchaser's Registration Number or Resale Number.

B) A supplier that obtains a certificate from a health professional that complies with subsection (g)(2)(A) will not be liable for additional Retailers' Occupation Tax in the event the actual percentage of items purchased by the health professional that qualify for the low rate is less than the percentage claimed in the certificate if it remitted Retailers Occupation Tax to the Department based on the information contained in the certificate received from the health professional.

(Source: Amended at 38 Ill. Reg. 17060, effective July 25, 2014)

SUBPART G: CERTIFICATE OF REGISTRATION

Section 130.745 Revocation of Certificate

a) The Department, after notice and hearing as provided under Section 2505-380 of the Civil Administrative Code [20 ILCS 2505/2505-380] and Section 2b of the Act, shall revoke the certificate of registration (including all sub-certificates of registration, if any, issued thereunder) of any person who violates any of the provisions of the Act. Before revocation of a certificate of registration the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the person so accused notice in writing of the charge against him or her, and on the date designated shall conduct a hearing upon this matter. The lapse of such 90 day period shall not preclude the Department from conducting revocation proceedings at a later date if necessary.

b) Upon revocation of the certificate of registration (including all sub-certificates of registration, if any, issued under the certificate), the Department shall post notice at the place or places of business, at the front entrance and on the front windows, to which the revoked certificate applied, stating that the certificate of registration has been revoked and that it is unlawful for any person to engage in the business of selling tangible personal property at retail in this State without a certificate of registration issued by the Department (see Illustration B).

c) The Department shall notify the Department of Financial and Professional Regulation and the Department of Public Health upon revocation of, or a decision not to renew, a certificate of registration issued to a medical cannabis dispensing organization operated under the Compassionate Use of Medical Cannabis Pilot Program Act.

(Source: Amended at 38 Ill. Reg. 17060, effective July 25, 2014)

SUBPART H: BOOKS AND RECORDS

Section 130.801 General Requirements

a) Every person engaged in the business of selling tangible personal property at retail in this State shall keep records and books of all sales and purchases of tangible personal property, including all sales and purchase invoices, purchase

orders, merchandise records and requisitions, inventory records prepared as of December 31 of each year or otherwise annually, as has been the custom in the specific trade, credit memos, debit memos, bills of lading, shipping records, and all other records pertaining to any and all purchases and sales of goods whether or not the retailer believes them to be taxable under the Act; and the retailer shall also keep summaries, recapitulations, totals, journal entries, ledger accounts, accounts receivable records, accounts payable records, statements, tax returns with all schedules or pertinent working papers used in connection with the preparation of such returns, and other documents listing, summarizing or pertaining to such sales, purchases, inventory changes, shipments or other transactions. For a description of what records constitute the minimum required, including the use of machine-sensible records and electronic data interchange, see Section 130.805 of this Part.

b) Retailers must maintain complete books and records covering receipts from all sales and distinguishing taxable from nontaxable receipts.

c) Such books and records must clearly indicate and explain all the information (deductions as well as gross receipts) required for tax returns and shall, at all times during business hours of the day, be subject to inspection and audit by the Department or its duly authorized agents and employees.

d) If a taxpayer retains records required to be retained under this Section in both machine-sensible and hard-copy formats, the taxpayer shall, upon request, make the records available to the Department in machine-sensible format in accordance with Section 130.805(b)(5).

e) Such books and records must be kept in the English language.

f) Such books and records must be kept within Illinois except in instances where a business has several branches, with the head office being located outside Illinois, and where all books and records have been regularly kept outside the State at such head office. Under such circumstances, upon written permission from the Department, books and records may be kept outside Illinois, but the taxpayer must, within a reasonable time after notification by the Department, make all pertinent books, records, papers and documents available at some point within Illinois for the purpose of such inspection and audit as the Department may deem necessary.

g) It shall be presumed that all sales of tangible personal property are subject to tax under the Act until the contrary is established, and the burden of proving that a transaction is not taxable shall be upon the person who would be required to remit the tax to the Department if such transaction is taxable. In the course of any audit or investigation or hearing by the Department with reference to a given taxpayer, if the Department finds that the taxpayer lacks documentary evidence needed to support the taxpayer's claim to exemption from tax, the Department is authorized to notify the taxpayer in writing to produce such evidence, and the taxpayer shall have 60 days subject to the right in the Department to extend this period either on request for good cause shown or on its own motion from the date when such notice is sent to the taxpayer by certified or registered mail (or delivered to the taxpayer if the notice is served personally) in which to obtain and produce such evidence for the Department's inspection and audit, failing which the matter shall be closed, and the transaction shall be conclusively presumed to be taxable.

h) All books and records kept by a medical cannabis dispensing organization under the Compassionate Use of Medical Cannabis Pilot Program Act pursuant to rules adopted by the Illinois Department of Financial and Professional Regulation to implement the Compassionate Use of Medical Cannabis Pilot Program Act shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees.

(Source: Amended at 38 Ill. Reg. 17060, effective July 25, 2014)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED RULES

1) Heading of the Part: Medical Cannabis Cultivation Privilege Tax Law

2) Code Citation: 86 Ill. Adm. Code 429

3)

Section Numbers:	Adopted Action:
429.105	New Section
429.110	New Section
429.115	New Section
429.120	New Section
429.125	New Section
429.130	New Section
429.135	New Section
429.140	New Section
429.145	New Section

4) Statutory Authority: 410 ILCS 130/215

5) Effective Date of Rule: July 15, 2014

6) Does this rulemaking contain an automatic repeal date? No

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 8319, April 18, 2014

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. The changes made were grammar and punctuation or technical. No substantive changes were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED RULES

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This Part 429 implements PA 98-122, the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130], which includes the Medical Cannabis Cultivation Privilege Tax Law ("Law") codified at Sections 190-215 of the Act. The Law is effective January 1, 2014 and automatically sunsets on January 1, 2018. Section 429.105 provides the definitions used in Part 429. Section 429.110 explains the nature and the rate of tax imposed on persons cultivating medical cannabis. Section 429.115 explains the registration requirements for persons operating cultivation centers. Section 429.120 explains the process of revoking certificates of registration of cultivation centers that are not complying with the Law. Section 429.125 explains the obligations of cultivation centers to file returns and pay the tax. Section 429.130 identifies sections of the Retailers' Occupation Tax Act that address the filing of claims for taxes. Section 429.135 identifies the books and records that must be maintained by cultivation centers. Section 429.140 states that the Uniform Penalty and Interest Act and Section 13 of the Retailers' Occupation Tax Act (criminal penalties) apply to the extent they are not inconsistent with the Law. Section 429.145 addresses the Department of Revenue's authority to administer and enforce the Law and identifies the sections of the Retailers' Occupation Tax Act that are incorporated by reference into the Law.

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

Richard S. Wolters
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED RULES

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 429
MEDICAL CANNABIS CULTIVATION PRIVILEGE TAX LAW

Section
429.105 Definitions
429.110 Nature and Rate of the Tax
429.115 Registration
429.120 Revocation of Certificate of Registration
429.125 Returns
429.130 Claims and Credit Memoranda
429.135 Books and Records
429.140 Penalties and Interest
429.145 Department's Authority to Administer the Law

AUTHORITY: Implementing the Medical Cannabis Cultivation Privilege Tax Law [410 ILCS 130/190 through 215] and authorized by Section 215 of the Medical Cannabis Cultivation Privilege Tax Law [410 ILCS 130/215].

SOURCE: Adopted at 38 Ill. Reg. 17084, effective July 15, 2014.

Section 429.105 Definitions

"Act" means the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

"Cannabis" has the meaning given that term in Section 3 of the Medical Cannabis Control Act [720 ILCS 550/3(a)] [410 ILCS 130/10(b)].

"Cultivation center" means a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis [410 ILCS 130/10(e)].

"Department" means the Department of Revenue [410 ILCS 130/195].

"Designated caregiver" means a person who:

is at least 21 years of age;

has agreed to assist with a patient's medical use of cannabis;

has not been convicted of an excluded offense; and

assists no more than one registered qualifying patient with his or her medical use of cannabis [410 ILCS 130/10(i)].

"Dispensing organization" means a facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients [410 ILCS 130/10(o)].

"Law" means the Medical Cannabis Cultivation Privilege Tax Law [410 ILCS 130/190 through 215].

"Medical cannabis" means cannabis and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), used as an herbal remedy or therapy to treat disease or alleviate symptoms. Medical cannabis can be administered by a variety of routes, including, but not limited to: vaporizing or smoking dried buds; administering tinctures or tonics; applying topicals such as ointments or balms; consuming infused food products, such as soda or teas; or taking capsules.

"Medical cannabis container" means a sealed, traceable, food compliant, tamper resistant, tamper evident container, or package used for the purpose of containment of medical cannabis from a cultivation center to a dispensing organization [410 ILCS 130/10(n)].

"Medical cannabis infused product" means food, oils, ointments, or other products containing usable cannabis that are not smoked [410 ILCS 130/10(q)].

"Ounce" means 28.35 grams.

"Person" means an individual, partnership, corporation, or public or private organization [410 ILCS 130/195].

"Qualifying patient" means a qualifying patient registered under the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130/195].

"Sales price" means the consideration for a sale valued in money, whether received in money or otherwise, including cash, credits, property, and services, and shall be determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost, or any other expense whatsoever.

"Usable cannabis" means the seeds, leaves, buds, and flowers of the cannabis plant and any mixture or preparation thereof, but does not include the stalks, and roots of the plant. It does not include the weight of any non-cannabis ingredients combined with cannabis, such as ingredients added to prepare a topical administration, food, or drink [410 ILCS 130/10(w)].

Section 429.110 Nature and Rate of Tax

a) *Beginning January 1, 2014, a tax is imposed upon the privilege of cultivating medical cannabis at a rate of 7% of the sales price per ounce. The tax is paid by a cultivation center and is not the responsibility of a dispensing organization, qualifying patient or designated caregiver* [410 ILCS 130/200(a)].

b) *The tax imposed under this Law shall be in addition to all other occupation or privilege taxes imposed by the State of Illinois or by any municipal corporation or political subdivision thereof* [410 ILCS 130/200(b)].

c) The cultivation center may seek reimbursement of the tax. The charge for reimbursement may not be identified on the invoice as a tax.

d) Tax Base

1) The tax is calculated based on the sales price of the number of ounces or partial ounces of usable medical cannabis sold by a cultivation center. For example, a cultivation center sells 500 ounces of medical cannabis to a dispensing organization for $100,000. The tax is 7% of $100,000, or $7,000.

2) The sales price is determined without any deduction on account of the cost of the property sold, the cost of materials used, labor or service cost or any other expense whatsoever. See 86 Ill. Adm. Code 130.415 for rules regarding the treatment of transportation and delivery charges. For example, a cultivation center sells 500 ounces of medical cannabis to a dispensing organization for $100,000 plus a delivery charge of $250 and a fuel surcharge of $50. The cultivation center delivers the medical cannabis to the dispensing organization. The cultivation center and the dispensing organization do not agree upon the delivery charges separately from the sales price of the medical cannabis that is sold. As a result, the cost of the delivery service is part of the "sales price" of the medical cannabis. The sales price for purposes of determining the tax is $100,300.

3) The tax is computed on the sales price of the medical cannabis sold after the application of any applicable discounts. For example, a cultivation center sells 500 ounces of medical cannabis to a dispensing organization for $200 an ounce. The cultivation center provides a nondiscriminatory 10% discount for sales over 300 ounces. The total price with the discount is $90,000. The tax is computed on the sales price of $90,000.

4) There is no tax on free samples of medical cannabis given to a dispensing organization by a cultivation center. However, the cultivation center will incur Use Tax liability on the cost price of the free samples of medical cannabis given to the dispensing organization. (See 86 Ill. Adm. Code 150.305(c).)

5) The tax on a package or unit of medical cannabis infused product shall be based on the weight in ounces of usable cannabis as shown on the label required by 8 Ill. Adm. Code 1000.420.

e) A cultivation center may not either directly or indirectly discriminate in price between different dispensing organizations that are purchasing a like grade, strain, brand, and quality of cannabis or cannabis-infused product. Nothing in this Part prevents cultivation centers from pricing medical cannabis differently based on differences in the cost of manufacture, the quantities sold, such as volume discounts, or the way the products are delivered.

f) The Law does not exempt any sales of medical cannabis cultivated by a cultivation center. All sales of medical cannabis are taxable.

Section 429.115 Registration

a) It is unlawful for any person to engage in the business of cultivating medical cannabis in this State without a certificate of registration from the Department.

b) *Every person subject to the tax under the Law shall apply to the Department (upon a form prescribed and furnished by the Department) for a certificate of registration under this Law. Application for a certificate of registration shall be made to the Department upon forms furnished by the Department.* [410 ILCS 130/205(a)]

c) *The certificate of registration which is issued by the Department to a retailer under the Retailers' Occupation Tax Act* [35 ILCS 120] *shall permit a person to engage in a business of cultivating medical cannabis under the Law without registering separately with the Department* [410 ILCS 130/205(a)]. If a retailer holding a certificate of registration under the Retailers' Occupation Tax Act engages in the business of cultivating medical cannabis at another location in this State, *the Department shall furnish him* or her *with a sub-certificate of registration for* that *place of business, and the applicant shall display the appropriate sub-certificate of registration at* that *place of business*. The *sub-certificate of registration shall bear the same registration number as that appearing upon the certificate of registration to which the sub-certificate relates*. [35 ILCS 120/2a] A certificate of registration or sub-certificate of registration issued under the Retailers' Occupation Tax Act waives the registration requirements process under subsection (d). However, the Department may require the retailer to provide such other information as the Department may reasonably require to administer and enforce the provisions of the Law. A retailer may not engage in the business of cultivating medical cannabis until he or she is issued a certificate of registration under subsection (f).

d) Each application shall be signed and verified and shall state:

1) the name and social security number of the applicant;

2) the address of his or her principal place of business;

3) the address of the place of business from which he or she engages in the business of cultivating medical cannabis in this State and the addresses of all other places of business, if any (enumerating such addresses, if any, in a

separate list attached to and made a part of the application), from which he or she engages in the business of cultivating medical cannabis in this State;

4) the name and address of the person or persons who will be responsible for filing returns and payment of taxes due under the Law;

5) in the case of a publicly traded corporation, the FEIN of the corporation, and the name and title of the Chief Financial Officer, Chief Operating Officer, and any other officer or employee with responsibility for preparing tax returns under the Law, along with the last 4 digits of each of their social security numbers; and, in the case of all other corporations, the FEIN of the corporation, and the name, title, and social security number of each corporate officer;

6) in the case of a limited liability company, the name, social security number, and FEIN of each manager and member; and

7) such other information as the Department may reasonably require.

e) The Department may, in accordance with Section 2a of the Retailers' Occupation Tax Act, require an applicant for a certificate of registration under subsection (d), at the time of filing the application, to furnish a bond. No certificate of registration under the Law will be issued by the Department until the applicant provides the Department with satisfactory security, if required.

f) Upon receipt of the application for certificate of registration in proper form, and upon approval by the Department of the security furnished by the applicant, if required, the Department will issue to the applicant a certificate of registration that shall permit the person to whom it is issued to engage in the business of cultivating medical cannabis in this State at the location identified on the certificate, and the certificate of registration shall be conspicuously displayed at the location. No certificate of registration issued to an applicant shall be valid after the expiration of 5 years from the date of its issuance or last renewal. For retailers possessing a certificate of registration under the Retailers' Occupation Tax Act, after review of the certificate of registration issued under the Retailers' Occupation Tax Act, the issuance of a sub-certificate of registration, if necessary, and receipt of any additional information the Department may reasonably require, the Department will issue to the applicant a certificate of registration under the Law that shall permit the person to whom it is issued to engage in the business of cultivating medical

cannabis in this State at the location identified on the certificate, and the certificate of registration shall be conspicuously displayed at that location. A certificate of registration issued to a retailer shall be valid until the expiration of the certificate of registration issued to the retailer under the Retailers' Occupation Tax Act. A cultivation center must also possess a Cultivation Center License issued by the Illinois Department of Agriculture for the location prior to commencement of any activities. (See 8 Ill. Adm. Code 1000.100.)

g) Any person aggrieved by any decision of the Department under this Section may, within 20 days after notice of the decision, protest and request a hearing. After receipt of the request for a hearing, the Department shall give notice to the person of the time and place fixed for the hearing, shall hold a hearing, and shall issue its final administrative decision in the matter to the person. In the absence of a protest within 20 days, the Department's decision shall become final without any further determination being made or notice given.

Section 429.120 Revocation of Certificate of Registration

a) The Department may, after notice and a hearing, revoke the certificate of registration of any person who violates any of the provisions of the Law. Before revocation of a certificate of registration the Department shall, within 90 days after non-compliance and at least 7 days prior to the date of the hearing, give the person so accused notice in writing of the charge against him or her, and on the date designated shall conduct a hearing upon this matter. The lapse of the 90 day period shall not preclude the Department from conducting revocation proceedings at a later date if necessary.

b) A person permitted by Section 429.115(c) to operate a cultivation center under a certificate of registration issued pursuant to the Retailers' Occupation Tax Act must cease selling medical cannabis if the certificate of registration is revoked unless and until the person obtains a certificate of registration issued pursuant to the Retailers' Occupation Tax Act or obtains a separate certificate of registration under the Law.

Section 429.125 Returns

a) *On or before the 20th day of each calendar month, every person subject to the tax imposed under the Law during the preceding calendar month shall file a return with the Department stating:*

1) *The name and address of the taxpayer;*

2) The taxpayer's registration number*;*

3) *The number of ounces of medical cannabis sold to dispensary organizations during the preceding calendar month;*

4) The total consideration received from the sale of medical cannabis;

5) The amount of any credits*;*

6) *The amount of tax due*;

7) *The signature of the taxpayer*; and

8) *Such other reasonable information as the Department may require.* [410 ILCS 130/210]

b) *The taxpayer shall remit the amount of the tax due to the Department at the time the taxpayer files his or her return* [410 ILCS 130/210]. Taxpayers may be required to use electronic funds transfer to pay their tax liability. (See 20 ILCS 2505/2505-210.)

c) *If a taxpayer fails to sign a return within 30 days after the proper notice and demand for signature by the Department, the return shall be considered valid and any amount shown to be due on the return shall be deemed assessed* [410 ILCS 130/210].

Section 429.130 Claims and Credit Memoranda

Persons operating cultivation centers may file claims in accordance with Sections 6, 6a and 6b of the Retailers' Occupation Tax Act.

Section 429.135 Books and Records

a) Every cultivation center *shall keep books and records of all sales* of medical cannabis, *together with invoices, bills of lading, sales records, copies of bills of sale, monthly* inventories, *inventories prepared as of December 31 of each year, and other pertinent papers and* documents. [35 ILCS 120/7]

b) *All books and records and other papers and documents* that *are required by this* Section and the Law *to be kept shall be kept in the English language and shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees*. [35 ILCS 120/7] Records shall be maintained at the physical location of the cultivation center. All books and records kept by a cultivation center pursuant to rules adopted by the Illinois Department of Agriculture to implement the Act shall, at all times during business hours of the day, be subject to inspection by the Department or its duly authorized agents and employees. The Department shall also have access to the cultivation center's automated data processing and/or point of sale system.

c) *Books and records and other papers reflecting gross receipts received* during any *period with respect to which the Department is authorized to issue notices of tax liability shall, for purposes of* this Part, *be preserved until* the expiration of that *period unless the Department, in writing, authorizes their destruction or disposal prior to* that *expiration*. [35 ILCS 120/7] However, if the Department allows a cultivation center to destroy books and records prior to the expiration of the preservation period, the cultivation center is not relieved of any obligation to maintain books and records under any rule or regulation adopted by another State agency to implement the Act.

Section 429.140 Penalties and Interest

a) All provisions of the Uniform Penalty and Interest Act [35 ILCS 735] that are not inconsistent with the Act shall apply.

b) The criminal penalties contained in Section 13 of the Retailers' Occupation Tax Act that are not inconsistent with the Law shall apply.

Section 429.145 Department's Authority to Administer the Law

a) *The Department shall have full power to administer and enforce this Law, to collect all taxes and penalties due under the Law, to dispose of taxes and penalties so collected in the manner provided in the Law* and this Part, *and to determine all rights to credit memoranda, arising on account of the erroneous payment of tax or penalty* [410 ILCS 130/205(b)].

b) *In the administration of, and compliance with, the Law, the Department and persons who are subject to the Law shall have the same rights, remedies, privileges, immunities, powers and duties, and be subject to the same conditions, restrictions, limitations, penalties and definitions of terms, and employ the same modes of procedure, as are prescribed in Sections 1, 1a, 2 through 2-65 (in respect to all provisions therein other than the State rate of tax), 2a, 2b, 2c, 3 (except provisions relating to transaction returns and quarter monthly payments, and except for provisions that are inconsistent with the Law), 4, 5, 5a, 5b, 5c, 5d, 5e, 5f, 5g, 5i, 5j, 6, 6a, 6b, 6c, 7, 8, 9, 10, 11, 11a, 12 and 13 of the Retailers' Occupation Tax Act and Section 3-7 of the Uniform Penalty and Interest Act as fully as if those provisions were set forth in the Law* [410 ILCS 130/205(b)].

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

1) Heading of the Part: Illinois Dental Practice Act

2) Code Citation: 68 Ill. Adm. Code 1220

3) Register citation of adopted rulemaking and other pertinent action: 38 Ill. Reg. 15907

4) Explanation: Upon publication of the adopted rule, the strikeouts and underlining indicating deletions and additions to the Part were inadvertently removed. JCAR regrets the error. The corrected text follows.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

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

PART 1220
ILLINOIS DENTAL PRACTICE ACT

SUBPART A: DENTIST

Section
1220.10 Definitions
1220.100 Application for Licensure
1220.110 Application for Examination (Repealed)
1220.120 Dental Examinations
1220.130 System of Retaking the Clinical Sections of the Examination (Repealed)
1220.140 Minimum Standards for an Approved Program in Dentistry
1220.150 Licensure (Repealed)
1220.155 Restricted Faculty Licenses
1220.156 Temporary Training License
1220.160 Restoration
1220.170 Renewal

SUBPART B: DENTAL HYGIENIST

Section
1220.200 Application for Licensure
1220.210 Application for Examination (Repealed)
1220.220 Dental Hygiene Examination
1220.230 System of Grading (Repealed)
1220.231 System of Retaking the Clinical Examination (Repealed)
1220.240 Prescribed Duties for Dental Hygienists
1220.245 Prescribed Duties of Dental Assistants
1220.250 Approved Programs of Dental Hygiene
1220.260 Restoration
1220.270 Renewal

SUBPART C: DENTAL SPECIALIST

Section

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

1220.310 Applications
1220.320 Examination (Repealed)
1220.330 System of Grading (Repealed)
1220.335 American Board Diplomates (Repealed)
1220.340 Specialty Listing (Repealed)
1220.350 Restoration
1220.360 Renewal

SUBPART D: GENERAL

Section
1220.380 Definitions
1220.400 Reportable Diseases and Conditions
1220.405 Reporting of Adverse Occurrences
1220.406 Impaired Dentist and Dental Hygienist Program of Care, Counseling or Treatment
1220.407 Death or Incapacitation of Dentist
1220.410 Endorsement
1220.415 Fees
1220.421 Advertising
1220.425 Referral Services
1220.431 Employment by Corporation (Repealed)
1220.435 Renewals (Repealed)
1220.440 Continuing Education
1220.441 Granting Variances

SUBPART E: ANESTHESIA PERMITS

Section
1220.500 Definitions
1220.505 Minimal Sedation ~~(Anxiolysis)~~ in the Dental Office Setting
1220.510 Moderate Sedation (Conscious Sedation) in the Dental Office Setting
1220.520 Deep Sedation and General Anesthesia in the Dental Office Setting
1220.525 Renewal
1220.530 Anesthesia Review Panel
1220.540 Approved Programs in Anesthesiology (Repealed)
1220.550 Reporting of Adverse Occurrences (Repealed)
1220.560 Restoration of Permits

1220.APPENDIX A Pre-clinical Restorative Dentistry Sub-section (Repealed)

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NOTICE OF PUBLICATION ERROR

1220.APPENDIX B Dental Assistant Permitted Procedures (Repealed)
1220.APPENDIX C Dental Hygienist Permitted Procedures (Repealed)
1220.APPENDIX D Characteristics of Levels of Anesthesia

AUTHORITY: Implementing the Illinois Dental Practice Act [225 ILCS 25] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Rules and Regulations for the Administration and Enforcement of the Provisions of the Illinois Dental Practice Act, effective August 16, 1967; amended at 3 Ill. Reg. 16, p. 21, effective April 21, 1979; amended at 3 Ill. Reg. 42, p. 266, effective October 3, 1979; codified at 5 Ill. Reg. 11028; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 4174, effective May 24, 1982; amended at 6 Ill. Reg. 7448, effective June 15, 1982; emergency amendment at 7 Ill. Reg. 8952, effective July 15, 1983, for a maximum of 150 days; emergency expired December 12, 1983; amended at 8 Ill. Reg. 15610, effective August 15, 1984; amended at 10 Ill. Reg. 20725, effective December 1, 1986; transferred from Chapter I, 68 Ill. Adm. Code 220 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1220 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2926; amended at 13 Ill. Reg. 4191, effective March 16, 1989; amended at 13 Ill. Reg. 15043, effective September 11, 1989; amended at 17 Ill. Reg. 1559, effective January 25, 1993; emergency amendment at 17 Ill. Reg. 8309, effective May 21, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 15890, effective September 21, 1993; amended at 17 Ill. Reg. 21492, effective December 1, 1993; amended at 19 Ill. Reg. 6606, effective April 28, 1995; amended at 21 Ill. Reg. 378, effective December 20, 1996; emergency amendment at 22 Ill. Reg. 2332, effective January 8, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 10574, effective June 1, 1998; amended at 22 Ill. Reg. 14880, effective July 29, 1998; amended at 23 Ill. Reg. 7294, effective June 10, 1999; amended at 24 Ill. Reg. 13992, effective August 31, 2000; amended at 25 Ill. Reg. 10901, effective August 13, 2001; amended at 26 Ill. Reg. 18286, effective December 13, 2002; amended at 30 Ill. Reg. 8574, effective April 20, 2006; emergency amendment at 30 Ill. Reg. 12999, effective July 18, 2006, for a maximum of 150 days; emergency expired December 14, 2006; amended at 30 Ill. Reg. 19656, effective December 18, 2006; amended at 34 Ill. Reg. 7205, effective May 5, 2010; amended at 38 Ill. Reg. 15907, effective July 25, 2014.

SUBPART A: DENTIST

Section 1220.10 Definitions

"AAOMS" means the American Association of Oral and Maxillofacial Surgeons.

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"ACLS" means Advanced Cardiac Life Support.

"Act" means the Illinois Dental Practice Act [225 ILCS 25].

"BLS" means current basic life support certification intended for healthcare providers that includes evaluation of hands-on skills and a written exam.

"Board" means the Board of Dentistry authorized by Section 6 of the Act.

"CITA" means the Counsel of Interstate Testing Agencies, Inc.

"CODA" means Commission on Dental Accreditation of the American Dental Association.

"CRDTS" means the Central Regional Dental Testing Service.

"DANB" means Dental Assisting National Board, Inc.

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

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

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation with the authority delegated by the Secretary.

"JCNDE" or "Joint Commission" means the Joint Commission on National Dental Examinations.

"LLC" means limited liability company, as defined in Section 1-5 of the Limited Liability Company Act [805 ILCS 180].

"NERB" means the North East Regional Board.

"PALS" means Pediatric Advanced Life Support.

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

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"SRTA" means the Southern Regional Testing Agency, Inc.

"WARE" means the Washington Restorative Exam.

"WREB" means the Western Regional Examining Board.

(Source: Added at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.100 Application for Licensure

An applicant for a license to practice dentistry in Illinois shall file an application on forms supplied by the ~~Department of Financial and Professional Regulation-Division of Professional Regulation (~~Division~~)~~ that shall include:

a) For graduates from a dental college or school in the United States or Canada, certification of successful completion of 60 semester hours or its equivalent of college pre-dental education, and graduation from a dental program specified in Section 1220.140.

b) For graduates from a dental college or school outside of the United States or Canada:

1) Certification of graduation from a dental college or school; and

2) Clinical Training

A) Certification from an approved dental college or school in the United States or Canada that the applicant has completed a minimum of 2 years of clinical training at the school in which the applicant met the same level of scientific knowledge and clinical competence as all graduates from that school or college. The 2 years of clinical training shall consist of:

i) 2850 clock hours completed in 2 academic years for full-time applicants; or

ii) 2850 clock hours completed in 4 years with a minimum of 700 hours per year for part-time applicants; or

B) In the alternative, certification, from the program director of an accredited advanced dental education program approved by the Division, of completion of no less than 2 academic years may be substituted for the 2 academic years of general dental clinical training.

c)~~d)~~ The required fee set forth in Section 1220.415(a)(1)~~ of this Part~~.

d)~~e)~~ Proof of successful completion of the Theoretical examination given by JCNDE ~~the Joint Commission on National Dental Examinations~~. The passing score shall be determined by JCNDE.~~In order to be successful, a grade of at least 75 is required.~~ The National Board Certificate must be mailed to the Division by JCNDE~~the Joint Commission~~.

e)~~f)~~ Proof of successful completion of an examination set forth in Section 1220.120(a).

f)~~g)~~ Certification, on forms provided by the Division, from the state in which an applicant was originally licensed and is currently licensed, if applicable, stating:

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

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

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.120 Dental Examinations

~~a) The Division, upon recommendation of the Board of Dentistry (Board), shall accept the American Dental Licensing Examination (ADLEX) developed by the American Board of Dental Examiners, Inc. (ADEX) for licensure. The passing score accepted by the Division shall be the passing score established by the testing entity. Dental licensure candidates can view and download a copy of the Candidate's Manual online at www.nerb.org/manual.htm or www.crdts.org/dental.htm.~~

a)~~b)~~ The Division~~, upon recommendation from the Board,~~ shall ~~also~~ accept the

following examinations for licensure if administered and passed in their entirety, including passage of the periodontal portion of the examinationprior to October 1, 2006:

1) Central Regional Dental Testing Service (CRDTS) and North East Regional Board (NERB) Combined Regional Examination (CORE) with a passing score of 75. Beginning July 1, 1998, the passing score accepted by the Division shall be the passing score established by the testing entity;

1)2) The North East Regional Board (NERB) Examination, with a passing score of 75 or better on each part. Beginning July 1, 1998, the passing score accepted by the Division shall be the passing score established by the testing entity;

2)3) The Central Regional Dental Testing Service (CRDTS) Examination, with ataken after January 1, 1988, with a passing score of 75 or better on each part of the examination prior to May 1993. Beginning in May 1993, a passing score of 70 or better on each part of the examination shall be accepted for licensure. Beginning July 1, 1998, the passing score accepted by the Division shall be the passing score established by the testing entity. Beginning July 1, 2002, the passing score on the examination shall be 75;

3)4) The Southern Regional Testing Agency, Inc. (SRTA) Examination, with ataken after January 1, 1991, with a passing score of 75% or better on each section of the examination. Beginning July 1, 1998, the passing score accepted by the Division shall be the passing score established by the testing entity; or

4)5) The Western Regional Examination Boards (WREB) Examination, taken after May 1, 1998, with a passing score as established by the testing entity; or.

5) CITA Examination, with a passing score established by the testing agency.

b)c) Retake requirements shall be that of the testing entity.

c)d) The applicant shall have the examination scores submitted to the Division directly from the reporting entity.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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d)~~e)~~ The Division will accept only examinations that have been completed in the 5 years prior to submission of the application, if never licensed in another jurisdiction.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.155 Restricted Faculty Licenses

a) Pursuant to Section 11(d) of the Act, the Division shall issue a Restricted Faculty License to an individual who is currently licensed in another jurisdiction as a dentist and who files an application, on forms provided by the Division, that includes:

1) Certification of licensure from the jurisdiction of original licensure and current licensure;

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

B) Whether the files of the jurisdiction contain any record of disciplinary action taken or pending;

2) A certification, on forms provided by the Division, signed by the Dean of the school or hospital administrator, indicating:

A) The name and address of the dental school or hospital;

B) The beginning and ending date of the appointment;

C) The nature of and the need for the educational service that will be provided by the applicant;

3) The required fee set forth in Section 1220.415(a)(7).

b) The restricted faculty license shall be valid for 3 years from the date of issuance and may be renewed in accordance with subsection (e).

c) The holder of a restricted faculty license may perform acts as may be required by his or her teaching of dentistry and may practice general dentistry or in his/her

area of specialty, but only in a clinic or office affiliated with the dental school.

d) Any restricted faculty license issued to a faculty member shall be terminated immediately and automatically without any further action by the Division if the holder ceases to be a faculty member at an approved dental school or hospital in this State.

e) Renewal

1) Application for renewal of a restricted faculty license shall be made on forms supplied by the Division at least 30~~60~~ days prior to expiration of the license. The application shall include:

A~~1~~) Certification from the Dean of a dental program or the administrator of the hospital indicating the term of the renewal contract, not to exceed 3 years from the date of the original expiration date;

B~~2~~) Certification from the jurisdiction of current licensure indicating the current status of the license; and

C~~3~~) The fee set forth in Section 1220.415(b).

2) Failure to renew a restricted faculty license at least 30 days prior to its expiration shall result in the license expiring. A new application must be submitted.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.160 Restoration

a) A licensee seeking restoration of a dental license after it has expired or has been placed on inactive status for less than 5 years shall have the license restored by submitting proof of 48~~32~~ hours of continuing education in accordance with Section 1220.440 completed within 3~~2~~ years prior to the restoration application and payment of $20 plus all lapsed renewal fees. Individuals restoring a license from inactive status shall only be required to pay the current renewal fee.

b) A licensee seeking restoration of a dental license after it has expired or has been

placed on inactive status for 5 years or more shall file an application, on forms supplied by the Division, together with proof of 48~~32~~ hours of continuing education in accordance with Section 1220.440 completed within 3~~2~~ years prior to the restoration application and the fees required by Section 21 of the Act. Individuals restoring a license from inactive status shall only be required to pay the current renewal fee. The licensee shall also submit either:

1) Certification of lawful active practice in another jurisdiction for 3 of the last 5 years. Such certification shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of the~~said~~ active practice; or

2) An affidavit attesting to military service as provided in Section 16 of the Act. If an applicant applies for restoration of a license within 2 years after~~of~~ termination of military~~such~~ service, he/she shall have the license restored without paying any lapsed renewal or restoration fees.

3) A current certification in BLS by an organization that has adopted the American Heart Association's or American Red Cross' guidelines on BLS or a statement provided by the dentist's licensed physician indicating that the applicant is physically disabled and unable to obtain certification.

c) If neither subsection (b)(1) nor (b)(2) applies to the licensee, then he or she~~the licensee has not maintained an active practice in another jurisdiction for over 5 years, he/she~~ shall be required to take and pass an examination set forth in Section 1220.120.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.170 Renewal

a) Beginning with the September 30, 2006 renewal, every dental license issued under the Act shall expire on September 30 every 3 years. The holder of a license may renew the license during the month preceding the expiration date thereof by paying the fee required in Section 21 of the Act and certifying to fulfillment of 48~~32~~ hours of continuing education pursuant to Section 1220.440.

b) A renewal applicant must provide proof of current certification in BLS by an

organization that has adopted the American Heart Association's or American Red Cross' guidelines on BLS or a statement provided by the dentist's licensed physician indicating that the applicant is physically disabled and unable to obtain certification;

c)~~b)~~ It is the responsibility of each licensee to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.

d)~~c)~~ Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 23 of the Act.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

SUBPART B: DENTAL HYGIENIST

Section 1220.200 Application for Licensure

An applicant for licensure as a dental hygienist shall file an application, on forms supplied by the Division, that shall include:

a) Certification of successful completion of 2 academic years of credit from a dental hygiene program approved by the Commission on Dental Accreditation of the American Dental Association;

b) Proof that the applicant has passed the National Dental Hygienist Board Examination, with a passing score as established by the testing entity given by JCNDE~~ the Joint Commission on National Dental Examinations~~ and has been issued a National Board Certificate, mailed to the Division by the JCNDF~~Joint Commission. In order to be successful, a grade of at least 75 is required~~;

c) Proof of successful completion of an examination pursuant to Section 1220.220(a) received directly from the testing entity;

d) A current certification in ~~Basic Life Support for Healthcare Providers (~~BLS~~), or its equivalent,~~ from the American Red Cross, the American Heart Association, or the American Safety and Health Institute ~~or an equivalent agency~~ or a statement from a licensed physician indicating that the applicant is physically disabled and

unable to obtain certification;

e) Certification, on forms provided by the Division, from the state in which an applicant was originally licensed and is currently licensed, if applicable, stating:

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

2) Whether the file on the applicant contains any record of disciplinary actions taken or pending;

f) The required fee set forth in Section 1220.415(a)(3).

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.220 Dental Hygiene Examination

a) The Division~~, upon recommendation of the Board, shall accept the American Dental Hygiene Licensing Examination (ADHLEX) developed by the American Board of Dental Examiners, Inc. (ADEX) for licensure. The passing score accepted by the Division shall be the passing score established by the testing entity. Dental hygiene licensure candidates can view and download a copy of the Candidate's Manual online at www.nerb.org/manual.htm or www.crdts.org/dental.htm. b) The Division, upon recommendation from the Board,~~ shall ~~also~~ accept the following examinations for licensure if administered and passed in their entirety~~ prior to October 1, 2006~~:

1) ~~The North East Regional Board (~~NERB~~)~~ Examination, with a passing score ~~of 75 or better on each part of the examination. Beginning July 1, 1998, the passing score accepted by the Division shall be the passing score~~ established by the testing entity;

2) ~~The Central Regional Dental Testing Service (~~CRDTS~~)~~ Examination, with a~~after January 1, 1988, with a passing score of 75 prior to May 1993. Beginning in May 1993 a passing score of 70 or better on each part of the examination shall be accepted for licensure. Beginning July 1, 1998, the passing score accepted by the Division shall be the~~ passing score established by the testing entity~~. Beginning July 1, 2002, the passing score on the examination shall be 75~~;

3) ~~The Southern Regional Testing Agency, Inc. (~~SRTA~~)~~ Examination, with a~~after January 1, 1991, with a passing score of 75% or better on each part of the examination. Beginning July 1, 1998, the passing score accepted by the Division shall be the~~ passing score established by the testing entity; or

4) ~~The Western Regional Examination Boards (~~WREB~~)~~ Examination, ~~taken after May 1, 1998,~~ with a passing score ~~as~~ established by the testing entity; or~~.~~

5) The CITA Examination, with a passing score established by the testing agency.

b)~~c)~~ Retake requirements shall be that of the testing entity.

c)~~d)~~ The applicant shall have examination scores submitted to the Division directly from the reporting entity.

d)~~e)~~ The Division will only accept examinations that have been completed in the 5 years prior to submission of the application, if never licensed in another jurisdiction.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.240 Prescribed Duties of Dental Hygienists

a) Dental hygienists may perform the operative procedure of dental hygiene, consisting of oral prophylaxis procedures.

b) Dental hygienists may perform dental health education functions and may record case histories and oral conditions observed.

c) Dental hygienists may perform all procedures that may be performed by an appropriately trained dental assistant.

d) Dental hygienists shall not perform those procedures that constitute the practice of dentistry as described in the ~~Illinois Dental Practice~~ Act. Hygienists may not perform procedures that require the professional judgment and skill of a dentist. Such prohibited procedures include, but shall not be limited to, the following:

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1) Making denture adjustments.

~~2) Condensing or carving amalgam restorations.~~

2)~~3)~~ Placing and finishing composite restorations.

3)~~4)~~ Taking final impressions for the fabrication of prosthetic appliances, crowns, bridges, inlays, onlays or other restorative or replacement dentistry.

4)~~5)~~ Permanently cementing permanent crowns or bridges.

5)~~6)~~ Permanently re-cementing permanent crowns or bridges that have come loose.

e) Dental hygienists may administer and monitor nitrous oxide under the following conditions:

1) The dental hygienist functions under the supervision of the dentist who must remain in the facility;

2) The dental hygienist may administer (start the flow of) nitrous oxide to the patient and control the induction of the gas, so that the patient is at a level of analgesia not anesthesia;

3) The dental hygienist may remove the patient from nitrous oxide when the hygiene procedures have been completed;

4) Proof of Completion

A) The dental hygienist is responsible for obtaining proof of certification, validating completion of a 12 hour course relative to nitrous oxide analgesia and submitting certification to the dentist of valid completion of the required course. The course shall have been completed no earlier than December 31, 1994.

B) A dental hygienist who completed the 12 hour course shall complete an additional 2 hour course in nitrous oxide analgesia

administration. The course shall be completed by September 30, 2011. A dental hygienist who has not completed the 12 hour course shall complete an approved course of 14 hours relative to the administration and monitoring of nitrous oxide analgesia and submit certification of successful completion to the dentist. The course shall have been completed no earlier than January 1, 1998.

C) An individual who graduated from an approved dental hygiene program after January 1, 1998 that contained nitrous oxide analgesia administration and monitoring in the curriculum shall not be required to complete the 14 hour course upon proof to the dentist of the required curriculum.

D) A dental hygienist who has not completed the 12 or 14 hour course shall complete an approved 6 hour course relative to the administration and monitoring of nitrous oxide analgesia and submit certification of successful completion to the dentist.

E) Proof of nitrous oxide analgesia education shall be made available to the Division upon request. The required hours shall include both didactic and clinical components and be given by a continuing education sponsor approved pursuant to Section 1220.440 or a dental hygiene program approved by the Division pursuant to Section 1220.250;

5) The dental hygienist must maintain BLS~~Basic Life Support for Healthcare Providers~~ certification or its equivalent, which will be in addition to the required courses. Certification or its equivalent shall be completed by September 30, 2011.

f) Dental hygienists may assist in the provision of moderate sedation (conscious sedation), deep sedation, and general anesthesia, as defined in Section 1220.500, under the following conditions:

1) The dental hygienist functions under the supervision of the dentist who must remain in the facility. When the hygienist is the treatment provider while the patient is under moderate sedation (conscious sedation), deep sedation, or general anesthesia, the anesthesia permit holder must remain in the treatment room;

2) The dental hygienist is responsible for obtaining proof of certification validating completion of a course or courses totaling 12 hours or more, including 6 hours of didactic education and 6 hours of clinical training. The didactic education may be completed online, and online instruction may be used to guide the hands-on clinical training.

A) The didactic course work~~or courses~~ shall include the areas of anatomy, physiology, pharmacology, monitoring, including nitrous oxide monitoring, and emergency procedures with an emphasis on airway management. ~~The required hours shall include both didactic and clinical components and be given by a continuing education sponsor~~

B) The clinical components may be conducted by the CE sponsor approved pursuant to Section 1220.440, ~~or~~ a dental hygiene program approved by the Division pursuant to Section 1220.250 or a licensed dentist having a permit A or B who employs the dental hygienist.

i) The courses described in this subsection (f)(2)(B) must be approved by the Division prior to initial offering. Dental hygienists who completed a 12 hour course that met course requirements in place for monitoring sedation prior to adoption of the current rules will not be required to recertify. Proof shall be provided to the Division upon request.

ii) If the clinical training is delivered by the supervising dentist, that dentist must attest, in writing, to the CE sponsor that the training has been completed. This attestation must be received by the CE sponsor in order for the sponsor to issue a certification of course completion. The supervising dentist must attest that the dental hygienist has been thoroughly trained and has demonstrated in-office proficiency in the skills required by this subsection (f)(2)(B)(ii). The dentist's attestation, signed by both the dentist and the dental hygienist, shall be maintained by the dentist. The copy sent to the CE sponsor shall be

maintained by that sponsor as part of the official course record.

iii) The clinical component must include practical training on airway management. Other skills that must be demonstrated include manual blood pressure and pulse determination, operation of supplemental oxygen equipment, monitoring operations, including EKG, pulse oximeter and capnograph, and completion of the anesthesia record.

3) If the dental hygienist has complied with the provisions set forth in subsection (e)(4), the dental hygienist may complete an additional course or courses totaling 6 hours or more on advanced airway management and monitoring equipment in lieu of the 12 hour course required by subsection (f)(2). The course must comply with the elements set forth in subsection (f)(2), other than coursework related only to administration and monitoring of nitrous oxide. The courses described in this subsection (f)(3) must be approved by the Division prior to their initial offering. Proof of course completion shall be made available to the Division upon request;

4) The dental hygienist must maintain BLS~~Basic Life Support for Healthcare Providers~~ certification or its equivalent, which will be in addition to the required courses. ~~Certification or its equivalent shall be completed by September 30, 2011.~~

g) Dental hygienists may administer local anesthetics under the following conditions:

1) The dental hygienist functions under the supervision of the dentist who remains in the facility.

2) The dental hygienist is responsible for obtaining proof of certification, indicating successful completion of a 32 hour course that contains 24 hours of lecture and 8 hours of clinical training relative to the administration of local anesthetics and submitting certification to the dentist. An individual who graduated from an approved dental hygiene program after January 1, 1999 that contained administration of local

anesthetics in the curriculum shall not be required to complete the 32 hour course upon proof to the dentist of the required curriculum. Proof of completion of education shall be made available to the Division upon request. The required hours shall include both didactic and clinical components and be given by a continuing education sponsor approved pursuant to Section 1220.440 or a dental or a dental hygiene program approved by the Division pursuant to Section 1220.250. The course shall contain at a minimum the following topics:

A) Patient preevaluation, which includes dental and medical health history (e.g., drug interactions/anxiety/pain and a physical evaluation);

B) Pharmacology (e.g., drugs/types, vasoconstrictors, dosages, toxicity);

C) Recordkeeping;

D) Anatomy/Neuroanatomy/Physiology;

E) Armamentarium;

F) Techniques that include adjunctive use of topical anesthetics, mandibular block and infiltration;

G) Complications;

H) Post-operative instructions; and

I) Clinical experience that includes combining techniques for quadrant anesthesia and practical use of different techniques in all areas of oral cavity.

3) A dental hygienist who was licensed in another state and was authorized to administer local anesthesia in that jurisdiction will not be required to complete an additional course. Proof shall be submitted to the dentist and shall be made available to the Division upon request.

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h) Dental hygienists may place, carve and finish amalgam restorations under the following conditions:

1) The dental hygienist functions under the direct supervision of a dentist who remains in the facility and examines the work done by the hygienist prior to the dismissal of the patient.

2) The dental hygienist is responsible for obtaining proof of certification, indicating successful completion of a 40 hour course, pre-approved by the Board, that contains lecture, laboratory and manikin training relative to the placing, carving and finishing of amalgam restorations and submitting certification to the dentist. Proof of completion of education shall be made available to the Division upon request. The required hours shall include both didactic and clinical components and be given by a continuing education sponsor approved by the Division and taught in an institution that is CODA approved, such as a dental school, hygiene program or assistant program. The course shall contain, at a minimum, the following preclinical, didactic and clinical instruction:

A) nomenclature;

B) caries classification;

C) oral anatomy;

D) dental morphology;

E) periodontium;

F) histology;

G) basic occlusion;

H) ergonomics;

I) instrumentation;

J) pulp protection liners and bases;

K) dental materials;

L) the medical history conditions and their implication for dental treatment and office emergencies;

M) matrix and wedge techniques;

N) amalgam placement and carving;

O) polishing amalgams;

P) rubber dam clamp placement;

Q) rubber dam placement and removal;

R) amalgam class I, II, IV and V. Class II cannot involve cusp replacement or pins.

3) Pass a pre-examination on basic dental procedures and techniques, as well as the basic fundamentals of dentistry.

4) Pass a written and clinical exam that is psychometrically sound, such as the DANB's WARE or equivalent, to receive certification.

5) A supervising dentist must attend a required orientation class with the applicant and sign an agreement that he or she will follow the required guidelines regarding supervision and clinical application of specific techniques being taught.

i)~~h)~~ The licensed dentist need not be present in the facility for a dental hygienist to perform the procedures set forth in this Section (except for the administration and monitoring of nitrous oxide, minimal sedation ~~(anxiolysis)~~, assisting in the provision of moderate sedation (conscious sedation), deep sedation, and general anesthesia, as defined in Section 1220.500, and the administration of injectable local anesthetics, which must be done under the direct supervision of a dentist as outlined in subsection (e)(1)) on persons who reside in a long-term care facility licensed by the State of Illinois or a mental health or developmental disability facility operated by the Department of Human Services hospital or other similar institution and are unable to travel to a dental office because of illness or

infirmity. The dentist shall personally examine and diagnose the patient and determine which services are necessary to be performed, which shall be contained in a written order to the hygienist. The order must be implemented within 90 days after its issuance and an updated medical history and oral inspection must be performed by the hygienist immediately prior to beginning the procedures to ensure that the patient's health has not changed in any manner to warrant a re-examination by the dentist.

j)~~i)~~ All intraoral procedures performed by a dental hygienist~~auxiliary~~, except those provided for in subsections (b), ~~and~~ (h) and (i), must be examined by the supervising dentist prior to the dismissal of the patient from the facility that day.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.245 Prescribed Duties of Dental Assistants

a) "Dental Assistant" means an appropriately trained person who, under the supervision of a dentist, provides dental services or procedures as authorized by Section 17 of the ~~Illinois Dental Practice~~ Act or as prescribed by this Part. "Appropriately trained" means a person who:

1) Has completed formal training as a condition for administering a specific service or procedure as required by the ~~Illinois Dental Practice~~ Act or this Part; and

2) Is considered, for all other authorized or prescribed services or procedures, by the supervising dentist to be competent to render such service or procedure as a result of on-the-job training.

b) Provided that a dental assistant is appropriately trained pursuant to this Section and is acting under the supervision and full responsibility of a dentist, a dental assistant may perform any dental service or procedure except the following:

1) Any and all diagnosis of or prescription for treatment of disease, pain, deformity, deficiency, injury or physical condition of the human teeth or jaws, or adjacent structures.

2) Removal of, restoration of, or addition to the hard or soft tissues of the oral cavity. For purposes of this Section, coronal polishing and acid

etching of a tooth surface are not considered removal of hard or soft tissues.

3) Any and all correction of malformation of teeth or of the jaws.

4) Administration of anesthetics, except for monitoring of nitrous oxide, conscious sedation, deep sedation and general anesthetic, as provided in Section 8.1 of the Act~~topical anesthetics and monitoring of nitrous oxide as specified in this Section~~.

5) Removal of calculus from teeth.

6) Taking of final impressions for the fabricating of prosthetic appliances, crowns, bridges, inlays, onlays, or other restorative or replacement dentistry.

7) The operative procedure of dental hygiene consisting of oral prophylactic procedures except for coronal polishing as specified in this Section.

8) Making denture adjustments.

~~9) Condensing or carving amalgam restorations.~~

9)~~10)~~ Placing and finishing composite restorations.

10)~~11)~~ Permanently cementing permanent crowns or bridges.

11)~~12)~~ Permanently re-cementing permanent crowns or bridges that have come loose.

12)~~13)~~ Placement of any chemotherapeutic agent for the management of periodontal disease.

13)~~14)~~ Applying cavity bases.

14)~~15)~~ Cementing bands and/or bonding brackets.

15)~~16)~~ Performing supragingival or subgingival scaling.

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16)~~17)~~ Performing pulp vitality tests.

c) A dental assistant, who is at least 18 years of age and has 1000 hours of clinical dental assisting experience or has graduated from a dental assistant program accredited by the CODA~~Commission on Dental Accreditation of the American Dental Association,~~ or is a currently certified dental assistant as designated by DANB~~ the Dental Assisting National Board, Inc.,~~ may perform the following services and procedures, but only under the following terms and conditions:

1) Monitoring nitrous oxide, provided:

A) The dental assistant has completed an approved course of 12 hours relative to nitrous oxide analgesia and has submitted certification to the dentist of valid completion of the~~such~~ course. The course shall have been completed no earlier than January 1, 1998 nor later than June, 1, 2014.

i) A dental assistant who has not completed the 12 hour course shall complete an approved course or courses totaling 6 hours or more relative to monitoring nitrous oxide analgesia and submit certification of successful completion to the dentist.

ii) Proof shall be made available to the Division upon request.

iii) The required hours shall include both didactic and clinical components and have been designed by an educational institution such as a dental school, dental hygiene or dental assistant program or by an approved CE sponsor. The course shall include areas of anatomy, physiology, monitoring, pharmacology and emergency procedures with an emphasis on airway management. Courses being offered by approved CE sponsors, as provided for in Section 1220.440(b)(2)(N) must be preapproved by the Division prior to their initial offering and must meet the requirements set forth in this subsection (c)(1);

B) The dental assistant is functioning under the supervision of the dentist who must remain in the facility;

C) Only a dentist or dental hygienist qualified pursuant to Section 1220.240(e) shall administer (start the flow of) nitrous oxide to the patient and control the induction of the gas so that the patient is at a level of analgesia, not anesthesia;

D) Only a dentist or dental hygienist qualified pursuant to Section 1220.240(e) shall remove the patient from nitrous oxide when the dentist or dental hygienist has completed the procedures on the patient;

E) If the dental assistant has completed a monitoring course or courses totaling 12 hours or more provided by ~~the American Association of Oral and Maxillofacial Surgeons (~~AAOMS~~)~~ or a similar course preapproved by the Division, the dental assistant need not complete the course hours required in subsection (c)(1)(A). The course shall have been completed no earlier than December 31, 2002. Proof shall be made available to the Division upon request;

F) The dental assistant maintains BLS~~Basic Life Support for Healthcare Providers~~ certification or its equivalent, which will be in addition to the required courses.~~ Certification or its equivalent shall be completed by September 30, 2011.~~

2) Monitoring minimal sedation~~ (anxiolysis)~~, moderate sedation (conscious sedation), deep sedation, or general anesthesia, as defined in Section 1220.500, provided:

A) The dental assistant is responsible for obtaining proof of certification validating completion of a course or courses totaling 12 hours or more, including 6 hours of didactic education and 6 hours of clinical training.

i) The didactic education may be completed online, and online instruction may be used to guide the hands-on clinical training. The didactic course work~~or courses~~ shall include the areas of anatomy, physiology, pharmacology, monitoring, including nitrous oxide monitoring, and

emergency procedures with an emphasis on airway management. ~~The required hours shall include both didactic and clinical components and be given by a continuing education sponsor~~

ii) The clinical components may be conducted by the CE sponsor approved pursuant to Section 1220.440, ~~or~~ a dental hygiene program approved by the Division pursuant to Section 1220.250 or a licensed dentist having a permit A or B who employs the dental assistant.

- The courses described in this subsection (c)(2)(A) must be approved by the Division prior to initial offering. Dental assistants who completed a 12 hour course that met course requirements in place for monitoring sedation prior to adoption of the current rules will not be required to recertify. Proof shall be provided to the Division upon request.

- If the clinical training is delivered by the supervising dentist, that dentist must attest, in writing, to the CE sponsor that the training has been completed. This attestation must be received by the CE sponsor in order for the sponsor to issue a certification of course completion. The supervising dentist must attest that the dental assistant has been thoroughly trained and has demonstrated in-office proficiency in the skills required by this subsection (c)(2)(A)(ii). The dentist's attestation, signed by both the dentist and the dental assistant, shall be maintained by the dentist. The copy sent to the CE sponsor shall be maintained by the sponsor as part of the official course record.

- The clinical component must include practical training on airway management. Other skills that must be demonstrated include manual blood pressure and pulse determination, operation of supplemental oxygen equipment, monitoring

operations, including EKG, pulse oximeter and capnograph, and completion of the anethesia record.

B) If the dental assistant has complied with the provisions set forth in subsection (c)(1)(A), the dental assistant shall complete an additional 6 hour course on advanced airway management and monitoring equipment in lieu of the 12 hour course required in subsection (c)(2)(A). The courses must comply with the elements set forth in subsection (c)(2)(A) other than coursework related only to monitoring of nitrous oxide. The courses described in this subsection (c)(2)(B) must be approved by the Division prior to their initial offering. Proof shall be made available to the Division upon request.

C) If the dental assistant has completed a monitoring course or courses totaling 12 hours or more provided by ~~the American Association of Oral and Maxillofacial Surgeons (~~AAOMS~~)~~ or a similar course or courses pre-approved~~preapproved~~ by the Division, the dental assistant need not complete the course hours required in subsection (c)(2)(A). The course shall have been completed no earlier than December 31, 2002. Proof shall be made available to the Division upon request.

D) The dental assistant is functioning under the supervision of the dentist who must remain in the facility.

E) The dental assistant maintains BLS~~Basic Life Support for Healthcare Providers~~ certification or its equivalent, which will be in addition to the required courses.~~ Certification or its equivalent shall be completed by September 30, 2011.~~

3) Coronal polishing, provided:

A) The dental assistant has completed an approved course of 6 hours relative to coronal polishing and has submitted certification of successful completion to the dentist. The~~Such~~ course shall have been completed no earlier than January 1, 1998. Proof shall be made available to the Division upon request. The required hours shall include a minimum of 4 hours of didactic study in areas of

anatomy, physiology, pharmacology and dental emergencies and 2 hours of clinical instruction and have been provided by an educational institution such as a dental school, dental hygiene or dental assistant program or by an approved CE sponsor. Courses being offered by CE sponsors approved pursuant to Section 1220.440(b)(2)(N) must be pre-approved~~preapproved~~ by the Division prior to their initial offering and must meet the requirements set forth in this subsection (c)(3~~2~~). The assistant must pass an examination in the didactic portion of the course and the clinical portion must contain experience on human subjects;

B) Coronal polishing is limited to polishing the clinical crown of the tooth and existing restoration, supragingivally;

C) Coronal polishing is limited to the use of slow speed rotary instruments using a rubber cup and/or brush polishing method. The use of air polish by dental assistants is not permitted; and

D) A dentist shall be limited to supervising 4 dental assistants at any one time for the task of coronal polishing.

4) Pit and fissure sealant application, provided:

A) The dental assistant has completed a course of at least 2 hours of didactic study and 2 hours of clinical instruction;

B) Prior to being permitted to place sealants in accord with this Section, the supervising dentist has personally observed the dental assistant successfully placing 6 pit and fissure sealants;

C) The supervising dentist documents that the training has been completed; and

D) The supervising dentist is responsible for examining the patient prior to and following the placement of sealants by a dental assistant.

5) Placing, carving and finishing amalgam restorations, provided:

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A) The dental assistant functions under the direct supervision of the dentist who remains in the facility and examines the work done by the assistant prior to the dismissal of the patient.

B) The dental assistant is at least 18 years of age and can show proof that he or she is a DANB Certified Dental Assistant or has been employed as a dental assistant with a minimum of 2 years continuous hands-on experience (4,000 hours).

C) The dental assistant is responsible for obtaining proof of certification, indicating successful completion of a 40 hour course that contains lecture, laboratory and manikin training relative to the placing, carving and finishing of amalgam restorations and submitting certification to the dentist. Proof of completion of education shall be made available to the Division upon request. The required hours shall include both didactic and clinical components and be given by a continuing education sponsor approved by the Division and taught in an institution that is CODA approved, such as a dental school, hygiene program or assistant program. The course shall contain, at a minimum, the following preclinical, didactic and clinical instruction:

i) nomenclature;

ii) caries classification;

iii) oral anatomy;

iv) dental morphology;

v) periodontium;

vi) histology;

vii) basic occlusion;

viii) ergonomics;

ix) instrumentation;

x) pulp protection liners and bases;

xi) dental materials;

xii) the medical history and conditions and their implication for dental treatment and office emergencies;

xiii) matrix and wedge techniques;

xiv) amalgam placement and carving;

xv) polishing amalgams;

xvi) rubber dam clamp placement;

xvii) rubber dam placement and removal;

xviii) amalgam class I, II, IV and V. Class II cannot involve cusp replacement or pins.

D) All applicants must take and pass a pre-examination on basic dental procedures and techniques, as well as the basic fundamentals of dentistry.

E) All applicants must pass a written and clinical exam that is psychometrically sound, such as DANB's WARE or equivalent, to receive certification as determined by the Board.

F) All applicants must maintain proof of BLS certification.

G) As a condition of acceptance into the program, a supervising dentist must attend a required orientation class with the applicant and sign an agreement that he or she will follow the required guidelines regarding supervision and clinical application of specific techniques being taught between scheduled classes.

d) An individual who graduated from an approved dental assisting program after January 1, 1999 that contained monitoring of nitrous oxide, coronal polishing, and

sealant application in the curriculum shall not be required to complete an additional course or courses in these areas as prescribed in this Section upon proof to the dentist of having successfully completed the required curriculum.

e) All intraoral procedures performed by a dental assistant must be examined by the supervising dentist prior to the dismissal of the patient from the facility that day.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.260 Restoration

a) A licensee seeking restoration of a dental hygienist license after it has expired or been placed on inactive status for less than 5 years shall have the license restored by submitting proof of 36 hours of continuing education pursuant to Section 1220.440 within 3 years prior to application for restoration, proof of certification in ~~Basic Life Support for Healthcare Providers (~~BLS~~)~~ by an organization that has adopted the American Heart Association's or American Red Cross' guidelines on BLS~~or its equivalent~~ or a statement from a licensed physician indicating that the applicant is physically disabled and unable to obtain certification and payment of the fees required by Section 1220.415~~$20 plus all lapsed renewal fees, but not to exceed $85~~. Individuals restoring a license from inactive status shall only be required to pay the current renewal fee.

b) A licensee seeking restoration of a dental hygienist license after it has expired or been placed on inactive status for 5 years or more shall file an application, on forms supplied by the Division, together with the fees required by Section 1220.415, proof of 36 hours of continuing education pursuant to Section 1220.440 within 3 years prior to application for restoration and proof of certification in BLS by an organization that has adopted the American Heart Association's or American Red Cross' guidelines on BLS~~or its equivalent~~ or a statement from a licensed physician indicating that the applicant is physically disabled and unable to obtain certification. Individuals restoring a license from inactive status shall only be required to pay the current renewal fee. The licensee shall also submit either:

1) Certification of lawful active practice in another jurisdiction for at least 3 of the last 5 years. The certification shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice;

or

2) An affidavit attesting to military service as provided in Section 16 of the Act. If an applicant applies for restoration of a license within 2 years after~~of~~ termination of the~~such~~ service, he or she~~he/she~~ shall have the license restored without paying any lapsed renewal or restoration fees.

c) If neither subsection (b)(1) or (b)(2) applies to the licensee, then he or she~~If the licensee has not maintained an active practice in another jurisdiction for over 5 years, he/she~~ shall be required to take and pass the clinical examination as provided in Section 1220.220.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

SUBPART C: DENTAL SPECIALIST

Section 1220.310 Applications

a) An applicant for ~~examination for~~ licensure as a dental specialist must be currently licensed as a dentist in Illinois and must file an application~~ at least 60 days prior to date of examination~~. The application shall include the following:

1) Certification of completion of dental specialty training in accordance with subsection (b);

2) The fee required in Section 1220.415(a)(2)~~ of this Part~~.

b) To ~~further~~ qualify for licensure~~examination~~ as a specialist in endodontics~~Endodontics~~, pediatric dentistry~~Pediatric Dentistry~~, prosthodontics~~Prosthodontics~~, periodontics~~Periodontics~~, oral and maxillofacial radiology~~Oral and Maxillofacial Radiology~~, or orthodontics~~Orthodontics~~ and dentofacial orthopedics~~Dentofacial Orthopedics~~, the applicant must submit, in addition to the requirements of subsection (a), records, certified by the director of the program, showing that the applicant has successfully completed a course of study of not less than 2 academic years in a program approved by the Division in the dental specialty he or she~~he/she~~ proposes to practice.

c) To further qualify for licensure~~examination~~ as a specialist in oral and maxillofacial surgery~~Oral and Maxillofacial Surgery~~, the applicant must submit,

in addition to the requirements of subsection (a), the following:

1) The oral and maxillofacial surgery~~Oral and Maxillofacial Surgery~~ application must contain evidence that the applicant has successfully completed a 4 year (48 months) period of training in oral and maxillofacial surgery in a school and/or hospital approved by the Division. A minimum of 30 months shall be in clinical oral and maxillofacial surgery. The schedule shall include 24 months of full-time hospital training in an acceptable oral and maxillofacial surgery residency program. Not less than 4 months of this period must be devoted to training in anesthesiology.

2) Certified records are required from the Dean of the dental school or the head of the Oral and Maxillofacial Surgery Department of the hospital or clinic in which the oral and maxillofacial surgery training took place. The records must attest to the individual's successful completion of the program.

d) After July 1, 1994, periodontic specialty programs shall be 3 consecutive academic years with a minimum of 30 months of instruction. At least 2 consecutive years of clinical education must take place in a single educational setting. Applicants who completed periodontic specialty training prior to July 1, 1994, shall have successfully completed a course of study of not less than 2 academic years in a program approved by the Division.

e) The~~For the purpose of approving dental specialty education programs, the~~ Division shall accept those specialty education providers accredited, at the time the education was obtained, by CODA~~apply the standards used by the American Dental Association as approved by its Commission on Dental Accreditationspecified in the "Requirements for Advanced Specialty Education Programs", approved July 1, 1994, which are incorporated by reference in this Part and include no later amendments~~.

~~f) The provisions of this Section shall apply to all applicants upon adoption without regard to where an applicant is in the application process.~~

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.320 Examination (Repealed)

~~a)~~ ~~Examination for dental specialist licensure shall be held at least once each year and be conducted in the following specialties:~~

~~Endodontics~~

~~Oral and Maxillofacial Surgery~~

~~Orthodontics and Dentofacial Orthopedics~~

~~Pediatric Dentistry~~

~~Periodontics~~

~~Prosthodontics~~

~~Oral and Maxillofacial Radiology~~

~~b)~~ ~~The examination for dental specialty licensure shall contain 2 parts in the specialty for which the applicant is applying and consist of a:~~

~~1)~~ ~~Clinical Examination; and a~~

~~2)~~ ~~Presentation of Case Histories and Oral Examination.~~

~~c)~~ ~~The Clinical is a written examination that shall test the applicant's knowledge in the subjects that constitute the science and art of the specialty for which the applicant is applying.~~

~~d)~~ ~~The Presentation of Case Histories and Oral Examination shall be evidence of the applicant's skill in his specialty. Applicants are required to submit case histories as specified in the candidate examination information packet received from the Division, or its designated testing service, prior to examination. Case histories shall be representative of the treatment situations encountered in the specialty for which the applicant is applying, and shall be cases in which the applicant had primary responsibility and control over the treatment method.~~

~~e)~~ ~~Applicants for dental specialist licensure shall have passed the Examination for dental specialist licensure in the specialty for which he is applying within the 3 years prior to licensure. The 3 years shall be computed from the date of the~~

~~successful examination.~~

~~f) The written clinical part of the examination shall be waived for applicants who have passed the theoretical written portion of the American Board Examination in the specialty for which they are applying.~~

~~g) An applicant must score a grade of 75 or better in each part of the dental specialist licensure examination.~~

~~h) An applicant will not be required to retake any part of the dental specialty examination on which a score of 75 or more was received.~~

~~i) The provisions of this Section shall apply to all applicants upon adoption without regard to where an applicant is in the application process.~~

(Source: Repealed at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.335 American Board Diplomates (Repealed)

~~a) An applicant for dental specialist licensure as a specialist in Endodontics, Pediatric Dentistry, Periodontics, Prosthodontics, Orthodontics and Dentofacial Orthopedics, Oral Maxillofacial Radiology or Oral and Maxillofacial Surgery who is also certified as an American Board Diplomate in the specialty for which application for licensure is made shall not be required to take the examination for dental specialist licensure as provided for in Section 1220.320 of this Part. To qualify for this exemption from the Division's dental specialty examination, the American Board Diplomate must have passed both the written and oral examinations provided by the specialty board, regardless of whether American Board Diplomate status is conferred by the specialty board without passage of both examinations.~~

~~b) American Board Diplomates applying for dental specialist licensure shall meet the requirements for specialty licensure set forth in Section 1220.310, with the exception of the examination, and shall additionally submit evidence of certification as an American Board Diplomate and proof of passage of both the written and oral examinations provided by the specialty board at time of application for licensure.~~

(Source: Repealed at 38 Ill. Reg. 15907, effective July 25, 2014)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

Section 1220.350 Restoration

a) A licensee seeking restoration of a specialty license after it has expired for less than 5 years shall have the license restored upon payment of $20 plus all lapsed renewal fees. Individuals restoring a license from inactive status shall not be required to pay lapsed renewal fees. In order to restore a specialty license the applicant shall have an active dental license.

b) A licensee seeking restoration of a license after it has expired or been placed on inactive status for 5 years or more shall file an application, on forms supplied by the Division, together with the fees required by Section 21 of the Act. Individuals reactivating a license from inactive status shall only be required to pay the current renewal fee. The registrant shall also submit either:

1) Certification of lawful active practice in another jurisdiction for 3 of the last 5 years. Such certification shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of said active practice; or

2) An affidavit attesting to military service as provided in Section 16 of the Act. If an applicant applies for restoration of his license within 2 years of termination of such service, he shall have his license restored without paying any lapsed renewal or restoration fees.

c) If the licensee has not maintained an active practice in another jurisdiction for over 5 years, he or she~~he/she~~ shall be required to complete such additional testing, training or remedial education as the Board may deem necessary in order to establish the licensee's present capacity to practice his or her specialty with reasonable judgment, skill and safety~~take and pass the clinical examination as provided in Section 1220.320~~.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

SUBPART D: GENERAL

Section 1220.407 Death or Incapacitation of Dentist

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

a) *The executor or administrator of a dentist's estate or the legal guardian or authorized representative of a dentist who has become incapacitated may contract with another dentist or dentists to continue the operations of the deceased or incapacitated dentist's practice for a period of no more than one year from the time of death or incapacitation of the dentist or until the practice is sold, whichever occurs first.* [225 ILCS 25/38.2(a)]

b) An executor, administrator, guardian or authorized representative seeking authorization to contract with another dentist or dentists to continue a practice as referenced in subsection (a), shall file an application with the Division, on forms provided by the Division, that shall include:

1) The name and license number of the deceased or incapacitated dentist;

2) A signed affidavit certifying *that the executor, administrator, guardian, or authorized representative understands that any interference by the executor, administrator, guardian, or authorized representative or any agent or assignee of the executor, administrator, guardian, or authorized representative with the contracting dentist's or dentists' practice of dentistry or professional judgment or any other violation of this Section is grounds for an immediate termination of the operations of the dental practice* [225 ILCS 25/38.2(a)(1)(E)];

3) The required fee set forth in Section 1220.415;

4) The name and address of the dental practice;

5) The name, address and tax identification number of the estate;

6) The name and license number of each dentist who will operate the dental practice; and

7) A copy of the death certificate of the dentist, if applicable, or a copy of a physician's statement detailing the dentist's incapacitating condition as set forth in subsection (e).

c) A dental practice seeking to continue operations of a deceased or incapacitated dentist shall not begin until the provisions of subsection (b) have been met.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

d) *Within 30 days after the death or incapacitation of a dentist, the executor, administrator, guardian, or authorized representative shall send notification of the death or incapacitation by mail to the last known address of each patient of record that has seen the deceased or incapacitated dentist within the previous 12 months, with an explanation of how copies of the practitioner's records may be obtained. This notice may also contain any other relevant information concerning the continuation of the dental practice.* [225 ILCS 38.2(a)(2)]

e) A licensed dentist shall be considered incapacitated if:

1) a physician licensed to practice medicine in all its branches has examined the licensee and has determined that the licensee lacks decision making capacity in order to competently and safely practice dentistry and that the incapacity is expected to continue for a minimum of 6 months;

2) that physician has made a written record of this determination and has signed the written record within 90 days after the examination; and

3) the written record has been delivered to the Department.

f) A declaration of incapacity or a determination of incapacity shall not be a bar to Department action pursuant to Section 23 of the Act.

g) After review for compliance with the standards set forth in this Section, the Division shall place the licensee's dental license in inactive or deceased status as appropriate.

h) Prior to the Division restoring a license that has been placed in inactive status due to an incapacitating illness or condition, the licensee shall:

1) request restoration in writing on forms supplied by the Department; and

2) provide a statement from a physician licensed to practice medicine in all its branches that the physician has examined the licensee and has determined that the licensee is no longer under the incapacitating illness or condition as stated in subsection (e) and that the licensee is not subject to any other incapacitating illness or condition that would affect the licensee's ability to competently and safely practice dentistry.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

(Source: Added at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.410 Endorsement

a) A person seeking licensure in Illinois as a dentist, a dental specialist or a dental hygienist who is so licensed in another state or territory and has been lawfully practicing for at least 3 of the last 5 years prior to application in Illinois, may be granted licensure in Illinois upon proof that the requirements for licensure in the other jurisdiction are at least equal to the requirements in Illinois.

b) An applicant for a dental license shall file an application for licensure on forms provided by the Division, that shall include:

1) Certification of licensure in the original jurisdiction and from any jurisdiction where the applicant has been practicing within the last 5 years, stating:

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

B) Whether the files of the jurisdiction contain any record of any disciplinary action taken or pending;

2) The applicant's National Board of Dentistry Examination scores, which must be forwarded to the Division from the Joint Commission on National Dental Examinations;

3) Certification of successful completion of 60 semester hours or its equivalent of college level pre-dental education and graduation from a course of instruction in a dental school that meets the minimum education standards of the Division specified in Section 1220.140;

4) After May 21, 1993, for dental applicants who graduated from a dental college or school outside of the United States or Canada:

A) Certification of graduation from a dental college or school;

B) Certification that the applicant was authorized to practice in the

jurisdiction in which the applicant attended dental school; and

C) Certification from an approved dental college or school in the United States or Canada that the applicant has completed a minimum of 2 years of clinical training at the school in which the applicant met the same level of scientific knowledge and clinical competence as all graduates from that school or college. The 2 years of clinical training shall consist of:

i) 2850 clock hours completed in 2 academic years for full-time applicants; or

ii) 2850 clock hours completed in 4 years with a minimum of 700 hours per year for part-time applicants;

5) Verification of employment;

6) The fee required under Section 1220.415~~ of this Part~~.

c) An applicant for a dental hygienist license shall file an application for licensure on forms provided by the Division, that shall include:

1) Certification of licensure in the original jurisdiction and from any jurisdiction where the applicant has been practicing within the last 5 years, stating:

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

B) Whether the files of the jurisdiction contain any record of any disciplinary action taken or pending;

2) The applicant's National Dental Hygienist Board Examination scores, which must be forwarded to the Division from JCNDE~~the Joint Commission on National Dental Examinations~~;

3) Certification of 2 academic years of credit in an approved school of dental hygiene that meets the minimum education standards of the Division

specified in Section 1220.250;

4) Verification of employment;

5) The fee required under Section 1220.415~~ of this Part~~.

~~d) An applicant for a dental specialty license shall already hold an Illinois license to practice general dentistry or shall file an application for a license to practice general dentistry, as specified in subsection (b) together with the application for a dental specialty license. The application for a dental specialty license shall be filed on forms provided by the Division, which shall include:~~

~~1) Certification of licensure in the original jurisdiction and from any jurisdiction, where the applicant has been practicing 3 of the last 5 years, stating:~~

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

~~B) Whether the files of the jurisdiction contain any record of any disciplinary action taken or pending;~~

~~2) The applicant shall submit evidence of one of the following:~~

~~A) Proof of admittance as an American Board Diplomate in the specialty for which application for licensure is made; or~~

~~B) Proof of passage of the examination specified in Section 1220.320 or one substantially equivalent;~~

~~3) Certification of completion of dental specialty training in accordance with Section 1220.310 in the specialty for which application for licensure is made;~~

~~4) Verification of employment;~~

~~5) The fee required by Section 1220.415.~~

d)~~e)~~ Applicants who have not actively practiced in 3 of the last 5 years may be required to complete additional testing, training, or remedial education as the Board may deem necessary in order to establish the applicant's present capacity to practice dentistry.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.415 Fees

The following fees shall be paid to the Department and are not refundable:

a) Application Fees~~.~~

1) The fee for application for initial license as a dentist is $250.

2) The fee for application as a dental specialist is $300.

3) The fee for application as a dental hygienist is $100.

4) Applicants for any examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Division or the designated testing service, shall result in the forfeiture of the examination fee.

5) The fee for application for a dentist licensed under the laws of another jurisdiction is $750.

6) The fee for application for a dental hygienist licensed under the laws of another jurisdiction is $300.

7)~~6)~~ The fee for application for a dental sedation permit is $300.

8)~~7)~~ The fee for application for a restricted faculty license is $250.

9)~~8)~~ The fee for application for a temporary training license is $150.

JOINT COMMITTEE ON ADMINISTRATIVE RULES

NOTICE OF PUBLICATION ERROR

10)~~9)~~ The fee for application as a continuing education sponsor is $1,000.

b) Renewal Fees~~.~~

1) The fee for the renewal of a license as a dentist is $300 ($100 per year), pursuant to Section 21 of the Act.

2) The fee for the renewal of a license as a dental specialist is $300 ($100 per year), pursuant to Section 21 of the Act.

3) The fee for the renewal of a license as a dental hygienist is $150 ($50 per year), pursuant to Section 21 of the Act.

4) The fee for the renewal of a sedation permit is $300 ($100 per year).

5) The fee for the renewal of a license as a continuing education sponsor is $700.

6) The fee for the renewal of a restricted faculty license is $150.

c) General Fees~~.~~

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

2) The fee for the issuance of a duplicate license, for the issuance of a replacement license, for a license that has been lost or destroyed or for the issuance of a license with a change of name or address other than during the renewal period is $20. No fee is required for name and address changes on Division records when no duplicate license is issued.

3) The fee for a certification of a licensee's record for any purpose is $20.

4) The fee to have the scoring of an examination administered by the Division reviewed and verified is $20 plus any fees charged by the applicable testing service.

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

6) The fee for a roster of persons licensed in this State under the ~~Dental Practice~~ Act shall be the actual cost of producing the~~such a~~ roster.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.421 Advertising

a) Persons licensed to practice dentistry in the State of Illinois may advertise in any medium or other form of public communication in a manner that is truthful, and that is not fraudulent, deceptive, inherently misleading or proven to be misleading in practice. The~~Such~~ advertising shall contain all information necessary to make the communication not misleading and shall not contain any false or misleading statement or otherwise operate to deceive.

b) Information that may be contained in the~~such~~ advertising includes:

1) Dentist's name, address, office hours~~,~~ and telephone number;

2) Schools attended;

3) Announcement of the opening of, change of, or return to practice;

4) *Announcement of additions to or deletions from professional dental staff*~~;~~ (Section 45 of the Act);

5) Dentist's hospital affiliations;

6) Any specialty licenses held, Board certification, professional society memberships and any limitations or concentrations of practice;

7) Credit arrangements and/or acceptance of Medicare/Medicaid patients;

8) Foreign language ability;

9) Usual and customary fees for routine professional services that must include a statement that fees may be adjusted due to complications or unforeseen circumstances unless the fees do not vary under any circumstances;

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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10) Description of offices in which dentist practices, e.g., accessibility to the handicapped, laboratory facilities on the premises, convenience of parking; and

11) *Other information about the dentist, the dentist's practice, or the types of practice in which the dentist will accept employment, which a reasonable person might regard as relevant in determining whether to seek the dentist's services.* (Section 45 of the Act)

c) If an advertisement is communicated to the public over television, ~~or~~ radio or the Internet, it shall be prerecorded and approved for broadcast by the dentist, and a recording of the actual transmission, including videotape, shall be retained by the dentist for a period of at least 3 years. Upon a written request from the Division, a dentist shall provide the Division with a copy of any such advertisement within 7 working days after receipt of the request (e.g., upon initiation of any investigation, receipt of a complaint, inquiry from the public, etc.).

d) Information that may be untruthful, fraudulent, deceptive, inherently misleading, or that has proven to be misleading in practice includes that which:

1) Contains a misrepresentation of fact or omits a material fact required to prevent deception;

2) Guarantees favorable results or creates false or unjustified expectations of favorable results;

3) Takes advantage of the potential client's fears, anxieties, vanities, or other emotions;

4) Contains ~~testimonials and/or~~ exaggerations pertaining to the quality of dental care;

5) Describes as available products or services that are not permitted by the laws of this State and/or applicable Federal laws; and

6) Advertises professional services that the dentist is not licensed to render.

e) A dentist may incorporate as a professional service corporation or other business

entity permitted to provide dental services under a fictitious or an assumed name; however, all advertisements for dental services to be performed by members or employees of the corporation or other business entity must comply with the following conditions:

1) A dentist licensed and practicing in Illinois shall be designated at each practice location for the corporation or other business entity who shall assume responsibility for all advertising in Illinois.

2) The name, office address and office phone number of the designated dentists shall appear in all advertising for the corporation or other business entity.

3) The names of the owners of the corporation or other business entity, if other than the designated dentists, shall appear in all advertising for the corporation or other business entity.

4) A list of all dentists employed by the corporation or other business entity who perform dental services shall be prominently displayed at the location where they practice.

5) If the corporation or other business entity offers to practice both general dentistry and any licensed specialty, all advertising for the specialty shall include the name of the licensed dental specialists who performs the specialty services.

f) When words relating to specialty practice are used in an advertisement, the advertisement must not imply that the dentist offering those services is licensed as a specialist unless he holds a specialty license issued by the Division. Words that cannot be used by a dentist unless licensed in that specialty are Endodontist, Pedodontist, Pediatric Dentist, Periodontist, Prosthodontist, Orthodontist, Oral and Maxillofacial Radiologist, or Oral and Maxillofacial Surgeon. Terms such as "Specialist", "Practice Limited To" or "Limited To Specialty Of", with the name of the~~such~~ branch of dentistry practiced as a specialty, (endodontics~~Endodontics~~, periodontics~~Pedodontics~~ (pediatric dentistry~~Pediatric Denistry~~), periodontics~~Periodontics~~, prosthodontics~~Prosthodontics~~, orthodontics~~Orthodontics~~, oral and maxillofacial radiology~~Oral and Maxillofacial Radiology~~ and oral and maxillofacial surgery~~Oral and Maxillofacial Surgery~~) shall be prima facie evidence that such dentist is holding himself out to the public

as a specialist. A general dentist who advertises, in any media, using words or phrases customarily used by a specialist, except those prohibited above, but who does not hold a specialty license, shall include in the~~such~~ advertisement a prominent disclaimer that he or she is licensed only as a general dentist.

g) Any advertisements offering the availability of those recognized dental specialties specified in Section 1220.310~~1220.320 of this Part~~, or offering the availability of some other "specialty" practice not specifically recognized by the Division shall contain a prominent disclaimer in the form of a statement setting forth the specialties in which the dentist is licensed in Illinois and/or a statement that the dentist is licensed to practice as a general dentist in Illinois.

h) Advertising shall not use language suggesting a dental specialty that is not specified in Section 1220.310~~1220.320 of this Part~~ unless it contains the disclaimer required in subsection (g). Examples of language requiring disclaimer: family dentistry, cosmetic dentistry, restorative dentistry, preventive dentistry, hospital dentistry, implant dentistry, TMJ, cranio mandibular dentistry.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.440 Continuing Education

a) Continuing Education Hours Requirements

1) Each~~Beginning with the September 30, 2009 renewal and every renewal thereafter, each~~ person who applies for renewal of a license as a dentist shall have completed 48 hours of continuing education (CE) relevant to the practice of dentistry during the prerenewal period.

2) Each~~Beginning with the September 30, 2009 renewal and every renewal thereafter, each~~ person who applies for renewal of a license as a dental hygienist shall have completed 36 hours of CE relevant to the practice of dental hygiene during the prerenewal period.

3) A prerenewal period is the 36 months preceding September 30 of the year of the renewal.

4) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of a dental or dental

hygienist license.

5) Continuing education is not required to renew a dental specialty license. The holder of a dental specialty license is, however, required to complete 48 hours to renew the dental license.

6) Dentists or dental hygienist licensed in Illinois but residing in other states shall comply with the CE requirements set forth in this Section.

7) Continuing education credit for hours used to satisfy the CE requirements of another state may be applied to fulfillment of the CE requirements of the State of Illinois.

b) Approved Continuing Education/Continuing Education Sponsors

1) All CE courses shall be relevant to the treatment and care of patients and shall be:

A) Clinical courses in dentistry and dental hygiene; or

B) Nonclinical subjects that relate to the skills necessary to provide dental or dental hygiene services and are supportive of clinical services (i.e., patient management, legal and ethical responsibilities, stress management). Courses not acceptable for the purpose of this definition include, but are not limited to, estate planning, financial planning, investments and personal health.

2) CE credit may be earned for verifiable attendance at or participation in any courses that meet the requirements of subsection (b)(1) given by one of the following sponsors:

A) American Dental Association and National Dental Association, its constituent and component/branch associations and the American Dental Association Continuing Education Recognition Programs;

B) American Dental Hygienist's Association and National Dental Hygienist's Association, its constituent and component/branch associations;

C) Dental programs approved by the Division as meeting minimum standards for an approved curriculum in dentistry under Section 1220.140 and dental hygiene programs approved under Section 1220.250~~ of this Part~~;

D) Organizations of specialties recognized by the American Dental Association and its constituent and component/branch associations, which are~~such as, but not limited to~~:

i) Oral and maxillofacial surgery;~~Maxillofacial Surgery~~

ii) Endodontics;

iii) Pediatric dentistry;~~Dentistry~~

iv) Prosthodontics;

v) Orthodontics;

vi) Periodontology;

vii) Oral and maxillofacial radiology~~Maxillofacial Radiology~~;

E) Academy of General Dentistry, its constituent and component/branch associations and approved sponsors;

F) American Dental Society of Anesthesiology and its constituent and component/branch associations;

G) Community colleges with an approved dental hygiene program if offered under the auspices of the dental hygiene program;

H) A college or university accredited by an agency approved by the U.S. Office of Education or a community college approved by the Illinois Community College Board;

I) A hospital that has been accredited by the Joint Commission on Accreditation of Healthcare Organizations;

J) The American Heart Association and the American Cancer Society;

K) A medical school that is accredited by the American Medical Association's Liaison Committee for Medical Education;

L) American Medical Association (AMA), specialty medical associations/organizations, the Accreditation Council on Continuing Medical Education;

M) Federal and State government agencies (i.e., dental division, military dental division, Veterans' Administration, etc.); or

N) A sponsor whose course is approved by the National Board for Certification in Dental Laboratory Technology; or

O)N) A person, firm or association approved by the Division in accordance with subsection (c).

3) CE credit may be earned for completion of an individual study course (correspondence, audio or video course) sponsored by an approved sponsor. TheSuch courses shall include a test that the licensee must pass to obtain credit. No more than 50% of the required CE credit hours during a prerenewal period may be acquired through correspondence courses.

4) CE credit may be earned from teleconferencing courses with a moderator present given by an Illinois approved sponsor.

5) CE credit may be earned from courses leading to an advanced degree or specialty in dental or dental hygiene. TheSuch courses shall be allotted CE credit at the rate of 15 CE hours for each semester hour and 10 CE hours for each quarter hour of school credit awarded.

6) CE credit may be earned as an instructor of continuing education courses given by approved sponsors. Credit will be applied for every hour taught and only for the first presentation of the program (i.e., credit shall not be allowed for repetitious presentations). No more than 50% of the required CE credit hours during a prerenewal period may be acquired through teaching continuing education courses.

7) CE credit may be earned for presenting volunteer community oral health education programs. Credit will be applied for each hour of presentation documented by the program director. No more than 2 hours of the required CE credit hours during a prerenewal period may be acquired through presentation of volunteer community oral health education programs.

8) Continuing education hours required by a disciplinary order shall not be used to satisfy the continuing education requirements for license renewal.

9) If a renewal applicant will be earning or has earned CE hours in another jurisdiction, but is not licensed in that jurisdiction and the course is not presented by an Illinois approved sponsor, the applicant shall submit an individual program approval request form, along with a $20 processing fee, to have the program reviewed. The Board shall review and recommend approval or disapproval of the program using the criteria set forth in subsection (b)(1)~~ of this Section~~. Applicants may seek individual program approval prior to participation in the course or program. All individual program approval requests shall be submitted prior to the expiration date of the license.

c) Sponsor Application Pursuant to Subsection (b)(2)(M)

1) Entities seeking approval as CE sponsors pursuant to subsection (b)(2)(M) shall file an application, on forms supplied by the Division, along with the fee set forth in Section 1220.415(a)(9). The applicant shall certify on the application the following:

A) That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (b)(1) and all other criteria in this Section;

B) That the sponsor will be responsible for providing a certificate of attendance and will maintain attendance records for at least 5 years. The certificate of attendance shall contain:

i) The name and address of the sponsor;

ii) The name, address and license number of the participant;

iii) A brief statement of the subject matter;

iv) The number of hours attended in each program;

v) An indication of whether the program fulfills CE requirements for dentist, dental hygienist or both;

vi) The date and place of the program; and

vii) The signature of the sponsor;

C) That, upon request by the Division, the sponsor will submit evidence (e.g., certificate of attendance or course materials) as is necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with this Part and that the information is necessary to ensure compliance.

2) To maintain approval as a sponsor, each sponsor shall submit to the Division by September 30 of each even-numbered year a renewal application, the fee set forth in Section 1220.415(b)(5) and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given.

3) The sponsor shall be responsible for ensuring that any dentist or dental hygienist who will be performing some type of procedure as a part of a continuing education course shall have a current license in Illinois or another jurisdiction.

d) Certification of Compliance with CE Requirements

1) Each renewal applicant shall certify, on the renewal application, to full compliance with the CE requirements set forth in subsection (a).

2) The Division may require additional evidence (e.g., certificate of attendance, transcripts and~~,~~ proof of registration) demonstrating compliance with the CE requirements. It is the responsibility of each

renewal applicant to retain or otherwise produce evidence of the~~such~~ compliance. The evidence shall be retained for at least 5 years following the renewal period in which the CE was taken.

3) The Division may conduct random audits to verify compliance with CE requirements.

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

e) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of the license or certificate without having fully complied with these CE requirements shall file with the Division a renewal application, a statement setting forth the facts concerning the~~such~~ noncompliance, a request for waiver of the CE requirements on the basis of the~~such~~ facts and, if desired, a request for an interview before the Board. If the Division finds, from the~~such~~ statement or any other evidence submitted, that good cause has been shown for granting a waiver of the CE requirements, or any part thereof, the Division shall waive enforcement of those~~such~~ requirements for the renewal period for which the applicant has applied.

2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

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

B) A temporary incapacitating illness documented by a licensed physician. A second, consecutive request for a CE waiver pursuant to this subsection (e)(2)(B) shall be prima facie proof that the renewal applicant has a physical or mental illness, including, but not limited to, deterioration through the aging process, or loss of motor skills that results in the dentist's inability to practice

dentistry with reasonable judgment, skill or safety, in violation of Section 23(24) of the Act, and shall be grounds for denial of the renewal or other discipline;

C) Temporary undue hardship (e.g., prolonged hospitalization, being disabled and unable to practice dentistry or dental hygiene on a temporary basis).

3) If an interview is requested at the time the request for waiver is filed with the Division, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

SUBPART E: ANESTHESIA PERMITS

Section 1220.500 Definitions

"Anesthesia Case" means a situation in which the permit holder is responsible for anesthesia care on a live patient.

"Deep Sedation" means a pharmacologically induced depressed state of consciousness, accompanied by partial loss of protective reflexes, including the inability to respond purposefully to oral commands. The purposeful response to painful stimulation is maintained.

"General Anesthesia" means a pharmacologically induced state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including the inability to independently maintain an airway and respond purposefully to painful stimulation or oral commands.

"Minimal Sedation" ~~or "Anxiolysis"~~ means a minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continually maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected.

"Moderate Sedation" or "Conscious Sedation" means a pharmacologically induced depressed state of consciousness (altered consciousness; signs of sleep) under which an individual retains the ability to independently and continuously maintain an airway and respond appropriately to light tactile stimulation and oral commands.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.505 Minimal Sedation ~~(Anxiolysis)~~ in the Dental Office Setting

a) Minimal sedation ~~(anxiolysis)~~ includes the prescription or administration of a pharmacologic anxiolitic either with or without concomitant use of nitrous oxide dental analgesia. The drugs and/or techniques used must carry a margin of safety wide enough to prevent a depressed level of consciousness.

b) No permit is required beyond the D.D.S. or D.M.D. degrees.

c) Minimal monitoring of the patient is to be by clinical observation and appropriately documented in the patient's record.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.510 Moderate Sedation (Conscious Sedation) in the Dental Office Setting

a) Moderate sedation (conscious sedation) includes the prescription or administration of pharmacologic agents to be used for the purposes of moderate sedation. Moderate sedation (conscious sedation) must be administered by an individual qualified under this Section. (See Appendix D for characteristics of levels of anesthesia.) The drugs and/or techniques used must carry a margin of safety wide enough to render unintended loss of consciousness unlikely.

b) A licensed dentist seeking a Permit A for moderate sedation (conscious sedation) administration privileges shall file an application with the Division, on forms provided by the Division, that shall include:

1) Certification of completion of an anesthesiology training program that meets the following requirements:

A) Include a minimum of 75 hours of didactic and clinical study that includes training in moderate sedation (conscious sedation), physical evaluation, venipuncture, advanced airway management, technical administration, recognition and management of complications and emergencies, and monitoring with additionally supervised experience in providing moderate~~conscious~~ sedation to 20 or more patients; and

B) Be an organized sequence of study operated by one entity and completed in less than one calendar year;

2) A signed affidavit certifying that:

A) the dentist will practice in a facility properly equipped in accordance with subsection (g) for the administration of moderate sedation (conscious sedation);

B) the facility will be staffed with a ~~supervised~~ team, supervised by the applicant, that will remain in the treatment room. For each patient, the anesthesia team will consist of at least:

i) the dentist who holds the Permit A;

ii) one dental hygienist or dental assistant who has completed the training prescribed~~presecribed~~ in Section 1220.240(f) or 1220.245(c)(2) and is capable of assisting with procedures, problems and emergencies incident to the administration of sedation; and

iii) one additional hygienist or dental assistant;

C) the dentist permit holder will remain immediately available to the patient after being treated under moderate sedation. A dental hygienist or dental assistant trained to monitor a patient under moderate sedation will remain with the sedated patient until the patient is no longer sedated;

D) all members of the anesthesia team are capable of assisting with procedures, problems and emergencies incident to the

administration of sedation and~~, after September 30, 2011,~~ will maintain current certification in~~ Basic Life Support for Healthcare Providers (~~BLS~~) or its equivalent~~; and

E) for the dentist permit holder, the BLS certification is in addition to the required 9 sedation technique CE hours (see subsection (k)) required per renewal cycle;

3) Proof of current ~~Advanced Cardiac Life Support (~~ACLS~~)~~ certification or ~~Pediatric Advanced Life Support (~~PALS~~)~~ certification~~. Certification shall be completed by September 30, 2011~~; and

4) The required fee set forth in Section 1220.415.

c) Dentists who have a current valid permit for moderate sedation (conscious sedation) issued by the Division shall be permitted to administer without additional application.

d) In~~Upon review and recommendation of the Board in~~ accordance with the standards set forth in this Section, the Division will:

1) Issue a moderate sedation (conscious sedation) permit (Permit A).

2) Re-issue a moderate sedation (conscious sedation) permit to Permit A holders who attest to completing continuing education.

e) Licensees qualified to administer deep sedation (Permit B) pursuant to Section 1220.520 may administer moderate sedation (conscious sedation) without a Permit A.

f) If the accuracy, relevance or sufficiency of any submitted documentation is questioned by the Division or the Board, because of discrepancies or conflicts in information, needing further clarification, and/or missing information, additional documentation may be required and/or an on-site evaluation of the facilities, equipment and personnel may be conducted by the Division or a member of the Board's Anesthesia Review Panel.

g) A properly equipped facility for the administration of moderation sedation (conscious sedation) shall include at minimum:

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1) Sphygmomanometer and stethoscope;

2) An oxygen delivery system with full face masks and connectors appropriate to the patient population being served that is capable of delivering oxygen to the patient under positive pressure, with an emergency backup system;

3) Emergency drugs and equipment appropriate to the medications administered;

4) Suction equipment, including an emergency backup suction system;

5) An emergency backup lighting system that will permit the completion of any operation underway;

6) A pulse oximeter;

7) Laryngoscope complete with selection of blades and spare batteries and bulbs in sizes appropriate to the patient population being served;

8) Advanced airway devices that would isolate the trachea and facilitate positive pressure oxygen administration in sizes appropriate for the patient population being served (e.g., endotracheal tubes or laryngeal mask airway);

9) Tonsillar or pharyngeal suction tips adaptable to all office outlets;

10) Nasal and oral airways in sizes appropriate to the patient population being served;

11) Defibrillator (an automated external defibrillator is an acceptable defibrillator);

12) Equipment for the establishment of an intravenous infusion;

13) An operating table or an operating chair that permits appropriate access to the patient and provides a firm platform for the management of cardiopulmonary resuscitation; and

14) A recovery area that has available oxygen, lighting, suction and electrical outlets. The Permit A holder shall remain with the patient until the patient retains the ability to independently and consciously maintain an airway and respond appropriately to physical stimulation and oral commands. The recovery area may be the operating theatre.

h) The following records shall be kept during the administration of moderate sedation (conscious sedation):

1) Medical history of the patient and consent for administration of anesthesia prior to the performance of any procedure;

2) Preoperative, intraoperative and pre-discharge monitoring of blood pressure, pulse, respiration and oxygen saturation. A time based record shall be entered into the patient's chart;

3) Drugs and dosages of these drugs used during the operative procedure, including the identification of the person administering drugs and times of their administration over the course of the procedure.

i) The dentist who holds the Permit A shall report adverse occurrences to the Division and the Board as required by Section 1220.405.

j) A licensed dentist shall hold Permit A in order to perform dentistry while a licensed certified nurse anesthetist administers moderate sedation (conscious sedation). A nurse anesthetist for purposes of this Section is a licensed certified nurse anesthetist who holds a license as an advanced practice nurse under the Nurse Practice Act [225 ILCS 65]. The dentist shall enter into a written collaborative agreement with the nurse anesthetist in accordance with Section 65-35~~15-25~~ of the Nurse Practice Act and 68 Ill. Adm. Code 1300.

k) Proof of 9 hours of continuing education per renewal cycle in sedation techniques, including medications and recognition and management of complications and emergencies, is required for renewal of Permit A.

l) A treating dentist does not need to hold Permit A to perform dentistry when another dentist, who holds Permit A or Permit B, or a physician assists the treating dentist by administering moderate sedation (conscious sedation).

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Physician for purposes of this Section means a physician who is licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 [225 ILCS 60] and is authorized to provide anesthesia services in a licensed hospital or licensed ambulatory surgical treatment center or is a Board certified anesthesiologist.

1) The treating dentist shall be prepared to provide affidavits to the following if requested by the Division:

A) That the facility used for sedation meets the criteria of subsection (g) of this Section;

B) That the dentist shall staff the facility with a team, supervised by the permit holder or physician,~~supervised team~~ that includes a minimum of 3 individuals per patient. The team shall be composed of either:

i) One dental hygienist or dental assistant who has completed the training prescribed in Section 1220.240(f) or 1220.245(c)(2) and is capable of assisting with procedures, problems and emergencies incident to the administration of the sedation; the treating dentist; and the dentist who holds a Permit A or B providing the anesthesia services; or

ii) One dental hygienist or dental assistant who has completed the training prescribed in Section 1220.240(f) or 1220.245(c)(2) and is capable of assisting with procedures, problems and emergencies incident to the administration of the sedation; the treating dentist; and a physician ~~or dental anesthesiologist who holds a Permit B and has completed the certification prescribed in Section 1220.520(a)(1)(A)~~ providing the anesthesia services.

C) That the permit holder or physician will remain immediately available to the patient after being treated under moderate sedation. A dental hygienist or dental assistant trained to monitor a patient under moderate sedation will remain with the sedated patient until the patient is no longer sedated.

2) All members of the team, including the treating dentist (non-permit holder) must maintain current BLS certification or its equivalent. ~~Certification or its equivalent shall be completed by September 30, 2011.~~

3) In addition, the dentist (non-permit holder) shall report adverse occurrences to the Division as set forth in Section 1220.405 and accept the responsibility to verify the certification and licensure of any licensed provider present during the moderate sedation (conscious sedation) of a patient who is receiving dental care.

m) A dentist holding a Permit A shall maintain current ~~Advanced Cardiac Life Support (~~ACLS~~) certification~~ or ~~Pediatric Advanced Life Support (~~PALS~~)~~ certification. ACLS or PALS certification shall be in addition to the required 9 hours of anesthesia CE per renewal cycle. ~~Certification shall be completed by September 30, 2011.~~

n) A dentist holding a Permit A shall maintain a logbook indicating the sedation cases performed. The log shall include the patient name, date, route of sedation administration, drug name and dosage, and the names of anesthesia team members assisting. This information shall be supplied to the Division upon request.

o) A dentist holding a Permit A must also hold an active Illinois Controlled Substances License and current federal Drug Enforcement Administration registration.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

Section 1220.520 Deep Sedation and General Anesthesia in the Dental Office Setting

Deep sedation and general anesthesia must be administered by an individual qualified under this Section. (See Appendix D for characteristics of levels of anesthesia.)

a) A licensed dentist seeking a permit to administer deep sedation or general anesthesia shall make application to the Division, on forms provided by the Division, that shall include:

1) Certification of meeting one or more of the following:

A) Completion of a minimum of 2 years of advanced training in

anesthesiology beyond the pre-doctoral level, in a training program approved by the American Dental Association, Commission on Dental Education, as outlined in Guidelines for Teaching Pain Control and Sedation to Dentists and Dental Students, published by the American Dental Association, Commission on Dental Education (October 2012~~2007~~).

B) Be a diplomate of the American Board of Oral and Maxillofacial Surgery.

C) Have an active, approved application with the American Board of Oral and Maxillofacial Surgery to obtain diplomat status.

D) Have a specialty license in oral and maxillofacial surgery issued by the Division;

2) A signed affidavit certifying that:

A) the dentist will practice in a facility properly equipped in accordance with subsection (d) for the administration of deep sedation and general anesthesia;

B) the facility will be staffed with an~~a supervised~~ anesthesia team, supervised by the applicant, that will remain in the treatment room during the procedure on the patient. For each patient, the anesthesia team will consist of at least:

i) the dentist who holds the permit B;

ii) one dental hygienist or dental assistant who has completed the training prescribed in Section 1220.240(f) or 1220.245(c)(2) and is capable of assisting with procedures, problems and emergencies incident to the administration of the sedation; and

iii) one additional hygienist or dental assistant;

C) the dentist permit holder will remain immediately available to the patient after being treated under deep sedation or general

anesthesia. A dental hygienist or dental assistant trained to monitor a patient under deep sedation or general anesthesia will remain with the sedated patient until the patient is no longer sedated;

D) all members of the anesthesia team are capable of assisting with procedures, problems and emergencies incident to the administration of sedation and~~, after September 30, 2011,~~ will maintain current certification in ~~Basic Life Support for Healthcare Providers (~~BLS~~)~~ or its equivalent; and

E) for the dentist permit holder, the BLS certification is in addition to the required 9 sedation technique CE hours (see subsection (h)) required per renewal cycle;

3) Proof of current ~~Advanced Cardiac Life Support (~~ACLS~~) certification~~ or ~~Pediatric Advanced Life Support (~~PALS~~)~~ certification~~. Certification shall be completed by September 30, 2011~~; and

4) The required fee set forth in Section 1220.415.

b) In~~Upon review and recommendation of the Board in~~ accordance with the standards set forth in this Section, the Division will issue a deep sedation or general anesthesia permit (Permit B).

c) If the accuracy, relevance or sufficiency of any submitted documentation is questioned by the Division or the Board because of discrepancies or conflicts in information needing further clarification, and/or missing information, additional documentation may be required and/or an on-site evaluation of the facilities, equipment and personnel may be conducted by the Division or a member of the Board's Anesthesia Review Panel.

d) A properly equipped facility for the administration of deep sedation or general anesthesia shall include, at a minimum:

1) Sphygmomanometer and stethoscope;

2) An oxygen delivery system with full face masks and connectors appropriate to the patient population being served that is capable of delivering oxygen to the patient under positive pressure, with an

emergency backup system;

3) Emergency drugs and equipment appropriate to the medications administered;

4) Suction equipment, including an emergency backup suction system;

5) An emergency backup lighting system that will permit the completion of any operation underway;

6) Laryngoscope complete with selection of blades and spare batteries and bulbs in sizes appropriate to the patient population being served;

7) Endotracheal tubes and connectors in sizes appropriate for the patient population being served;

8) Tonsillar or pharyngeal suction tips adaptable to all office outlets;

9) Nasal and oral airways in sizes appropriate to the patient population being served;

10) Device for monitoring temperature (e.g., temperature strips, thermometer);

11) Electrocardioscope and defibrillator (an automated external defibrillator is an acceptable defibrillator);

12) Pulse oximeter;

13) Equipment for the establishment of an intravenous infusion;

14) An operating table or an operating chair that permits appropriate access to the patient and provides a firm platform for the management of cardiopulmonary resuscitation; and

15) A recovery area that has available oxygen, lighting, suction and electrical outlets. The Permit B holder shall remain with the patient until the patient retains the ability to independently and consciously maintain an airway and respond appropriately to physical stimulation and oral commands. The recovery area may be the operating theatre.

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e) The following records shall be kept when administering deep sedation and general anesthesia:

1) Medical history and patient evaluation prior to the performance of any procedure;

2) Preoperative, intraoperative, and pre-discharge monitoring of blood pressure, pulse, respiration and oxygen saturation. A time based record shall be entered into the patient's chart;

3) EKG monitoring during the entire procedure;

4) Drugs and dosages of agents used during the operative procedure, including nitrous oxide and oxygen, and including identification of the person administering drugs and times of their administration over the course of the procedure. Documentation of the anesthetic encounter will be consistent with currently accepted standards of anesthetic practice.

f) The dentist who holds the Permit B shall report adverse occurrences to the Division and the Board as required by Section 1220.405.

g) A licensed dentist shall hold a Permit B in order to perform dentistry while a licensed certified nurse anesthetist administers deep sedation or general anesthesia. A nurse anesthetist for purposes of this Section is a licensed certified nurse anesthetist who holds a license as an advanced practice nurse under the Nurse Practice Act ~~[225 ILCS 65]~~. The dentist shall enter into a written collaborative agreement with the nurse anesthetist in accordance with Section 65-35 of the Nurse Practice Act and 68 Ill. Adm. Code 1300.

h) Proof of 9 hours of continuing education per renewal cycle in sedation techniques, including medications and recognition and management of complications and emergencies, is required for renewal of Permit B.

i) A treating-dentist does not need to hold Permit B to perform dentistry when another dentist, who holds Permit B, or a physician assists the treating dentist by administering deep sedation or general anesthesia. Physician for purposes of this Section means a physician who is licensed to practice medicine in all of its branches under the Medical Practice Act of 1987 ~~[225 ILCS 60]~~ and is authorized

to provide anesthesia services in a licensed hospital or licensed ambulatory surgical treatment center or is a Board certified anesthesiologist.

1) The treating dentist shall be prepared to provide affidavits attesting to the following if requested by the Division:

A) That the facility used is equipped as specified in subsection (d) ~~of this Section~~;

B) That the dentist shall staff the facility with a ~~supervised~~ team, supervised by the Permit B holder or physician, that includes a minimum of 3 individuals per patient. The team shall be composed of either:

i) One dental hygienist or dental assistant who has completed the training prescribed in Section 1220.240(f) or 1220.245(c)(2) capable of assisting with procedures, problems and emergencies incident to the administration of the sedation; the treating dentist; and the dentist who holds a Permit B providing the anesthesia services; or

ii) One dental hygienist or dental assistant who has completed the training prescribed in Section 1220.240(f) or 1220.245(c)(2) capable of assisting with procedures, problems and emergencies incident to the administration of the sedation; the treating dentist; and a physician ~~or dental anesthesiologist who holds a Permit B and has completed the certification prescribed in subsection (a)(1)(A) providing the anesthesia services~~.

C) That the Permit B holder will remain with the patient until the patient retains the ability to independently and consciously maintain an airway and respond appropriately to physical stimulation and oral commands. The recovery area may be the operating theatre.

2) All members of the anesthesia team, including the treating dentist (non-Permit B holder) must maintain certification in BLS or its equivalent. ~~Certification or its equivalent shall be completed by September 30, 2011.~~

3) In addition, the dentist shall report severe adverse occurrences to the Division as set forth in Section 1220.405 and accept the responsibility for verifying certification and licensure of any licensed provider present during the deep sedation or general anesthesia of a patient receiving dental care.

j) A dentist holding a Permit B shall maintain current ~~Advanced Cardiac Life Support (~~ACLS~~) certification~~ or ~~Pediatric Advanced Life Support (~~PALS~~)~~ certification. ACLS or PALS certification shall be in addition to the required 9 hours of anesthesia CE per renewal cycle.~~ Certification shall be completed by September 30, 2011.~~

k) A dentist holding a Permit B shall maintain a logbook indicating the sedation cases performed. The log shall include the patient name, date, route of sedation administration, drug name and dosage, and the names of anesthesia team members assisting. This information shall be supplied to the Division upon request.

l) A dentist holding a Permit B must also hold an active Illinois Controlled Substances License and current federal Drug Enforcement Administration registration.

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

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Section 1220.APPENDIX D Characteristics of Levels of Anesthesia*

Factors	**Minimal Sedation~~/Anxiolysis~~ (No Permit required)**	**Moderate/Conscious Sedation (Permit A)**	**Deep Sedation (Permit B)**	**General Anesthesia (Permit B)**
Goal	Decrease anxiety; facilitate coping skills	Decrease or eliminate anxiety; facilitate coping skills	Eliminate anxiety; coping skills over-ridden	Eliminate cognitive, sensory and skeletal motor activity
Definition	Minimally depressed level of consciousness, produced by a pharmacological method, that retains the patient's ability to independently and continually maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilatory and cardiovascular functions are unaffected	Pharmacologically induced depressed state of consciousness (altered consciousness, signs of sleep) under which an individual retains the ability to independently and continuously maintain an airway and respond appropriately to light tactile stimulation and oral commands	Pharmacologically induced controlled state of depressed consciousness, accompanied by partial loss of protective reflexes, including inability to respond purposefully to oral commands. The purposeful response to painful stimulation is maintained	Pharmacologically induced controlled state of unconsciousness accompanied by a partial or complete loss of protective reflexes, including inability to independently maintain an airway and respond purposefully to painful stimulation or oral commands

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Personnel	1 (treating dentist)	3 (treating dentist with Permit A; trained person to monitor patient or nurse anesthetist; trained assistant) OR 3 (treating dentist w/o Permit A/B; physician or dentist with Permit A/B; trained assistant)	3 (treating dentist with Permit B; trained person to monitor patient or nurse anesthetist; trained assistant) OR 3 (treating dentist w/o Permit B; physician or dentist with Permit B; trained assistant)	3 (treating dentist with Permit B; trained person to monitor patient or nurse anesthetist, trained assistant) OR 3 (treating dentist w/o Permit B; physician or dentist with Permit B; trained assistant)
Monitoring	Clinical observation and monitoring as appropriate	Preoperative, intraoperative and pre-discharge monitoring of BP, pulse, respiration and oxygen saturation	Preoperative, intraoperative, and pre-discharge monitoring of BP, pulse, respiration and oxygen saturation, EKG monitoring. Defibrillator required	Preoperative, intraoperative, and pre-discharge monitoring of BP, pulse, respiration and oxygen saturation, EKG monitoring. Defibrillator required

* Chart adapted from American Academy of Pediatric Dentistry, Reference Manual 2000-2001, Templates of Definitions and Characteristics for Levels of Sedation and General Anesthesia and the American Dental Association, Guidelines for the Use of Sedation and General Anesthesia by Dentists (October 2012~~2007~~).

(Source: Amended at 38 Ill. Reg. 15907, effective July 25, 2014)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AUGUST AGENDA

MICHAEL A. BILANDIC BUILDING
ROOM 600C
CHICAGO, ILLINOIS
AUGUST 12, 2014
11:30 A.M.

NOTICE: It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:

Joint Committee on Administrative Rules
700 Stratton Office Building
Springfield, Illinois 62706

RULEMAKINGS SCHEDULED FOR JCAR REVIEW

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

PROPOSED RULEMAKINGS

Agriculture

1. Illinois Bovidae and Cervidae Tuberculosis Eradication Act (8 Ill. Adm. Code 80)
   -First Notice Published: 38 Ill. Reg. 8013 – 4/18/14
   -Expiration of Second Notice: 9/5/14

2. Diseased Animals (8 Ill. Adm. Code 85)
   -First Notice Published: 38 Ill. Reg. 8020 – 4/18/14
   -Expiration of Second Notice: 9/5/14

3. Animal Disease Laboratories Act (8 Ill. Adm. Code 110)
   -First Notice Published: 38 Ill. Reg. 8035 – 4/18/14
   -Expiration of Second Notice: 9/5/14

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Commerce Commission

4. Governmental Electric Aggregation (83 Ill. Adm. Code 470)
-First Notice Published: 37 Ill. Reg. 20544 – 12/27/13
-Expiration of Second Notice: 9/6/14

Corrections

5. Secure Residential Youth Care Facilities (Repealer) (20 Ill. Adm. Code 801)
-First Notice Published: 38 Ill. Reg. 8574 – 4/25/14
-Expiration of Second Notice: 8/20/14

Education

6. Educator Licensure (23 Ill. Adm. Code 25)
-First Notice Published: 38 Ill. Reg. 7096 – 3/28/14
-Expiration of Second Notice: 8/15/14

7. Programs for the Preparation of Superintendents in Illinois (23 Ill. Adm. Code 33)
-First Notice Published: 38 Ill. Reg. 7822 – 4/11/14
-Expiration of Second Notice: 8/15/14

Emergency Management Agency

8. General Provisions for Radiation Protection (32 Ill. Adm. Code 310)
-First Notice Published: 38 Ill. Reg. 10730 – 5/23/14
-Expiration of Second Notice: 8/30/14

9. Licensing of Radioactive Material (32 Ill. Adm. Code 330)
-First Notice Published: 38 Ill. Reg. 10752 – 5/23/14
-Expiration of Second Notice: 8/30/14

10. Licensing Requirements for Source Material Milling Facilities (32 Ill. Adm. Code 332)
-First Notice Published: 38 Ill. Reg. 10760 – 5/23/14
-Expiration of Second Notice: 8/30/14

11. Licensing and Radiation Safety Requirements for Irradiators (32 Ill. Adm. Code 346)
-First Notice Published: 38 Ill. Reg. 10768 – 5/23/14
-Expiration of Second Notice: 8/30/14

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Healthcare and Family Services

12. Medical Payment (89 Ill. Adm. Code 140)
-First Notice Published: 37 Ill. Reg. 19971 – 12/20/13
-Expiration of Second Notice: 8/28/14

13. Medical Assistance Programs (89 Ill. Adm. Code 120)
-First Notice Published: 38 Ill. Reg. 7426 – 4/4/14
-Expiration of Second Notice: 8/30/14

14. Children's Health Insurance Program (89 Ill. Adm. Code 125)
-First Notice Published: 38 Ill. Reg. 8698 – 4/25/14
-Expiration of Second Notice: 8/30/14

Human Services

15. Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies (59 Ill. Adm. Code 50)
-First Notice Published: 38 Ill. Reg. 6999 – 3/28/14
-Expiration of Second Notice: 8/20/14

16. Child Care (89 Ill. Adm. Code 50)
-First Notice Published: 37 Ill. Reg. 17140 – 11/1/13
-Expiration of Second Notice: 8/30/14

17. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)
-First Notice Published: 38 Ill. Reg. 7428 – 4/4/14
-Expiration of Second Notice: 8/31/14

18. Related Program Provisions (89 Ill. Adm. Code 117)
-First Notice Published: 38 Ill. Reg. 7441 – 4/4/14
-Expiration of Second Notice: 8/31/14

19. Rules of Conduct, Discipline, Suspension and Discharge Procedures (89 Ill. Adm. Code 827)
-First Notice Published: 38 Ill. Reg. 4292 – 2/14/14
-Expiration of Second Notice: 8/25/14

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AUGUST AGENDA

Insurance

20. Variable Contracts (50 Ill. Adm. Code 1451)
-First Notice Published: 38 Ill. Reg. 7446 – 4/4/14
-Expiration of Second Notice: 8/29/14

21. Administrative Hearing Procedures (50 Ill. Adm. Code 2402)
-First Notice Published: 38 Ill. Reg. 7731 – 4/11/14
-Expiration of Second Notice: 8/31/14

Labor

22. Carnival and Amusement Ride Safety Act (56 Ill. Adm. Code 6000)
-First Notice Published: 38 Ill. Reg. 10772 – 5/23/14
-Expiration of Second Notice: 9/7/14

Natural Resources

23. The Coal Mining Act (62 Ill. Adm. Code 140)
-First Notice Published: 38 Ill. Reg. 5010 – 2/21/14
-Expiration of Second Notice: 8/28/14

24. The Illinois Oil and Gas Act (62 Ill. Adm. Code 240)
-First Notice Published: 38 Ill. Reg. 10624 – 5/16/14
-Expiration of Second Notice: 8/30/14

Property Tax Appeal Board

25. Practice and Procedure for Appeals Before the Property Tax Appeal Board (86 Ill. Adm. Code 1910)
-First Notice Published: 38 Ill. Reg. 788 – 1/10/14
-Expiration of Second Notice: 8/30/14

Public Health

26. Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
-First Notice Published: 37 Ill. Reg. 15608 – 10/4/13
-Expiration of Second Notice: 9/4/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AUGUST AGENDA

27. Ambulatory Surgical Treatment Center Licensing Requirements (77 Ill. Adm. Code 205)
-First Notice Published: 37 Ill. Reg. 14565 – 9/13/13
-Expiration of Second Notice: 8/23/14

28. Child Health Examination Code (77 Ill. Adm. Code 665)
-First Notice Published: 38 Ill. Reg. 8726 – 4/25/14
-Expiration of Second Notice: 8/22/14

29. Immunization Code (77 Ill. Adm. Code 695)
-First Notice Published: 38 Ill. Reg. 8740 – 4/25/14
-Expiration of Second Notice: 8/22/14

30. Collection, Disclosure, and Confidentiality of Health Statistics (77 Ill. Adm. Code 1005)
-First Notice Published: 38 Ill. Reg. 3315 – 1/31/14
-Expiration of Second Notice: 8/22/14

Racing Board

31. Medication (11 Ill. Adm. Code 603)
-First Notice Published: 38 Ill. Reg. 8783 – 4/25/14
-Expiration of Second Notice: 8/30/14

Revenue

32. Motor Fuel Tax (86 Ill. Adm. Code 500)
-First Notice Published: 38 Ill. Reg. 10885 – 5/23/14
-Expiration of Second Notice: 8/27/14

State Fire Marshal

33. Boiler and Pressure Vessel Safety (41 Ill. Adm. Code 120)
-First Notice Published: 38 Ill. Reg. 7741 – 4/11/14
-Expiration of Second Notice: 8/15/14

State Police

34. Firearm Concealed Carry Act Procedures (20 Ill. Adm. Code 1231)
-First Notice Published: 38 Ill. Reg. 9205 – 5/2/14
-Expiration of Second Notice: 8/28/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AUGUST AGENDA

Torture Inquiry and Relief Commission

35. Organization, Public Information, Procedures, and Rulemaking (2 Ill. Adm. Code 3500)
-First Notice Published: 38 Ill. Reg. 8822 – 4/25/14
-Expiration of Second Notice: 9/4/14

36. Policy, Hearings, and Forms (20 Ill. Adm. Code 2000)
-First Notice Published: 38 Ill. Reg. 8840 – 4/25/14
-Expiration of Second Notice: 9/4/14

EMERGENCY RULEMAKINGS

Central Management Services

37. State Employees Group Insurance Program Retiree Premium Contributions (80 Ill. Adm. Code 2200)
-First Notice Published: 38 Ill. Reg. 14440 – 7/11/14

Education

38. School Food Service (23 Ill. Adm. Code 305)
-First Notice Published: 38 Ill. Reg. 14445 – 7/11/14

Healthcare and Family Services

39. Medical Assistance Programs (89 Ill. Adm. Code 120)
-First Notice Published: 38 Ill. Reg. 15646 – 7/18/14

40. Covering All Kids Health Insurance Program (89 Ill. Adm. Code 123)
-First Notice Published: 38 Ill. Reg. 15666 – 7/18/14

41. Medical Payment (89 Ill. Adm. Code 140)
-First Notice Published: 38 Ill. Reg. 15673 – 7/18/14

42. Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)
-First Notice Published: 38 Ill. Reg. 15713 – 7/18/14

43. Reimbursement for Nursing Costs for Geriatric Facilities (89 Ill. Adm. Code 147)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

AUGUST AGENDA

-First Notice Published: 38 Ill. Reg. 15723 – 7/18/14

44. Medical Assistance Programs (89 Ill. Adm. Code 153)
-First Notice Published: 38 Ill. Reg. 15732 – 7/18/14

Natural Resources

45. Open Space Lands Acquisition and Development Grant Program (17 Ill. Adm. Code 3025)
-First Notice Published: 38 Ill. Reg. 16400 – 8/1/14

State Police

46. Firearm Concealed Carry Act Procedures (20 Ill. Adm. Code 1231)
-First Notice Published: 38 Ill. Reg. 16010 – 7/25/14
-Expiration of Second Notice: 8/28/14

PEREMPTORY RULEMAKING

Central Management Services

47. Pay Plan (80 Ill. Adm. Code 310)
-First Notice Published: 38 Ill. Reg. 15739 – 7/18/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of July 22, 2014 through July 28, 2014. The rulemakings are scheduled for review at the Committee's August 12, 2014 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start Of First Notice	JCAR Meeting
9/4/14	Department of Public Health, Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)	10/4/13 37 Ill. Reg. 15608	8/12/14
9/4/14	Torture Inquiry and Relief Commission, Policy, Hearings, and Forms (20 Ill. Adm. Code 2000)	4/25/14 38 Ill. Reg. 8840	8/12/14
9/4/14	Torture Inquiry and Relief Commission, Organization, Public Information, Procedures and Rulemaking (2 Ill. Adm. Code 3500)	4/25/14 38 Ill. Reg. 8822	8/12/14
9/5/14	Department of Agriculture, Animal Disease Laboratories Act (8 Ill. Adm. Code 110)	4/18/14 38 Ill. Reg. 8035	8/12/14
9/5/14	Department of Agriculture, Diseased Animals (8 Ill. Adm. Code 85)	4/18//14 38 Ill. Reg. 8020	8/12/14
9/5/14	Department of Agriculture, Illinois Bovidae and Cervidae Tuberculosis Eradication Act (8 Ill. Adm. Code 80)	4/18/14 38 Ill. Reg. 8013	8/12/14
9/6/14	Illinois Commerce Commission, Governmental Electric Aggregation (83 Ill. Adm. Code 470)	12/27/13 37 Ill. Reg. 20544	8/12/14

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

9/7/14	Department of Labor, Carnival and Amusement Ride Safety Act (56 Ill. Adm. Code 6000)	5/23/14 38 Ill. Reg. 10772	8/12/14

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 38, Issue 32 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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