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DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

1) The Heading of the Part: Licensing Standards for Child Welfare Agencies

2) Code Citation: 89 Ill. Adm. Code 401

3) Section Numbers: Proposed Action:
   401.40 Amended
   401.100 Amended
   401.110 Amended
   401.130 Amended
   401.140 Amended
   401.141 New
   401.200 Amended
   401.210 Amended
   401.270 Amended
   401.430 Amended
   401.450 Amended
   401.470/500 Amended and Renumbered
   401.510 New
   401.520 New
   401.530 New
   401.540 New
   401.550 New
   401.560 New
   401.565 New
   401.570 New
   401.580 New
   401.590 New
   401.595 New
   401.600 New
   401.480/700 Renumbered and Amended
   401.800 New
   401.580 Renumbered

4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10]

5) A Complete Description of the Subjects and Issues Involved: The Department is amending Part 401 as follows:
NOTICE OF PROPOSED AMENDMENTS

In Section 401.40, the definition of "child care facility" was amended and other new definitions such as "adoption services" and "preferential treatment" were added to reflect changes in the Child Care Act.

Sections 401.100; 401.110; 401.130; 401.140 and 401.200 were amended to require that a child welfare agency providing adoption services must be recognized by the United States Internal Revenue Service as a tax-exempt organization described in Section 501(c)(3) of the Internal Revenue Code of 1986 and present documentation of that to the Department by August 15, 2007.

The new Section 401.141 sets the requirements for an existing child welfare agency to convert from its current structure to a tax-exempt organization and retain its current license or to transfer its current license to a newly formed entity.

Section 401.210 implements recommendations from the Office of the Inspector General that there be no familial relationship between the executive director and the chief financial officer. It also includes an agreement made between JCAR, the Department and the Child Care Association of Illinois when similar amendments were made in Rule 404, Licensing Standards for Institutions and Maternity Centers.

Section 401.270 indicates the retention schedule of records that must be maintained by a child welfare agency as indicated by Illinois State Record Commission.

Section 401.430 implements amendments made to the Adoption Act requiring the Department to obtain and maintain information from out-of-State private placing agencies about their license credentials and service programs.

Section 401.450 clarifies the three questions potential drivers of vehicles transporting children shall answer in order to evaluate their qualifications for driving these vehicles.

Subpart F. A new Subpart was formed to include all other provisions pertaining to agencies providing adoption services as amended in the Child Care Act.

Section 401.470 was renumbered and amended to Section 401.500, provisions in the new Section were rearranged and others were deleted because these were incorporated in the following Sections of the Part.
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

Section 401.510 sets the standards for adoption agencies to make full and fair disclosures to all prospective clients, including biological and adoptive parents, of the agency's policies and practices, fees, expenses and other pertinent information prior to and during the process of adoption. It also requires an adoption agency to provide written information about the birth and adoptive parents' rights and responsibilities, and sets minimum standards for witnessing a consent or surrender.

Section 401.520 sets the requirement to provide training to prospective adoptive parents.

Section 401.530 requires an adoption agency to file annual reports with the Department and the Illinois Attorney General to ensure that the financial and operational solvency of the agency is monitored.

Section 401.540 prohibits "preferential treatment" by an adoption agency as defined in this Part, and mandates that the agency's written preferential treatment policy be made available to all staff.

Section 401.550 prohibits an adoption agency from requiring biological or adoptive parents to sign any document that purports to waive claims against the agency for intentional or reckless acts or omissions or for gross negligence.

Section 401.560 requires an adoption agency to set its service fees based on services provided and prohibits the charge of excessive fees. In addition, it requires that payments to biological parents for reasonable living expenses shall not obligate the biological parents to place the child for adoption.

Section 401.565 establishes the limitations for adoption agency payment of salaries and other contributions. The provisions in this Section do not apply to international adoptions performed by agencies governed by the Hague Convention and the Intercountry Adoption Act of 2000.

Section 401.570 permits an adoption agency the use of independent contractors to perform adoption services provided that there is a written agreement between the adoption agency and the independent contractor and that the agreement is disclosed to all clients. The contractor is required to comply with the provisions of this Part and the Child Care Act, as amended. The Department has the authority to disapprove of the use of any contractor when it is not satisfied with the agreement.
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NOTICE OF PROPOSED AMENDMENTS

Section 401.580 requires that, when an adoption agency ceases to exist or dissolves its corporate entity, all records pertaining to adoption services shall be forwarded to another licensed child welfare agency with notice to the Department within 30 days after such cessation or dissolution.

Section 401.590 requires the Department to establish a complaint registry and a Statewide toll-free telephone number to monitor and inform the public of substantiated licensing violations and enforcement actions against adoption agencies.

Section 401.595 requires an adoption agency to develop and implement its complaint procedures that shall include: a complaint response time of not later than 2 business days; documenting all complaints and reporting these to their board of directors on their next meeting and requiring agencies to report the complaints to the Department within 10 business days; prohibiting retaliation and designating a management level staff person as a contact for consumers complaints. This Section also requires that the adoption agency's complaint policies and procedures must be filed with the Department by February 15, 2006 and sets penalties for failure to comply as determined in the Child Care Act.

Section 401.600 prohibits the advertisement of adoption services in the State of Illinois by an out-of-state adoption agency unless the agency meets the conditions set out in the Child Care Act.

Section 401.800 establishes the authority granted to the Department to inform the Illinois Attorney General or the State's Attorney for possible criminal proceedings of violators of the conditions of the Child Care Act and any rule or regulation prescribed from the Act.

6) Will this rulemaking replace an emergency rule currently in effect? Yes, 29 Ill. Reg. 15562, effective September 30, 2005

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

8) Does this rulemaking contain incorporations by reference? No

9) Are there any other amendments pending on this Part? No

10) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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11) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski
Office of Child and Family Policy
Department of Children and Family Services
406 E. Monroe, Station #65
Springfield, Illinois 62703-1498

Telephone: (217) 524-1983
TDD: (217) 524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile (217)557-0692

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

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses affected: This rulemaking affects agencies that provide adoption services in the State of Illinois. All agencies offering adoption services will now be required to be licensed child welfare agencies at the time specified in the rulemaking.

B) Reporting, bookkeeping, or other procedures required for compliance: Recording, compiling, and reporting personnel salary, fringe benefit, contractual and operational costs as laid out in Rule 401, and those additional recording requirements laid out in relation to compensation of owners and staff in the rule as amended. Recording, compiling and reporting fiscal data; data regarding children, biological families, and adoptive families served; and data regarding complaints, investigations and other matters of law as specified in Section 401.530.
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C) Types of professional skills necessary for compliance: Moderate bookkeeping and cost reporting skills; technical skills related to recording, compiling and reporting financial and compliance data, some of it via entry on Department websites.

13) Regulatory Agenda on which this rulemaking was summarized: The amendments regarding Licensing Standards for Child Welfare Agencies was not anticipated when the 2 most recent Regulatory Agendas were published.

The full text of the Proposed Amendments begins on the next page.
PART 401
LICENSING STANDARDS FOR
CHILD WELFARE AGENCIES

Section
401.1 Purpose (Repealed)
401.2 Definitions (Repealed)
401.3 Effective Date of Standards (Repealed)
401.4 Application for License (Repealed)
401.5 Application for Renewal of License (Repealed)
401.6 Provisions Pertaining to License (Repealed)
401.7 Provisions Pertaining to Permit (Repealed)
401.8 Incorporation (Repealed)
401.9 Composition and Responsibilities of the Governing Body (Repealed)
401.10 Finances (Repealed)
401.11 The Administrator (Repealed)
401.12 Social Work Supervisors (Repealed)
401.13 Child Welfare Workers (Repealed)
401.14 Professional Staff (Repealed)
401.15 Support Personnel (Repealed)
401.16 Volunteers (Repealed)
401.17 Background Checks (Repealed)
401.18 Legal Safeguards of Children Served (Repealed)
401.19 Required Written Consents (Repealed)
401.20 Agency Responsibility (Repealed)
401.21 Interstate Placement of Children (Repealed)
401.22 Health and Medical Services for Children (Repealed)
401.23 Records and Reports (Repealed)
401.24 Records Retention (Repealed)
401.25 Agency Supervised Foster Family Homes, Group Homes and Day Care and Night Care Homes (Repealed)
401.26 Severability of This Part (Repealed)

SUBPART A: INTRODUCTION AND DEFINITIONS

Section
401.30 Purpose
401.40 Definitions
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

SUBPART B: PERMITS AND LICENSES

Section
401.100 Application for License
401.110 Provisions Pertaining to Permits
401.120 Provisional Licenses
401.130 Provisions Pertaining to Licenses
401.140 Application for Renewal of License

401.141 License Transfer for Agencies Providing Adoption Services Seeking 501(c)(3) Status

401.145 Renewal Application Under Deemed Status
401.150 Acceptance of Accreditation through Deemed Status
401.155 Removal of Agency from Deemed Status
401.160 Voluntary Surrender of License

SUBPART C: ADMINISTRATION AND FINANCIAL MANAGEMENT

Section
401.200 Agency Corporate Status

401.210 Composition and Responsibilities of the Governing Body
401.220 Organization and Administration
401.230 Finances
401.240 Background Checks
401.250 Required Reporting to the Department
401.260 Required Record Keeping
401.270 Records Retention

SUBPART D: PERSONNEL REQUIREMENTS

Section
401.300 The Executive Director
401.310 Child Welfare Supervisors
401.320 Child Welfare Workers
401.330 Licensing Staff
401.340 Professional Staff
401.350 Support Personnel
401.360 Use of Volunteer Services
401.370 Non-Discrimination Against Employees Who Report Suspected Licensing Violations

401.380 Personnel Records

SUBPART E: SERVICES TO CHILDREN
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Section
401.400 Legal Safeguards of Children Served
401.410 Required Written Consents
401.420 Agency Responsibility
401.430 Interstate Placement of Children
401.440 Health and Medical Services for Children
401.450 Transportation of Children
401.460 Agency Supervised Foster Family Homes, Group Homes and Day Care Homes
401.470 Agency Responsibilities for Adoption Services (Renumbered)
401.480 Agency Responsibilities for Independent Living Programs (Renumbered)

SUBPART F:  AGENCY RESPONSIBILITIES FOR ADOPTION SERVICES

Section
401.500401.470 Child Welfare Agency Responsibilities for Adoption Services
401.510 Disclosures
401.520 Adoptive Parents Training
401.530 Annual Reports
401.540 Preferential Treatment in Child Placement
401.550 Waiver Prohibited
401.560 Adoption Services Fees
401.570 Independent Contractors
401.580 Cessation or Dissolution of an Adoption Agency
401.590 Adoption Agency Information and Complaint Registry
401.595 Agency Complaint Policy and Procedure
401.600 Advertisement

SUBPART G:  INDEPENDENT LIVING PROGRAMS

Section
401.700401.480 Agency Responsibilities for Independent Living Programs

SUBPART H:  ENFORCEMENT AND SEVERABILITY CLAUSE

Section
401.800 Referrals to Law Enforcement and Injunctive Relief
401.850401.500 Severability of This Part

401.APPENDIX A Licensing Progression for Child Welfare Agencies
401.APPENDIX B Requirements for Operation of Branch Offices
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401.APPENDIX D  Minimum Requirements for a Risk Management Plan
401.APPENDIX E  Acceptance of Voluntary Surrender of License – No Investigations Pending
401.APPENDIX F  Acceptance of Voluntary Surrender of License – Investigations Pending
401.APPENDIX G  Acceptable Human Services Degrees
401.APPENDIX H  Professionals Who Must Be Registered or Licensed to Practice in the State of Illinois

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10] and the Adoption Act [750 ILCS 50].


SUBPART A: INTRODUCTION AND DEFINITIONS

Section 401.40 Definitions

"Adequate assets" means the child welfare agency has sufficient liquid assets in reserve or has other sources of income and a line of credit independent of Department contracts which would allow it to provide continuous agency operations and provide services such as staff, taxes, rent, utilities, and supplies for a period of at least 30 days.

"Administrative order of closure" means a severe administrative sanction, approved by the Director of the Department of Children and Family Services, to close immediately an unlicensed child care facility, a child care facility which is exempt from licensure, or a licensed child care facility prior to revocation of the facility's license. An administrative order of closure is issued only when
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continued operation of the child care facility jeopardizes the health, safety, morals, or welfare of children served by the facility.

"Adoption services" includes any one or more of the following services performed for any type of compensation or thing of value, directly or indirectly:

- arranging for the placement of or placing out a child,
- identifying a child for adoption,
- matching adoptive parents with biological parents,
- arranging or facilitating an adoption,
- taking or acknowledging consents or surrenders for termination of parental rights for purposes of adoption, as defined in the Adoption Act,
- performing background studies on a child or adoptive parents,
- making determinations of the best interests of a child and the appropriateness of adoptive placement for the child, or
- post-placement monitoring of a child prior to adoption.

"Adoption services" does not include the following:

- the provision of legal services by a licensed attorney for which the attorney must be licensed as an attorney under Illinois law,
- adoption-related services performed by public governmental entities or entities or persons performing investigations by court appointment as described in subsection A of Section 6 of the Adoption Act,
- prospective adoptive parents operating on their own behalf,
- the provision of general education and training on adoption-related topics, or
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_post-adoption services, including supportive services to families to promote the well-being of members of adoptive families or birth families_. [225 ILCS 10/2.24]

"Advertise" means communication by any public medium originating or distributed in this State, including, but not limited to, newspapers, periodicals, telephone book listings, outdoor advertising signs, radio, or television. [225 ILCS 10/12]

"Age appropriate safety restraint" means, for a child under four years of age, a child restraint system (infant carrier, infant/toddler seat, or convertible safety seat) which meets the standards of the United States Department of Transportation designed to restrain, seat or position children. For a child four years of age or older, an age-appropriate safety restraint means a child restraint system or seat belt (lap belt or lap-shoulder belt combination).

"Authorized representative of the governing body" means the person authorized by formal action at a meeting of the Board of Directors to act on behalf of the child welfare agency and sign the license renewal application (but not the initial application for license), contracts, and other such documents, on behalf of the governing body. Such authorization shall be in writing on agency letterhead, submitted to the Department licensing worker, and signed by the president or chairperson of the Board of Directors and the secretary of the Board of Directors.

"Background check" means:

- a criminal history check via fingerprints of persons age 18 and over which are submitted to the Illinois State Police and the Federal Bureau of Investigation (FBI), for comparison to their criminal history records, as appropriate; and

- a check of the Statewide Automated Child Welfare Information System (SACWIS) and other state child protection systems, as appropriate, to determine whether an individual is currently alleged or has been indicated as a perpetrator of child abuse or neglect; and

- a check of the Illinois Sex Offender Registry.

"Chief fiscal officer" means the staff position with primary responsibility for the receipt, distribution and accounting for all financial transactions of the agency.
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"Child" means any person under 18 years of age. (Section 2.01 of the Child Care Act of 1969 [225 ILCS 10/2.01])

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

"Child welfare agency" means a public or private child care facility, receiving any child or children for the purpose of placing or arranging for the placement of free care of the child or children in foster family homes, unlicensed pre-adoptive and adoptive homes, or other facilities for child care, apart from the custody of the child's or children's parents. The term "child welfare agency" includes all agencies established and maintained by a municipality or other political subdivision of the State of Illinois to protect, guard, train or care for children outside their own homes and all agencies, persons, groups of persons, associations, organizations, corporations, institutions, centers, or groups providing adoption services, but does not include any circuit court or duly appointed juvenile probation officer or youth counselor of the court, who receives and places children under an order of the court. [225 ILCS 10/2.08]

"Complaint" means any oral or written report made to or by the Department or supervising agency or by the public alleging a violation of licensing standards of the Child Care Act of 1969.

"Consent for adoption" means a voluntary act by the biological parents to relinquish all parental rights of a child for purposes of adoption.

"Conditional license" means a nonrenewable license for a period not to exceed six months which may be granted to a child care facility when the facility has agreed to a corrective plan to amend identified deficiencies and bring the facility into reasonable compliance with all licensing standards. Conditional licenses may be issued with the approval of the Department only where no threat to the health, safety, morals or welfare of the children served exists. Any other license held by the facility shall be revoked when the conditional license is issued.
"Corporal punishment" means hitting, spanking, beating, shaking, pinching, excessive exercise, exposure to extreme temperatures, and other measures that produce physical pain. (National Health and Safety Performance Standards, Guidelines for Out-Of-Home Child Care Programs, American Public Health Association and American Academy of Pediatrics, 2002).

"Corrective plan" means a written plan approved by the Department's regional licensing administrator which identifies deficiencies in a child care facility's operations and which allows the facility a maximum of six months to correct the identified deficiencies and come into reasonable compliance with all applicable licensing standards.

"Deemed compliant" means that an eligible agency is presumed to be in compliance with requirements, provided that the Department has determined that current Council on Accreditation for Children and Family Services (COA) standards are at least substantially equivalent to those requirements. [225 ILCS 10/2.27]

"Deemed status" means the Department has approved a child welfare agency as in compliance with the requirements of this Part because the agency:

- has received full accreditation status from the Council on Accreditation for Children and Family Services (2001 Standards); and
- during the past four years, there have been no substantiated licensing violations that affect the health, safety, morals, or welfare of children served by the accredited agency.

"Department" means the Illinois Department of Children and Family Services. [225 ILCS 10/2.02]

"Eligible agency" means a licensed child welfare agency that is currently fully accredited by the Council on Accreditation for Children and Family Services (COA) for adoption services and has had no Department substantiated licensing violations or COA accrediting violations that affect the health, safety, morals, or welfare of children served by that agency for the 4 years immediately preceding a determination of eligibility. [225 ILCS 10/2.26]

"Excessive fees" means any amount that exceeds what is reasonable and
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customary in the community for the delivery of adoption services.

"Full license" means the agency is operating under a current child welfare agency license rather than a permit, a provisional license, a conditional license, or a license which has been revoked or which has expired after the agency failed to file a timely and sufficient application for license renewal.

"Governing body" means all members of the board of directors of a corporation.

"Guardian" means the guardian of the person of a minor. [225 ILCS 10/2.03]

"Immediate family member" means a person's spouse, son, daughter, mother, father, sibling, brother- or sister-in-law, or other legal dependent.

"Inadequate assets" means the child welfare agency has less than 30 days of operating expenses available to them in liquid assets as required by the definition of adequate assets in this Section.

"Initial application for license" means the first application for licensure as a child welfare agency submitted by the individual, corporation, or other legal entity.

"License" means a document issued by the Department of Children and Family Services which authorizes child care facilities to operate in accordance with applicable standards and the provisions of the Child Care Act of 1969.

"License applicant" means those individuals, corporations, or other legal entities who have applied for a license from the Department of Children and Family Services.

"Licensee" means those individuals, corporations or other legal entities who hold a license or permit issued by the Department of Children and Family Services.

"Licensing worker" means persons authorized by the Department under the Child Care Act of 1969 to examine facilities for licensure.

"Minor traffic violation" means a traffic violation under the laws of the State of Illinois or any municipal authority therein or another state or municipal authority which is punishable solely as a petty offense. (See Section 6-601 of the Illinois Driver Licensing Law [625 ILCS 5/6-601].)
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"New application for child welfare agency license" means a license is sought to operate a child welfare agency when:

  the applicant has applied previously for a child welfare agency license and withdrew the license application before a decision was made on the application for license; or

  the applicant had been licensed previously as a child welfare agency, but voluntarily surrendered the license; or

  the applicant had been licensed previously as a child welfare agency, but the Department revoked or refused to renew the license.

"Permit" means a one-time only document issued by the Department of Children and Family Services to allow the license applicant to become eligible for an initial license. Permits may be for a maximum six month period, except that permits granted to foster family homes and day care homes are limited to a maximum of two months.

"Petty offense" means any offense for which a sentence to a fine only is provided. (Section 5-1-17 of the Unified Code of Corrections [730 ILCS 5/5-1-17])

"Preferential treatment" means any action that allows board members, contributors, volunteers, employees, agents, consultants, or independent contractors, or their relatives, to receive considerations with respect to the placement of a child or any matter that relates to adoption services different or more favorably than any other similarly situated applicants.

"Provisional license" means a license issued for a period not to exceed two years to allow a licensed child welfare agency to demonstrate the ability to operate a business in compliance with applicable standards. During the provisional license period, the Department may exercise more stringent oversight or place more stringent requirements on the child welfare agency.

"Psychotropic medication" means medication whose use for antipsychotic, antidepressant, antimanic, antianxiety, behavioral modification or behavioral management purposes is listed in the AMA Drug Evaluations (Drug Evaluation Subscription, American Medical Association, Vols. I-III, Summer 1993) or Physician's Desk Reference (Medical Economics Data Production Company, 49th Edition, 1995) or which are administered for any of these purposes. (Section 1-
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121.1 of the Mental Health and Developmental Disabilities Code [405 ILCS 5/1-121.1])

"Reasonable living expenses" means expenses related to activities of daily living and meeting basic needs, including but not limited to: lodging, food and clothing for the biological parent during the biological mother's pregnancy and for no more than 120 days prior to the biological mother's expected date of delivery and for no more than 60 days after the birth of the child. The term does not include expenses of lost wages, gifts, education expenses or other similar expenses of the biological parent.

"Refusal to issue license" means the formal decision of the Department to decline to issue a license to the holder of a permit.

"Refusal to renew a license" means the formal decision of the Department to decline to issue a succeeding license, although the licensee has submitted a timely and sufficient application for license renewal, to the holder of a child care facility license or permit.

"Replacement or supplemental staff" means any paid or unpaid individual who is used to perform essential staff duties as evidenced by being counted in the staff-child ratio or being allowed to be alone with children receiving care in a licensed child care facility outside the visual or auditory supervision of facility staff.

"Reputable character" means there is satisfactory evidence that the moral character of the applicant is trustworthy.

"Responsible" means trustworthy performance of expected duties in accordance with established professional standards, State and federal law, and the rules of the Department of Children and Family Services.

"Revocation" means the termination of a full license or provisional license to operate a child care facility by a formal action of the Department. License revocations shall be conducted in accordance with Section 8 or 8.1 of the Child Care Act of 1969 [225 ILCS 10/8 and 8.1].

"Risk management plan" means a document developed in accordance with Appendix D of this Part that outlines the process for identifying and analyzing loss exposures, examining alternative risk control methods, and making and carrying out decisions that will minimize the adverse effects of accidental losses.
"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services that is replacing the Child Abuse and Neglect Tracking System (CANTS).

"Surrender for adoption" means a voluntary and irrevocable act, in writing, by the biological parents to relinquish all parental rights to a child to an agency for the purpose of placing the child for adoption.

"Suspension of license" means an action taken by the Department that requires cessation of all adoption activity by the agency. During the period of suspension, the agency is not authorized to operate as a child welfare agency.

"Timely and sufficient application for license renewal" means the child welfare agency submitted the application for renewal of the license at least 90 days before the expiration date, the application was complete, dated, and signed by an authorized party, and the materials required by Section 401.140 were attached to the application for license renewal. License renewal applications for foster family homes or day care homes under the supervision of the child welfare agency are considered timely if the application was returned to the agency within the time frames required by the respective licensing standards 89 Ill. Adm. Code 402 (Licensing Standards for Foster Family Homes) or 89 Ill. Adm. Code 406 (Licensing Standards for Day Care Homes).

"Unlicensed pre-adoptive and adoptive home" means any home that is not licensed by the Department as a foster family home and that receives a child or children for the purpose of adopting the child or children. [225 ILCS 10/2.25]

"Valid license" means a license which has not been revoked or expired, or which would have expired except that the child welfare agency submitted a timely and sufficient application for license renewal and the Department has not yet rendered a decision on the application, and the facility has not been issued an administrative order of closure.

"Voluntary surrender of license" means that, in writing, the licensee has offered and the Department has accepted the licensee's offer to give up a valid license of his, her or its own free will. The Department is not required to accept the offer of the license and, in the Department's sole discretion, may decline to accept the license.
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(Source: Amended at 30 Ill. Reg. _______, effective ____________)

SUBPART B: PERMITS AND LICENSES

Section 401.100 Application for License

a) The initial application for license as a child welfare agency shall be completed by the officers of the governing body of the child welfare agency on forms prescribed and furnished by the Department.

b) For the initial application for a license to be complete, the following shall be attached to the application:

1) Agencies not providing adoption services shall include the agency's articles of incorporation and by-laws, indicating that the agency's corporate status is in good standing with the Illinois Secretary of State and, if a not-for-profit corporation under Section 501 of the Internal Revenue Code (26 USCA 501), a copy of the Internal Revenue Service ruling on the agency's exemption status from Federal income tax and registration with the Charitable Trust Bureau of the Attorney General's office (if applicable);

2) Agencies not providing adoption services shall include a list of owners, officers, board members, and principal shareholders owning more than 5% of the stock of the corporation and each person’s attestation that he or she has not been convicted of a felony or indicated as a perpetrator of child abuse or child neglect, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect). This includes any or all of the above persons who reside outside the State of Illinois. The board list shall include the name, home address or Post Office Box, and telephone number, other than the agency's telephone number, of the board chair; the officers of the board; names of the board members; and committees of the governing body;

3) Agencies providing adoption services shall attach to the initial application:

A) A copy of the Internal Revenue Service's ruling showing that the agency is officially recognized by the United States Internal Revenue Service as a tax-exempt organization under section 501
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(c)(3) of the Internal Revenue Code of 1986 (26 USC 501) (or any successor provision of federal tax law);

B) A copy of registration with the Charitable Trust Bureau of the Illinois Attorney General's office;

C) Copies of 990 reports filed with the Internal Revenue Service in the preceding three years (if applicable); and

D) Articles of incorporation and by-laws, indicating that the agency's corporate status is in good standing with the Illinois Secretary of State, and, if a not-for-profit corporation under section 501(c)(3) of the Internal Revenue Code, a copy of the Internal Revenue Service ruling on the agency's exemption status from federal income tax and registration with the Charitable Trust Bureau of the Attorney General's office (if applicable);

42) A mission statement or statement of purpose including services to be provided and the types of child care facilities to be operated and supervised by the agency, including a plan for recruiting foster family and adoptive homes, as required to fulfill the agency's mission or purpose;

3) A list of owners, officers, board members, and principal shareholders owning more than 5% of the stock of the corporation and each person's attestation that he or she has not been convicted of a felony or indicated as a perpetrator of child abuse or child neglect, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect). This includes any or all of the above persons who reside outside the State of Illinois. The board list shall include the name, home address or Post Office Box, and telephone number, other than the agency's telephone number, of the board chair; the officers of the board; names of the board members; and committees of the governing body;

4) A listing of standing committees of the governing body;

5) Proposed operating budget for the first two years of operation;

6) Range of services to be provided within the first two years of operation; and
7) A comprehensive staffing plan which includes job descriptions and the qualifications of the staff for all child welfare programs to be provided by the agency. If the child welfare agency operates within a multi-service agency, those staff positions that perform no functions for the child welfare agency do not need to be included in the staffing plan. If the child welfare agency intends to operate branch offices, the address, telephone number and staffing plan for each of the branch offices is to be included in the initial application (if known) or reported to the Department within 30 days after the location for a branch office is secured.

c) In addition, the license applicant shall have the following items available for review when the licensing worker visits the agency headquarters.

1) A list of current employees of the child welfare agency, persons the agency has made a commitment to hire; and:

A) Certified transcripts of each employee's educational credentials (if obtained from a foreign school or university, the credentials must be translated into English and include a statement of equivalency in the United States educational system);

B) Verification of prior work history, when the work history is required to qualify for the current position;

C) Copy of current professional license or registration, if required. (See Appendix G for a list of professionals commonly used by a licensed child welfare agency who must be licensed or registered.); and

D) If the individual is subject to the background check requirements of 89 Ill. Adm. Code 385 (Background Checks) a copy of each employee's complete, signed authorization to conduct a background check.

2) The agency's written personnel policies, including written compensation policies and salary levels.

3) The agency's written service delivery policies.

4) The agency's risk management plan developed in accordance with
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Appendix D of this Part.

5) The agency's documentation of current public liability insurance as required by Section 401.220(g).

6) The agency's code of ethics which has been adopted by the governing body which must be at least as stringent as the Code of Ethics for Child Welfare Professionals (published by the Office of Communications, Department of Children and Family Services, 406 East Monroe, Station #65, Springfield, Illinois 62701 (May 1996) or found on the Department's website at www.state.il.us/dcfs).

7) The agency's financial management policies.

d) If the corporate status or ownership of the child welfare agency changes, the new corporate entity must file an initial application for a child welfare agency license as the new corporation.

e) A new application for a child welfare agency license shall be filed when:

| 1) Ana application for license as a child welfare agency has been withdrawn before a decision was made on the application and the agency seeks to reapply; or

| 2) The applicant had been licensed previously as a child welfare agency, but voluntarily surrendered the license, and any waiting period agreed to when the voluntary surrender was accepted has expired; or

| 3) The applicant had been licensed as a child welfare agency, but the Department revoked or refused to renew the license and the requirements of subsection (f) of this Section have been fulfilled.

f) A new application may be submitted at any time when a license, permit or application has been voluntarily surrendered or withdrawn by the applicant unless the applicant has signed an agreement with the Department not to reapply for a license for a specified period of time. Once an investigation of the facility has been commenced, the license may be voluntarily surrendered only with the signed, written agreement of the regional licensing administrator on the form prescribed in Appendix F.
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**g)** If the Department has revoked or refused to renew the license of a child welfare agency and the agency seeks to reapply for a license, it may do so if at least 12 months have passed since the effective date of the revocation or refusal to renew. If a new license is granted to the applicant, the Department shall issue a provisional license to the applicant for a period not to exceed two years. *The denial of a reapplication for a license pursuant to this subsection must be supported by evidence that the prior revocation renders the applicant unqualified or incapable of satisfying the standards and rules promulgated by the Department pursuant to the Child Care Act of 1969, or maintaining a facility which adheres to such standards and rules.* [225 ILCS 10/6(c)]

**h)** The applicant shall submit an original and one copy of the application for license and all required documentation.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

**Section 401.110  Provisions Pertaining to Permits**

**a)** A permit shall be issued before a provisional license is granted, but shall not be issued prior to the following:

1. **Completion** of the application for license and submission of the original and one copy of the application and all required supporting documentation to the Department;

2. **Employment** of an executive director who has passed the background check requirements of 89 Ill. Adm. Code 385 (Background Checks) and who meets the requirements of Section 401.300;

3. **Development** of a projected staffing plan indicating the time table by which qualified staff shall be hired;

4. **Establishment** of procedures and forms for required records and reports in Sections 401.260 and 401.270;

5. **Submission** of a written plan which indicates how requirements for a license shall be met within the permit period;

6. **Submission** of a projected budget for at least the next two years which has been approved by the governing body. Letters of
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commitment must be attached for any projected grant or contract;

7) Submission of a risk management plan as outlined in Appendix D, Minimum Requirements for a Risk Management Plan, of this Part; and

8) Documentation of current public liability insurance as required by Section 401.220(g).

b) Agencies providing adoption services seeking a permit shall also submit:

1) Articles of incorporation and by-laws, indicating that the agency's corporate status is in good standing with the Illinois Secretary of State;

2) A copy of the Internal Revenue Service ruling showing that the agency is officially recognized under section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law); and

3) Documentation of the agency's registration with the Charitable Trust Bureau of the Illinois Attorney General's office (if applicable).

cb) A permit shall not be issued retroactively.

dc) The permit shall not be renewable.

de) The permit shall not be transferred or transmitted to another legal entity.

fe) The permit shall not be valid for a name or address different from the name and address shown on the issued permit.

gf) The child welfare agency shall adhere to the provisions specified on the permit.

hg) A current permit shall be on display at the agency headquarters at all times while the agency is operating under a permit.

jh) A provisional license shall be issued any time within the six months period covered by the permit provided the child welfare agency achieves and maintains reasonable compliance with the Department's licensing standards.

jj) There shall be no fee or charge for the permit.
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(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 401.130 Provisions Pertaining to Licenses

a) A full child welfare agency license is valid for four years unless revoked by the Department or voluntarily surrendered by the licensee. Provisional licenses are valid for two years.

b) The Department shall revoke or refuse to renew the license of any child welfare agency providing adoption services, unless the agency:

1) Is officially recognized by the United States Internal Revenue Service as a tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law); and

2) Is in compliance with all of the standards necessary to maintain its status as an organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law). [225 ILCS 10/4(e)]

c) A license shall not be transferred or transmitted to another legal entity.

d) A license shall not be valid for a name or address other than the name and address shown on the license.

e) The current license shall be displayed at the agency headquarters at all times.

f) The licensee shall adhere to any and all provisions of the license.

g) There shall be no fee or charge for the license.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 401.140 Application for Renewal of License

a) License renewal application forms shall be mailed to the child welfare agency by the Department six months prior to the expiration date of the license. For a renewal application to be considered complete, the following shall be attached to the application:
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1) A complete listing of the names and addresses of all licensed and license-exempt child care facilities supervised by the child welfare agency and of any pending applications for licensure of a foster family or day care home which will be supervised by the child welfare agency;

2) A current list of names, home addresses or Post Office Box, and contact telephone numbers, other than the agency's telephone number, of owners, officers, board members, and principal shareholders owning more than 5% of the stock of the corporation;

3) A staff list, including name and job title, indicating those who are licensed under 89 Ill. Adm. Code 412.40 to practice as a direct child welfare service employee;

4) Any pending investigations other than the Department investigations; and

5) The following documents if changes were made to them since the last application or renewal:

   A) statement of purpose;

   B) range of services; and

   C) code of ethics;

6) For an agency providing adoption services whose license expires on or after August 15, 2007, documentation from the Internal Revenue Service showing that the agency is in compliance with all of the standards necessary to maintain its status as an tax-exempt organization as described in section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law). In addition, the agency shall attach copies of any form 990 reports filed with the Internal Revenue Service in the preceding 3 years, if applicable. An agency providing adoption services whose license renewal is pending or whose license will expire prior to August 15, 2007, and that is unable to obtain a 501(c)(3) status prior to August 15, 2007, may be granted, at the discretion of the Department, up to a one year extension.
b) The original of the completed application, along with the listing of child care facilities supervised by the agency, and one copy of all materials shall be submitted to the Department no later than 90 days before the date of the expiration of the child welfare agency's license.

c) When a licensee has made timely and sufficient application for renewal of a license and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to 30 days until the final Department decision has been made. The Department may further extend the period in which such decision must be made in individual cases for up to 30 days, but such extensions shall be only upon good cause shown. [225 ILCS 10/5(d)]

d) After receipt of the application for license renewal, the Department shall conduct a license study that shall consist of a comprehensive licensing compliance review. The study may include unannounced visits if conducted within normal business hours, in order to determine that the child welfare agency continues to meet licensing standards. The licensing study shall include an examination of the premises and records of the child welfare agency to determine the degree of compliance with these standards and shall include:

1) Random surveys of parents or legal guardians who are consumers of the child welfare agency's services to assess the quality of care given and to determine if the child welfare agency is in compliance with the Foster Parent Law [20 ILCS 520];

2) A review of a representative sample of child care facilities supervised by the child welfare agency, which may include site visits to these facilities;

3) A review of unusual incident reports, child abuse/neglect reports, financial and payment records, and other agency performance indicators to evaluate the quality of care provided through the agency;

4) Interviews of child welfare agency employees, foster parents, biological parents, children receiving care through the licensed child welfare agency, and other clients that receive services from the child welfare agency; and

5) A review of the records, staffing, and operations of any branch offices operated by the child welfare agency.
e) The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing worker performing the study. If the Department is satisfied that the facility continues to be in compliance with minimum standards which it prescribes and publishes, it shall renew the license to operate the facility. [225 ILCS 10/6] A copy of the licensing study will be made available to the license applicant upon payment of all copying costs.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

**Section 401.141 License Transfer for Agencies Providing Adoption Services Seeking 501(c)(3) Status**

a) Licensed child welfare agencies providing adoption services shall have a grace period of 24 months from August 15, 2005 to obtain tax-exempt status from the Internal Revenue Service as described in section 501(c)(3) of the Internal Revenue Code of 1986.

b) An existing child welfare agency may retain its current structure and be recognized as a 501(c)(3) organization as required by this Section or complete the process of application as an entity, if the creation of a new entity is required in order to comply with this Section, provided that:

1) The agency provides to the Department a copy of the Internal Revenue Service ruling showing that the agency is officially recognized by the United States Internal Revenue Service as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law);

2) The child welfare agency demonstrates that it continues to meet all other licensing requirements; and

3) The principal officers and directors and programs of the converted child welfare agency or newly organized child welfare agency are substantially the same as the original.

c) The Department, at its sole discretion, may grant a one year extension to a child welfare agency unable to obtain 501(c)(3) status prior to August 16, 2007, provided that the agency has demonstrated good faith effort to obtain a 501(c)(3)
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status with the Internal Revenue Service prior to August 16, 2007 and presents documentation of such to the Department.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

SUBPART C: ADMINISTRATION AND FINANCIAL MANAGEMENT

Section 401.200 Agency Corporate Status

Incorporation

a) Tax Exempt
A child welfare agency providing adoption services after August 15, 2005 shall be officially recognized or be in the process of being recognized within the time frame established in Section 401.141 of this Part, by the United States Internal Revenue Service as a tax-exempt organization described in section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law).

b) Incorporation
The child welfare agency shall be incorporated, either for profit or not for profit. The Board of Directors of the corporation shall consist of at least five members, at least one of whom shall be an Illinois resident. A copy of the certificate and articles of incorporation shall be filed with the Department at the time of application. A copy of any later amendment to the articles of incorporation or a copy of a certificate of dissolution shall be filed with the Department no later than 30 days after the amendment or dissolution occurs. If the child welfare agency which claims tax exemption under section 501 of the Internal Revenue Code (26 U.S.C.A. 501) is incorporated as a not-for-profit agency, the agency also must submit proof of the Internal Revenue Service ruling on its tax exempt status and proof whether it has registered as a charitable organization with the Illinois Attorney General. The child welfare agency shall notify the Department in writing of any change in its not-for-profit or charitable organization status within 30 days after notice from the Internal Revenue Service or Illinois Attorney General, respectively.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 401.210 Composition and Responsibilities of the Governing Body

a) The governing body of a child welfare agency shall be all the members of the Board of Directors of the corporation.
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b) Each member of the governing body of the child welfare agency and principal shareholders (owning 5% or more of the corporate stock) shall be of reputable and responsible character who shall certify that they have never been convicted of a felony or indicated as a perpetrator in a child abuse or neglect report, as defined in Appendix B of 89 Ill. Adm. Code 300 (Reports of Child Abuse and Neglect).

c) The governing body may create an executive committee or a child welfare committee that has been delegated limited decision making authority. The executive committee may act on behalf of the governing body in emergency matters.

d) The governing body shall:

1) Establish written by-laws which govern the major operations of the agency and which outline the duties of the officers of the board of directors and committees to be established by the board of directors;

2) Set long range goals for the agency;

3) If incorporated as a not-for-profit corporation, adopt a conflict of interest policy which requires, at a minimum:

   A) That no member of the board of directors may derive or appear to derive any personal profit or gain, directly or indirectly, by reason of his or her membership on the board of directors or because of services provided to the board the restriction of deriving profit from a transaction does not apply as long as the goods or services provided to the agency are priced at or below market value, and are documented in the agency's financial reports;

   B) That each board member must disclose to the board any personal interest which he or she or any member of his or her immediate family may have in any current or potential matter before the board and refrain from participating in any decision on such matters;

   C) That no member of the executive director's or the chief financial officer's immediate family shall serve on the board of directors for the child welfare agency and no member of any board
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member's immediate family may serve as executive director, the chief financial officer, or an independent contractor of the agency;

D) That there shall be no familial relationship between the executive director and the chief financial officer.

4) If incorporated as a for-profit corporation, adopt a code of conduct for the board;

5) Insure that the child welfare agency operates at all times with a qualified, full-time executive director who, by official written notice, is made known to the Department. The governing body shall:

A) Approve a written job description for the agency executive director that delineates the executive director's responsibilities and authority and the governing body's expectations of the agency executive director;

B) Review and authorize all compensation for the agency executive director, including salary, allowances, memberships or other benefits;

C) Evaluate the agency executive director in writing at least annually;

6) Insure that an adequate process is in place for recruiting, hiring, and maintaining qualified child welfare supervisors and other staff required by this Part;

7) Hold at least quarterly meetings, unless the agency holds a provisional license, thus requiring a minimum of bi-monthly meetings of the board of directors. Unless specifically prohibited by the articles of incorporation or bylaws, directors or non-director committee members may participate in and act at any meeting of such board or committee through the use of a conference telephone or other communications equipment by means of which all persons participating in the meeting can communicate with each other. Participation in such meeting shall constitute attendance and presence in person at the meeting of the person or persons so participating [805 ILCS 105/108.15];
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8) **Keep** written records or minutes of all board meetings reflecting official actions of the board that shall contain, at a minimum, the date of each board meeting, the persons who were in attendance, the issues discussed in the meeting, any committee reports made to the board, the decisions made and actions taken. The minutes shall be available for review by the Department's licensing worker, upon request;

9) **Officially** notify the Department in writing within 30 days after a change in the executive director or chief financial officer of the child welfare agency or of any major changes in the corporate structure, including, but not limited to:

   A) **Change** in the articles of incorporation or by-laws;

   B) **Change** in the not-for-profit status or tax exempt status as determined by the Internal Revenue Service (if applicable) or its charitable organization status as determined by the Illinois Attorney General;

   C) **Addition** of any principal shareholder owning at least 5% of the stock of the corporation; or

   D) **Change** in the governing body or its officers;

10) **Establish** written policies of the child welfare agency that shall be made available to all board members, employees, and agency clientele, including services to be provided by the agency, admissions, care of children, and other policies as needed to direct the agency, such as family visitation and community contacts with children;

11) **Provide** and maintain permanent offices accessible to the public and appropriate for the administrative program and supportive services. These offices, including all branch offices, shall be staffed during the business hours established by the agency, shall be equipped with telephones, and shall have a permanent mailing address;

12) **Maintain** and keep all records and documents required by this Part in the State of Illinois where they shall be readily available for review by authorized persons;
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13) Insure fidelity bonding of fiscally responsible officers and employees against breach of fiduciary duty or the loss of monies, securities, or other property which the agency may sustain through any fraudulent or dishonest act committed by an officer or employee acting alone or in collusion with others. These officers or employees must be bonded regardless of whether elected or appointed or whether compensated by salary;

14) Insure that the child welfare agency maintains adequate assets, as defined in Section 401.40, for responsible fiscal operation of the agency; and

15) Insure that all persons working directly with children are of reputable and responsible character, as verified by their employment history of at least the past three years, the status of any professional license they hold, and completion of the background checks required by 89 Ill. Adm. Code 385 (Background Checks).

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

Section 401.270 Records Retention

a) General and financial records required of the child welfare agency shall be maintained for at least five years.

b) Personnel records shall be retained for at least five years after termination of the person's employment.

c) Licensing Records

1) The child welfare agency shall maintain in office the licensing records of the foster family or day care home license for 4 years after any one of the following occurrences:

   A) The license renewal scheduled has expired and has not been renewed;

   B) The official denial or withdrawal of application for the license or permit;
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C) The date of closure or revocation of the license or permit.

2) After the 4 years, the agency shall transfer the licensing record to the Department.

d) If any litigation, claim, financial management review, or audit is started before the expiration of the five-year period, the records shall be retained for at least three years after all litigation, claims or audit findings involving the records have been resolved and final action taken. (See 45 CFR 74.53.)

e) Child case records shall be maintained for five years after the child attains the age of 21. At least five years after the child attains the age of 21, the record may be purged so that only family, medical, and biographical information is retained. The family, medical, and biographical information shall be maintained for at least 15 years after the child attains the age of 21, unless the child has been adopted. If the child has been adopted, the family, medical, and biographical information on the child shall be retained for at least 99 years after the child attains the age of 21.

f) When an agency license is revoked, the Department refuses to renew the license, or for any other reason the agency ceases operations, the child welfare agency shall provide the Department with the original or a complete copy of all child case records and licensing records for the children and families it has served and for the foster family and day care homes that had been under its supervision.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

SUBPART E: SERVICES TO CHILDREN

Section 401.430 Interstate Placement of Children

a) An agency placing children outside the State of Illinois or receiving children from outside the State shall adhere to all rules and regulations of legal authorities pertaining to such placements and to the requirements of the Interstate Compact on the Placement of Children Act [45 ILCS 15], where applicable, and Department rules, 89 Ill. Adm. Code 328 (Interstate Placement of Children). When the Department of Children and Family Services is legally responsible for the children to be placed outside of the State of Illinois, consents from the guardian or his or her authorized agent must be obtained before this placement may occur.
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b) Out-of-state private placing agencies that seek to place children into Illinois for the purpose of foster care or adoption shall provide all of the following to the Department, and the Department shall maintain the information in an Interstate Compact on the Placement of Children Out of State Adoption Agency File, also known as ICPC Out of State Adoption Agency File. Information and documentation maintained in the File will be considered current for a period of 2 years. The ICPC Out of State Adoption Agency File shall include:

1) A copy of the agency's current license or other form of authorization from the approving authority in the agency's state. If no license or authorization is issued, the agency must provide a reference statement from the approving authority stating the agency is authorized to place children in foster care or adoption or both in the jurisdiction.

2) A description of the agency's adoption programs, including home studies, placements, and supervisions that the child placing agency conducts within its geographical area, and, if applicable, adoptive placements and the finalization of adoptions. The child placing agency must accept continued responsibility for placement planning and replacement if the placement fails.

3) Notification to the Department of any significant child placing agency changes after ICPC approval.

4) Any other information the Department may require.

c) If the adoption is finalized prior to bringing or sending the child to Illinois, Department approval of the out-of-state child placing agency involved is not required under this Section, nor is compliance with the Interstate Compact on the Placement of Children, [750 ILCS 50/4.1(a-5)]

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 401.450 Transportation of Children

a) These requirements apply to any child welfare agency that provides or arranges for the transportation of children to or from their home, whether a permanent home or a foster family home, to other prearranged sites, e.g., to another placement, for visits with family members, to a physician or to another
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professional.

b) The child welfare agency must insure that all persons who transport children on behalf of the agency hold a valid driver's license and have insurance, as required by the Illinois Vehicle Code [625 ILCS 5]. (Persons with a special driving permit are not considered to have a valid driver's license.)

c) The child welfare agency shall ask all drivers to answer the following questions in writing and shall include the response to these questions in their personnel files. Persons who answer "yes" to either of the questions in subsection (c)(1), (2) or (3) shall not be permitted to transport children.

1) Has your driver's license been revoked or suspended within the past three years for driving under the influence, manslaughter or reckless homicide?

2) Have you been convicted of driving under the influence, manslaughter, or reckless homicide in the past 3 years?

3) Have you caused an accident which resulted in the death of any person within the past five years? (See 225 ILCS 10/5.1(a).)

d) The child welfare agency shall adopt emergency procedures to be followed in the event of an accident, serious illness, or severe weather. Copies of these procedures and other pertinent information shall be provided to all persons driving on behalf of the child welfare agency.

e) Age-appropriate safety restraints that are federally approved and labeled as such shall be used at all times when transporting children in vehicles having a gross weight of less than 10,000 pounds, except that individual safety restraints are not required when children ride as passengers in taxicabs or common carriers or public utilities.

f) No more than one child may be in each seat belt or safety restraint.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 401.470 Agency Responsibilities for Adoption Services (Renumbered)

(Source: Section 401.470 renumbered to Section 401.500 at 30 Ill. Reg. ______, effective ____________)
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Section 401.480 Agency Responsibilities for Independent Living Programs *(Renumbered)*

(Source: Section 401.480 renumbered to Section 401.700 at 30 Ill. Reg. _____, effective ____________)

SUBPART F: AGENCY RESPONSIBILITIES FOR ADOPTION SERVICES

SEVERABILITY CLAUSE

Section 401.500 Child Welfare Agency Responsibilities for Adoption Services

Child welfare agencies that provide adoption services shall, in addition to meeting all requirements for a child welfare agency described in this Part, must assure the Department that placements of children for adoption are made in the best interests of the children and are selected to meet the needs of the child at the time of the placement and as the child grows and develops. In addition adoption agencies shall meet the following additional requirements:

a) Establish written guidelines and eligibility criteria for the selection and evaluation of adoptive home applicants;

b) Provide pre-placement services that include the assessment and preparation of the potential adoptive family as well as of the child in need of an adoptive home;

c) Ensure that the legal rights of all parties, including the birth parents, the child, and the adoptive parent, are protected throughout the adoption process;

d) Comply with all State and federal laws and the requirements of 89 Ill. Adm. Code 333 (Inter-country Adoption Services) when the adoptive placement involves a child from a foreign country;

e) Prohibit discrimination against any child, birth parent, foster parent or prospective adoptive parent on the basis of race, religion, gender, or ethnicity.

a) have guidelines and eligibility criteria for the selection and evaluation of adoptive home applicants;

b) provide pre-placement services that include the assessment and preparation of the potential adoptive family as well as the child in need of an adoptive home;
e) provide the adoptive family with all non-identifying information about the child which has been verified as accurate, whenever possible. If it is not possible to verify the accuracy of the information provided to the adoptive parents, the agency may provide the information to the adoptive family, but shall note that the information has not been verified;

d) ensure that the legal rights of all parties, including the birth parents, the child, and the adoptive parent are protected throughout the adoption process;

e) provide the adoptive family, through written agreements, with a clear explanation of the charges and costs the family will incur in the adoption process;

f) provide the adoptive family prior written notification of any changes to the charges or costs;

g) provide the birth parents with a clear written explanation of their rights;

h) comply with all State and federal laws and the requirements of 89 Ill. Adm. Code 333 (International Adoption Services) when the adoptive placement involves a child from a foreign country;

i) prohibit discrimination against any child, birth parent, foster parent or prospective adoptive parent on the basis of race, religion, gender, or ethnicity.

(Source: Section 401.500 renumbered from Section 401.470 and amended at 30 Ill. Reg. ______, effective ____________)

Section 401.510 Disclosures

a) Information disclosed in accordance with this Subpart shall be subject to the confidentiality requirements of the Child Care Act of 1969 and the Adoption Act.

b) A child welfare agency providing adoption services shall provide to all prospective clients, including biological parents and adoptive parents, and to the public, the following written disclosures, which shall be posted on the agency’s website when there is one:

1) Adoption services provided;
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2) Policy and practices;

3) General eligibility criteria;

4) A description of fees; and

5) The mutual rights and responsibilities of clients, including biological parents and adoptive parents.

c) Agencies providing adoption services shall provide to all potential clients prior to application a written schedule of:

1) Estimated fees, charges and costs the family will incur in the adoption process;

2) Estimated expenses; and

3) Refund policies.

d) These written policies shall be part of the standard adoption contract unless additional fees are reasonably required by the circumstances and are disclosed to the adoptive parents or parent before they are incurred. [225 ILCS 10/7.4(b)]

e) An eligible adoption agency may be deemed compliant with subsections (c) and (d) of this Section. This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency. [225 ILCS 10/2.27 and 7.4(b)]

f) Every agency providing adoption services shall make full and fair disclosure to its clients, including biological parents and adoptive parents, of all circumstances material to the placement of a child for adoption. [225 ILCS 10/7.4(c)]

g) Contents of the written disclosure policy shall include:

1) Biological parents' rights and responsibilities.

   A) Agencies and other resources that are serving biological parents who are making an adoption plan shall provide the biological
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A parents, in their preferred language, with a written explanation of their rights and responsibilities.

B) The biological parents' rights and responsibilities document shall be prepared by the Department and be made part of the standard forms that the biological parents review and sign.

C) A copy of the biological parents' rights and responsibilities document shall be kept and maintained in the agency file, and another given to the biological parents.

2) Information that is shared with the biological parents may include:

A) Age of the adoptive parents;

B) The race, religion, and ethnic background of the adoptive parents;

C) The general physical appearance of the adoptive parents;

D) The education, occupation, hobbies, interests and talents of the adoptive parents;

E) The existence of any other children born to or adopted by the adoptive parents;

F) Any information that the adoptive family wishes to include in its Dear Birth Parent letter (which some agencies use).

3) Adoptive parents' rights and responsibilities may include:

A) Agencies and other resources that are serving adoptive parents shall provide the adoptive parents with a written explanation of their rights and responsibilities.

B) The adoptive parents' rights and responsibilities document shall be prepared by the Department and be made part of the standard forms that adoptive parents review and sign.

C) A copy of the adoptive parents' rights and responsibilities shall be kept in the agency files and another given to the adoptive parents.
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D) Adoption agencies shall provide the adoptive family with all non-identifying information about the child that has been verified as accurate, whenever possible. If it is not possible to verify the accuracy of the information provided to the adoptive parents, the agency may provide the information to the adoptive family, but shall note that the information has not been verified.

E) Notwithstanding any other provision of this Part to the contrary, the medical and mental health histories of a child legally freed for adoption and of the birth parents, with information identifying the birth parents redacted, shall be provided by an agency to the child's prospective adoptive parent and shall be provided upon request from an adoptive parent when a child has been adopted. The medical and mental health histories shall include all of the following available information.

i) Conditions or diseases believed to be hereditary;

ii) Drugs or medications taken by the child's mother during pregnancy;

iii) Psychological and psychiatric information; and

iv) Any other information that may be a factor influencing the child's present or future health.

4) The agency shall provide, in writing, the following non-identifying information, if known to the adoptive parents, not later than the day of placement with the petitioning adoptive parents:

A) The age of biological parents;

B) The race, religion, and ethnic background of the biological parents;

C) The general physical appearance of biological parents;

D) The education, occupation, hobbies, interests and talents of the biological parents;
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E) The existence of any other children born to the biological parents;

F) Information about biological grandparents, reason for emigrating into the United States, if applicable, and country of origin;

G) The relationship between biological parents;

H) Detailed medical and mental health histories of the child, biological parents, and their immediate relatives; and

I) The actual date and place of birth of the adopted person.

5) No information provided under this subsection (g) shall disclose the name or last known address of biological parents, grandparents, siblings of the biological parents, adopted person, or any other relative of the adopted person.

6) The adoptive family shall also be informed about the Illinois Adoption Registry.

h) Minimum standards for witnessing a consent or surrender shall include:

1) Child welfare agencies witnessing biological parents' consent or surrender of parental rights shall require the biological parent to participate in at least one counseling session in person.

A) The counseling session should take place not less than 24 hours before the signing of the documents. If this is not possible, the agency shall document the reason in the biological parent's file.

B) The counseling session should include both biological parents when possible.

C) If one biological parent does not attend the session, his or her absence shall be noted in the record. The agency shall review the key issues regarding consents and surrenders with the absent biological parent prior to taking consent.

2) A counseling session summary shall be included in every biological parent's file.
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3) The counseling session must be conducted by a counselor who has knowledge of the issues relevant to the surrendering of one's parental rights. The counselor may be an authorized representative of an adoption agency, either employed by or contracted by the agency, who does counseling or a counselor not associated with an agency such as a licensed social worker, licensed counselor or other mental health professional.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 401.520 Adoptive Parents Training

a) Agencies providing adoption services shall provide prospective adoptive parents with a training program that shall include:

1) A minimum of 6 clock hours of training;

2) Counseling and guidance for promoting a successful adoption in conjunction with the placement of a child for adoption with the prospective parents;

3) Additional training, as necessary, to meet the needs of the adoptive family or child prior to the adoption.

b) The adoptive parent training may be provided by an agent or independent contractor of the child welfare agency, provided it has the prior written approval of the Department's regional office of licensing.

c) All agencies shall keep on file a written record of the nature and extent of the training provided to the adoptive parents.

d) An eligible adoption agency may be deemed compliant with this Section. This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency. [225 ILCS 10/2.27 and 7.5]

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 401.530 Annual Reports
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a) On the 45th day of an adoption agency's license anniversary date, an agency providing adoption services shall file an annual report with the Department and with the Illinois Attorney General on forms prescribed by the Department, consisting of the following:

1) A balance sheet and a statement of income and expenses for the year;

2) Non-identifying information concerning the child adoption placements made by the agency during the year, consisting of:

   A) The number of adoptive families in the process of obtaining a foster family license;

   B) The number of adoptive families that are licensed and awaiting placement;

   C) The number of biological parents with which the agency is actively working;

   D) The number of children placed in adoptive homes; and

   E) The number of adoptions initiated during the year and the status of each matter at the end of the year;

3) Any instance during the year in which the agency lost the right to provide adoption services in any state or country, had its license suspended for cause, or was the subject of other sanctions by any court, governmental agency, or governmental regulatory body relating to the provision of adoption services;

4) Any actions related to licensure that were initiated against the agency during the year by a licensing or accrediting body;

5) Any pending investigations by federal or State authorities;

6) Any criminal charges, child abuse charges, malpractice complaints, or lawsuits against the agency or any of its employees, officers, or directors related to the provision of adoption services and the basis or disposition of the actions;
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7) Any instance in the year where the agency was found guilty of, or pled guilty to, any criminal or civil or administrative violation under federal, State, or foreign law that relates to the provision of adoption services;

8) Any instance in the year where any employee, officer, or director of the agency was found guilty of any crime or was determined to have violated a civil law or administrative rule under federal, State, or foreign law relating to the provision of adoption services;

9) Any civil or administrative proceeding instituted by the agency during the year and relating to adoption services, excluding uncontested adoption proceedings and proceedings filed pursuant to Section 12a of the Adoption Act; [225 ILCS 10/7.6]

10) Description of fees, wages, salaries and other compensations described in Section 401.565(a) of this Part.

b) Failure to disclose information required under this Section may result in the suspension of the agency's license for a period of 90 days. Subsequent violations may result in revocation of the license. [225 ILCS 10/7.6]

c) Each licensed child welfare agency providing adoption services that maintains a website shall provide the agency's annual reports on its website.

d) The child welfare agency's annual report for the preceding 2 years shall be made available by the Department to the public, upon request, and shall be included on the website of the Department.

e) Information disclosed in accordance with this Section shall be subject to the applicable confidentiality requirements of the Child Care Act and the Adoption Act. [225 ILCS 10/7.6]

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 401.540 Preferential Treatment in Child Placement

a) Preferential treatment in child placement or any matters relating to adoption services by an agency shall not be given to its board members, contributors, volunteers, employees, agents, consultants, or independent contractors or to the relatives of these persons. Relatives, as used in this Part, are those persons related
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by blood or adoption, including parents, grandparents, siblings, great-grandparents, uncles, aunts, nieces, nephews, first cousins, great aunts or great uncles, and step-parents or step-siblings. Relatives also include the spouse of these named relatives.

b) Agencies shall include the prohibition of preferential treatment in adoption services in the written agency policy made available to all the agency's staff.

c) An eligible adoption agency may be deemed compliant with this Section. This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency. [225 ILCS 10/2.27 and 7.8].

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 401.550 Waiver Prohibited

Agencies providing adoption services shall not require biological or adoptive parents to sign any document that purports to waive claims against an agency for intentional or reckless acts or omissions or for gross negligence. [225 ILCS 10/7.7]

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 401.560 Adoption Services Fees

a) Excessive adoption fees by a child welfare agency, representative of an agency or independent contractor of an agency are prohibited. An eligible adoption agency may be deemed compliant with this subsection. This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency. [225 ILCS 10/2.27 and 7.9]

b) Adoption service fees shall be based on the costs associated with the agency's overall service and program delivery. Clients may be charged fees only for services provided.

c) Payments to Biological Parents

1) Adoption agency payments to biological parents of reasonable living expenses by a child welfare agency shall not obligate the biological
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parents to place the child for adoption. In the event that the biological parents choose not to place the child for adoption, the child welfare agency shall have no right to seek reimbursement from the biological parents, or from any relative of the biological parents, of moneys paid to, or on behalf of, the biological parents, except as provided in subsection (c)(2) of this Section.

2) A child welfare agency may seek reimbursement of reasonable living expenses from a person who receives such payments only if the person who accepts payment of reasonable living expenses before the child's birth, as described in subsection (c)(1), knows that the person on whose behalf he or she is accepting payment is not pregnant at the time of the receipt of the payments or the person receives reimbursement for reasonable living expenses simultaneously from more than one child welfare agency without the agencies' knowledge. [225 ILCS 10/14.7]

3) An adoption agency shall maintain on file records of all payments made to biological parents or on behalf of biological parents.

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 401.565 Adoption Agency Payment of Salaries or Other Compensation

a) A licensed child welfare agency may pay salaries or other compensation to its officers, employees, agents, contractors, or any other persons acting on its behalf for providing adoption services, provided that all of the following limitations apply:

1) The fees, wages, salaries, or other compensation of any description paid to the officers, employees, contractors, or any other person acting on behalf of a child welfare agency providing adoption services shall not be unreasonably high in relation to the services actually rendered. Every form of compensation shall be taken into account in determining whether fees, wages, salaries, or compensation are unreasonably high, including, but not limited to, salary, bonuses, deferred and non-cash compensation, retirement funds, medical and liability insurance, loans, and other benefits such as the use, purchase, or lease of vehicles, expense accounts, and food, housing, and clothing allowances;
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2) Any earnings, if applicable, or compensation paid to the child welfare agency's directors, stockholders, or members of its governing body shall not be unreasonably high in relation to the services rendered; and

3) Persons providing adoption services for a child welfare agency may be compensated only for services actually rendered and only on a fee-for-service, hourly wage, or salary basis.

b) The Department shall take into account the location, number, and qualifications of staff, workload requirements, budget, and size of the agency, and available norms for compensation within the adoption community.

c) Every licensed child welfare agency providing adoption services shall provide the Department and the Attorney General with a report, on an annual basis, providing a description of the fees, wages, salaries and other compensation described in subsection (a) of this Section.

d) Nothing in the Adoption Compensation Prohibition Act [720 ILCS 525] shall be construed to prevent a child welfare agency from charging fees or the payment of salaries and compensation as limited in this Section and any applicable Sections of this Part, the Child Care Act or the Adoption Act.

e) This Section does not apply to international adoption services performed by those child welfare agencies governed by the 1993 Hague Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption and the Intercountry Adoption Act of 2000.

f) An eligible adoption agency may be deemed compliant with this Section. This presumption of compliance may be rebutted by the Department with substantiated evidence to the contrary. The Department may require periodic certification of COA accreditation from the agency. [225 ILCS 10/2.27 and 14.6]

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 401.570 Independent Contractors

a) A child welfare agency providing adoption services may use the services of any person, group of persons, agency, association, organization, corporation, institution, center, or group as an independent contractor to perform services on...
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behalf of the licensed agency, provided that the licensed agency has a written agreement with the independent contractor specifying:

1) Terms of remuneration;

2) Services to be performed;

3) Personnel performing those services;

4) Qualifications of the personnel, in addition to any other information or requirements the Department may specify; and

5) That the contract may be terminated at any time.

b) The independent contractor providing services on behalf of the licensed agency has an affirmative obligation to disclose its contractual relationship to all clients prior to performing any services.

c) The licensed agency is not exempt, by reason of the use of the contractor, from compliance with all of the provisions in this Part and in the Child Care Act of 1969.

d) The Department has the authority to disapprove of the use of any contractor if the Department is not satisfied with the agency's agreement. The factors to be considered include, but are not limited to:

1) Personnel who are performing the services;

2) The qualifications of the personnel; or

3) If the contractor violates any provision of this Part, the Child Care Act or the Adoption Act.

e) The Department has the authority to require the immediate termination of the contract between an agency and independent contractor.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 401.580  Cessation or Dissolution of an Adoption Agency
In the event that a licensed child welfare agency providing adoption services ceases to exist or dissolves its corporate entity as an agency, and in so doing ceases to provide adoption services as defined in Section 401.40, all records pertaining to those adoption services shall be forwarded to another licensed child welfare agency, with notice provided to the Department within 30 days after cessation or dissolution.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 401.590 Adoption Agency Information and Complaint Registry

a) The public may access information concerning the past history and records of any licensed child welfare agency providing adoption services in the State of Illinois through the Department's adoption agency information and complaint registry's toll-free telephone number.

b) Complaints regarding agencies providing adoption services may be made to the nearest Department licensing office or to the adoption agency, which shall follow the requirements of Section 401.595. The State Central Register may take, via its toll-free number (1-800-252-2873), complaints during weekends or after regular working hours.

c) Information provided in the adoption agency information and complaint registry shall also be available to the public on the Department's website.

d) The adoption agency information and complaint registry serves to assist the public in the monitoring of licensed child welfare agencies providing adoption services. The information in the registry shall include, but is not limited to:

1) Agency's 4-year history of substantiated violations and corrected violations.

2) Any current enforcement actions against a child welfare agency providing adoption services.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 401.595 Agency Complaint Policy and Procedure

a) Agencies providing adoption services shall establish written complaint policies that include:
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1) Without limitation, prompt complaint response time of no later than 2 business days;

2) The adoption agency shall maintain written documentation of all complaints received at the agency;

3) All adoption agencies shall report, in writing, to the Department's regional licensing office or the DCFS Licensing Representative within 10 business days after complaints are received, including the complaint resolution, if any;

4) Any retaliation against the person making the complaint is prohibited;

5) That a member of management level staff shall be designated to accept consumer complaints; and

6) Resolutions of all complaints shall be reported to the agency board of directors at its next meeting.

b) The agency's complaint policy and procedures shall be filed with the Department no later than February 15, 2006.

c) Failure of an adoption agency to file its complaint policy and procedures with the Department by February 15, 2006 and to comply with the provisions of this Section may result in:

1) Suspension of the agency's license for a period of 90 days; or

2) Revocation of the agency's license in the event that the agency continues to violate the requirement of subsection (b).

d) The adoption agency's policy and procedures shall be provided in writing to its prospective clients, including biological parents, adoptive parents, and adoptees that it has served, at the earliest time possible, and, in the case of biological and adoptive parents, prior to placement or prior to entering into any written contract with the clients. [225 ILCS 10/9.1b]

e) Receipt of a copy of the agency's policy and procedure shall be signed and dated by the client and witnessed, and a copy shall be maintained in the client's file.
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f) Any adoption agency that maintains or establishes a website in the future shall post the prescribed complaint procedures and its license number, as well as the statewide toll-free adoption agency information and complaint registry telephone number, on its website. [225 ILCS 10/9.1b]

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 401.600 Advertisement

a) No person, group of persons, agency, association, organization, corporation, institution, center, or group may advertise or cause to be published any advertisement offering, soliciting, or promising to perform adoption services as defined in Section 401.40 of this Part, unless the agency is licensed or operating under a permit issued by the Department as a child care facility or child welfare agency.

b) Violators of subsection (a) of this Section are guilty of a Class A misdemeanor and shall be subject to a fine not to exceed $10,000 or 9 months imprisonment for each advertisement, unless that person, group of persons, agency, association, organization, corporation, institution, center, or group is:

1) Licensed or operating under a permit issued by the Department as a child care facility or child welfare agency; or

2) An exception to subsection (a) is a biological parent or a prospective adoptive parent acting on his or her own behalf, or a licensed attorney advertising his or her availability to provide legal services relating to adoption, as permitted by law.

c) Every advertisement published after August 15, 2005 shall include the Department's issued license number of the facility or agency.

d) Any licensed child welfare agency providing adoption services that, after August 15, 2005, causes to be published an advertisement containing reckless or intentional misrepresentations concerning adoption services or circumstances material to the placement of a child for adoption is guilty of a Class A misdemeanor and shall be subject to a fine not to exceed $10,000 or 9 months imprisonment for each advertisement.
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e) An out-of-state agency that is not licensed in Illinois and that has a written interagency agreement with one or more Illinois licensed child welfare agencies may advertise under this Section, provided that:

1) The out-of-state agency is officially recognized by the United States Internal Revenue Service as a tax-exempt organization under section 501(c)(3) of the Internal Revenue Code of 1986 (or any successor provision of federal tax law);

2) The out-of-state agency provides only international adoption services and is covered by the international adoption services and the Intercountry Adoption Act of 2000;

3) The out-of-state agency displays, in the advertisement, the license number of at least one of the Illinois licensed child welfare agencies with which it has a written agreement; and

4) The advertisements pertain only to international adoption services.

f) An advertiser, publisher, or broadcaster, including, but not limited to, newspapers, periodicals, telephone book publishers, outdoor advertising signs, radio stations, or television stations, who knowingly or recklessly advertises or publishes any advertisement offering, soliciting, or promising to perform adoption services on behalf of a person, group of persons, agency, association, organization, corporation, institution, center, or group, not authorized to advertise under subsection (a) or (d) of this Section, is guilty of a Class A misdemeanor and is subject to a fine not to exceed $10,000 or 9 months imprisonment for each advertisement.

g) The Department shall maintain a website listing child welfare agencies licensed by the Department that provide adoption services and other general information for biological parents and adoptive parents. The website shall include, but not be limited to:

1) Adoption agency license numbers, addresses, phone numbers, e-mail addresses and website addresses;

2) Annual reports as referenced in Section 401.530 of this Part;
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3) The Birth Parent Bill of Rights and the Adoptive Parents Bill of Rights; and

4) The Department's complaint registry toll-free number. [225 ILCS 10/12]

(Source: Added at 30 Ill. Reg. _____, effective ____________)

SUBPART G: INDEPENDENT LIVING PROGRAMS

Section 401.700 401.480 Agency Responsibilities for Independent Living Programs

a) Child welfare agencies may provide independent living services to youth;

1) Who have been or who are in the out-of-home care system;

2) Who are homeless or who are transitioning from residential care;

3) Who are without family resources;

4) Who need support and assistance coping with developmental disability, physical disability or mental illness.

b) All agency staff who have contact with youth in independent living programs shall have passed the background checks required by 89 Ill. Adm. Code 385 (Background Checks).

c) A child welfare worker shall be assigned to youth in independent living programs and shall meet with the youth at least monthly or otherwise as specified in the service plan.

d) Child welfare agency staff shall work in partnership with the youth in developing a plan for independence and shall include the youth in conferences and meetings during which key decisions or changes to the youth's service plan are discussed.

e) The child welfare agency shall ensure that youth in independent living programs are in safe and adequate housing while participating in the program and have access to adequate health care, educational services, vocational and employment services, and opportunities to acquire life skills and the development of self-esteem.
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(Source: Section 401.480 renumbered to Section 401.700 and amended at 30 Ill. Reg. _____, effective ____________)

SUBPART H: ENFORCEMENT AND SEVERABILITY CLAUSE

Section 401.800 Referrals to Law Enforcement and Injunctive Relief

a) Violation of the Act
   If the Department has reasonable cause to believe that any person, group of persons, corporation, agency, association, organization, institution, center, or group is engaged or is about to engage in any acts or practices that constitute or will constitute a violation of the Child Care Act, the Department shall inform the Attorney General or the State's Attorney of the appropriate county, who may initiate the appropriate civil or criminal proceedings.

b) Violation of this Part
   If the Department has reasonable cause to believe that any person, group of persons, corporation, agency, association, organization, institution, center, or group is engaged or is about to engage in any act or practice that constitutes or may constitute a violation of any rule adopted under the authority of the Child Care Act, the Department may inform the Attorney General or the State's Attorney of the appropriate county, who may initiate the appropriate civil or criminal proceedings.

c) Injunction or Restraining Order
   Upon a proper showing, any circuit court may enter a permanent or preliminary injunction or temporary restraining order without bond to enforce the Child Care Act or this Part, in addition to the penalties and other remedies provided in the Act. [225 ILCS 10/11.1]

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 401.850 Severability of This Part

If any court of competent jurisdiction finds that any rule, clause, phrase, or provision of this Part is unconstitutional or invalid for any reason whatsoever, this finding shall not affect the validity of the remaining portions of this Part.

(Source: Section 401.500 renumbered to Section 401.850 at 30 Ill. Reg. _____, effective ____________)
ENVIROMENTAL PROTECTION AGENCY
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1) **Heading of the Part:** Accreditation of Environmental Laboratories

2) **Code Citation:** 35 Ill. Adm. Code 186

3) **Section Number:** 186.115 **Proposed Action:** Amendment

4) **Statutory Authority:** Implementing and authorized by Sections 5/4(n) and (o) of the Illinois Environmental Protection Act. [415 ILCS 5/4(n)&(o)].

5) **A Complete Description of the Subjects and Issues Involved:** This rulemaking will update a citation found in Section 186.115.

6) **Published 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?** Yes

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

11) **Statement of Statewide Policy Objectives:** This Section establishes and enforces minimum standards of operation of laboratories to issue certificates of competency and to promulgate and enforce regulations relevant to the issuances of such certifications.

12) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** The Illinois Environmental Protection Agency will accept written public comments on this proposal for a minimum of 45 days after the date of publication in the *Illinois Register*. Comments should reference the Procedures For Issuing Loans from the Water Pollution Control Loan Program and be addressed to:

    Stefanie N. Diers  
    Assistant Counsel  
    Illinois Environmental Protection Agency  
    Division of Legal Counsel  
    1021 North Grand Avenue East  
    P.O. Box 19726
ENIRONMENTAL PROTECTION AGENCY

NOTICE OF PROPOSED AMENDMENT

Springfield, Illinois 62794-9276

217/782-5544

13) **Initial Regulatory Flexibility Analysis:**

   A) **Types of small businesses, small municipalities and not for profit corporations affected:** This rulemaking is not expected to impact small businesses, small municipalities and not for profit corporations.

   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 2005

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

NOTICE OF PROPOSED AMENDMENT

TITLE 35: ENVIRONMENTAL PROTECTION
SUBTITLE A: GENERAL PROVISIONS
CHAPTER II: ENVIRONMENTAL PROTECTION AGENCY

PART 186
ACCREDITATION OF ENVIRONMENTAL LABORATORIES

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<td>Required Method Detection Limits (MDL) or Pattern Recognition Levels (PRL) for Drinking Water Laboratory Accreditation (Repealed)</td>
</tr>
</tbody>
</table>

AUTHORITY: Implementing and authorized by Section 1401(1)(D) of the Safe Drinking Water Act [42 USC 300f(1)(D)], Subpart C of the National Interim Primary Drinking Water Regulations [40 CFR 141.21 through 141.30], the Clean Water Act [32 USC 1251], the Illinois
ENVIRONMENTAL PROTECTION AGENCY

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Environmental Protection Act [415 ILCS 5], and authorized by Section 4(n) and (o) of the Illinois Environmental Protection Act [415 ILCS 5/4(n) and (o)].


Section 186.115 Incorporation by Reference

a) The Agency incorporates the following documents by reference.

1) EPA/600/R-04/003, "National Environmental Laboratory Accreditation Conference: Constitution, Bylaws, and Standards" (July 2003); and


b) The Agency incorporates the following Sections of federal regulations by reference:

1) 40 CFR 136.3 Table IC, Table IB, Table ID (2001),

   40 CFR 136.4 (2001),

   40 CFR 136.5 (2001),

   40 CFR 136 Appendix A (2001),

   40 CFR 136 Appendix B (2001),

   40 CFR 136 Appendix C (2001),


2) 40 CFR 141.23(k) (2001),
ENIRONMENTAL PROTECTION AGENCY

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40 CFR 141.24(e) (2001),
40 CFR 141.27 (2001),
40 CFR 143.4 (2001),
40 CFR 141.40(n)(11) (2001), and


c) This Section incorporates no later amendments or editions.

(Source: Amended at 30 Ill. Reg. _______, effective _____________)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

1) **Heading of the Part:** Viatical Settlement Provider Reporting Requirements

2) **Code Citation:** 50 Ill. Adm. Code 5701

3) **Section Numbers:**  Proposed Action:
   
<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
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</thead>
<tbody>
<tr>
<td>5701.10</td>
<td>New Section</td>
</tr>
<tr>
<td>5701.20</td>
<td>New Section</td>
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<td>5701.100</td>
<td>New Section</td>
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<td>5701.Exhibit A</td>
<td>New Section</td>
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<tr>
<td>5701.Exhibit B</td>
<td>New Section</td>
</tr>
<tr>
<td>5701.Exhibit C</td>
<td>New Section</td>
</tr>
<tr>
<td>5701.Exhibit D</td>
<td>New Section</td>
</tr>
</tbody>
</table>

4) **Statutory Authority:** Implementing and authorized by the Viatical Settlements Act [215 ILCS 158] and further authorized by Sections 25 and 50 [215 ILCS 158/25 and 50] of the Act.

5) **A Complete Description of the Subjects and Issues Involved:** The Division is promulgating this new Part to ensure that the reporting requirements of Section 25 of the Viatical Settlement Act [215 ILCS 158] are clearly defined and are being met as required by law. This new Part will also serve as the vehicle for any future rulemaking that may be necessary for regulating viaticals.

6) **Will these proposed rules replace an emergency rulemaking currently in effect?** No

7) **Do these proposed rules contain an automatic repeal date?** No

8) **Do these proposed rules contain incorporations by reference?** No

9) **Are there any other proposed rules pending on this Part?** No

10) **Statement of Statewide Policy Objectives:** This Part 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.

11) **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:

    Eve Blackwell – Lewis, Staff Attorney   Barb Smith, Rules Coordinator
12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: This new Part will have an impact on viatical settlement providers, as that term is defined in Section 5701.20 of this Part.

B) Reporting, bookkeeping or other procedures required for compliance: Please see Section 5701.100 and Exhibits A-D of this Part.

C) Types of professional skills necessary for compliance: Executive, administrative and/or clerical.

13) Regulatory Agenda on which these rules was summarized: July 2004

The full text of the Proposed Rules begins on the next page:
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

TITLE 50: INSURANCE
CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER nnn: VIatical SETTLEMENTS

PART 5701
VIatical SETTLEMENT PROVIDER REPORTING REQUIREMENTS

Section
5701.10 Purpose
5701.20 Definitions
5701.100 Reporting Requirements
5701.EXIBIT A Viatical Settlement Provider Report and Instructions – All States and Territories
5701.EXIBIT B Viatical Settlement Provider Report and Instructions – Illinois Transactions Only
5701.EXIBIT C Individual Mortality Report and Instructions – Illinois Transactions Only
5701.Exhibit D Viatical Settlement Provider Certification


**Section 5701.10 Purpose**

The purpose of this Part is to implement the Viatical Settlements Act, which, in part, establishes registration requirements for viatical settlement providers and requires the Director to prescribe reporting requirements for viatical settlement providers.

**Section 5701.20 Definitions**

An Individual with a Catastrophic Illness or Condition or Who Is Chronically Ill means the individual is:

Unable to perform at least 2 activities of daily living (i.e., eating, toileting, transferring, bathing, dressing or continence), or as determined by the Secretary of Health and Human Services; or
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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Requires substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.

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 Insurance.

Division means the Department of Financial and Professional Regulation-Division of Insurance.

Life Threatening Illness or Condition means having an illness or sickness that can reasonably be expected to result in death in 24 months or less.

Viatical Settlement Contract means a written agreement entered into between a viatical settlement provider and a person who owns a life insurance policy, or who owns or is covered under a group policy, insuring the life of a person who has a catastrophic or life threatening illness or condition. The agreement shall establish the terms under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider.

Viatical Settlement Provider means an individual, partnership, corporation, or other entity that enters into an agreement with a person who owns a life insurance policy, or who owns or is covered under a group policy, insuring the life of a person who has a catastrophic or life threatening illness or condition, under the terms of which the viatical settlement provider pays compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the policyowner's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. Viatical settlement provider does not include:

- a licensed insurance company, bank, savings bank, savings and loan association, credit union, commercial finance company or other licensed lending institution, investment company registered under the federal Investment Company Act of 1940 (915 USC 80a-1 et seq.), pension plan
NOTICE OF PROPOSED RULES

qualified under section 401(a) of the Internal Revenue Code of 1986 (26 USC 401), or trust funding such a pension plan that takes an assignment of a life insurance policy only as collateral for a loan;

sophisticated investors meeting the standards of subsection H of Section 4 of the Illinois Securities Law of 1953 [815 ILCS 5/4] who invest in or lend to a licensed viatical settlement provider or other persons who so invest pursuant to a registered security offering; or

the issuer of a life insurance policy providing accelerated benefits under the Illinois Insurance Code [215 ILCS 5].

Viaticated Policy means a life insurance policy held by a viatical settlement provider, directly or indirectly, through a viatical settlement contract.

Viator means a person who owns a life insurance policy, or who owns or is covered under a group policy, insuring the life of a person with a catastrophic or life threatening illness or condition who enters into an agreement under which the viatical settlement provider will pay compensation or anything of value, which compensation or value is less than the expected death benefit of the insurance policy or certificate, in return for the viator's assignment, transfer, sale, devise, or bequest of the death benefit or ownership of the insurance policy or certificate to the viatical settlement provider. [215 ILCS 158/5]

Section 5701.100 Reporting Requirements

a) On or before March 1 of each year, viatical settlement providers must file the following reports listed as Exhibits to this Part:

1) Viatical Settlement Provider Report – All States and Territories;

2) Viatical Settlement Provider Report – Illinois Transactions Only;

3) Individual Mortality Report – Illinois Transactions Only; and

4) Viatical Settlement Provider Certification.

b) All reports shall be completed for all policies viaticated or considered for viatication, as provided in the Exhibits to this Part, that insure the lives of persons with catastrophic or life threatening illnesses or conditions.
c) All reports for policies insuring persons without catastrophic or life threatening illnesses or conditions (life settlements) may be submitted, but must be separately reported from those required in subsection (b) and must be clearly identified as "Life Settlement Annual Statements".

d) The information required to be reported shall not include individual transaction data regarding the business of viatical settlements or data that compromises the privacy of personal, financial, and health information of the viator or insured.

e) All filings required pursuant to this Part are to be submitted to the Life, Accident and Health Compliance Unit of the Department of Financial and Professional Regulation-Division of Insurance. Preferably, these reports should be filed with the Director electronically; however, hard copy reports will be accepted.
### Viatical Settlement Provider Report

**All States and Territories**

<table>
<thead>
<tr>
<th>States</th>
<th>1</th>
<th>2</th>
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<tbody>
<tr>
<td>Are you doing business in this state? (Y/N)</td>
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<tr>
<td>Total number of policies reviewed for consideration</td>
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<td>Total number of policies where an offer was made</td>
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<td>Total number of policies where an offer was not made</td>
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<td>Total number of policies purchased</td>
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<td>Aggregate total net death benefit</td>
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<td>Aggregate amount paid to viators</td>
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<td>Secondary market transactions</td>
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- Alabama
- Alaska
- Arizona
- Arkansas
- California
- Colorado
- Connecticut
- Delaware
- Dist. of Columbia
- Florida
- Georgia
- Hawaii
- Idaho
- Illinois
- Indiana
- Iowa
- Kansas
- Kentucky
- Louisiana
- Maine
- Maryland
- Massachusetts
- Michigan
- Minnesota
- Mississippi
- Missouri
- Montana
- Nebraska
- Nevada
- New Hampshire
- New Jersey
- New Mexico
- New York
- North Carolina
- North Dakota
- Ohio
- Oklahoma
- Oregon
- Pennsylvania
- Rhode Island

Calendar year: 20____
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

South Carolina
South Dakota
Tennessee
Texas
Utah
Vermont
Virginia
Washington
West Virginia
Wisconsin
Wyoming
American Samoa
Guam
Puerto Rico
U.S Virgin Islands
Canada

Name of Preparer: ________________________________

**Instructions for Viatical Settlement Provider Report – All States and Territories**

1. Have you done business in this state during the calendar year being reported.  Yes ☐ No ☐

2. For that state or territory, indicate the total number of policies reviewed for consideration for that state or territory.

3. For that state or territory, indicate the total number of policies where an offer was made.

4. For that state or territory, indicate the total number of policies where an offer was refused.

5. For that state or territory, indicate the total number of policies purchased.

6. List the total aggregate net death benefit of the policies viated in that state or territory.

7. List the total aggregate amount paid to viators in that state or territory.

8. List the total number of policies purchased and/or sold in the secondary market for that state or territory.
## Section 5701.EXHIBIT B  Viatical Settlement Provider Report and Instructions – Illinois Transactions Only

### Viatical Settlement Provider Report

**Illinois Transactions Only**

<table>
<thead>
<tr>
<th>Viatical settlement provider settlement number</th>
<th>Contract date purchased</th>
<th>Total net death benefit ($)</th>
<th>Age of insured at time of contract</th>
<th>Life expectancy at time of contract</th>
<th>Net amount paid to viator ($)</th>
<th>Policy type: I or G</th>
<th>Funding: F, P, I, T or RPT</th>
<th>Source of policy: B, D, SM, P or O</th>
<th>Commission amount ($)</th>
<th>Name of source of policy</th>
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</table>

Name of Preparer: ________________________________

### Instructions for Viatical Settlement Provider Report – Illinois Transactions Only

1. List the settlement number, case number or unique identifying number used to identify the specific viatical settlement transaction.

2. List the date the viatical settlement contract was purchased by the provider during the current calendar year, whether or not the insured is still alive at the end of the calendar year.
3. List the net amount (in dollars) being viaticated.

4. List the age (in years) of the person insured by the policy being viaticated, at the time of the viatical settlement contract.

5. List the life expectancy (in months) of the insured individual at the time of the viatical settlement contract.

6. List the net amount (in dollars) paid to the viator.

7. Identify whether the policy was an individual policy (I) or a group policy (G).

8. List the type of funding for the transaction: "F" for a licensed financial institution (policies collateralized), "P" for private (purchaser) funding, "I" for internal funding, "T" for trust, and "RPT" for related provider trust.

9. Indicate the purchase source of the policy. Use "B" for viatical settlement broker, "D" for direct from the viator, "I" for insurance agent/producer, "SM" for a secondary market or viatical settlement provider, "P" for private (purchaser) funding or "O" for other.

10. List the amount of commissions (in dollars) paid to viator source involved in the transaction whether that be a viatical settlement broker, an insurance producer or other licensed entity authorized to be viator source.

11. List the name of the source of the viatical settlement transaction. If it is a broker, producer or other licensee, name that person; if it is direct, from a relative, from the corporation of the insured or any other entity that could possibly reveal the insured, designate by writing "Direct", "Relative", "Corporation", or other nondesignating word.
### Individual Mortality Report and Instructions – Illinois Transactions Only

#### Instructions for Individual Mortality Report – Illinois Transactions Only

1. List the settlement number, case number, or unique identifying number used to identify the specific viatical settlement transaction.

2. List the date of the viatical settlement contract.

3. List the age of the insured at the time of the contract.

4. List the life expectancy (in months) of the insured individual at the time of the viatical settlement contract. For first to die policies, use the shortest life expectancy of the two lives. For second to die policies, use the longest life expectancy of the two lives.

5. List the "Net" amount paid to the viator.

6. Indicate the insured's date of death. For first to die policies, use the date of the first insured's death. For second to die policies, use the date of the last insured's death.

<table>
<thead>
<tr>
<th>Viatical settlement provider's settlement number</th>
<th>Contract date</th>
<th>Age of insured at time of contract</th>
<th>Life expectancy at time of contract</th>
<th>Net amount paid to viator</th>
<th>Date of death</th>
<th>Total premiums paid to maintain policy</th>
<th>Death benefit collected</th>
<th>Number of months between date of contract and date of death</th>
<th>Number of months between life expectancy at contract date and date of death (+ / -)</th>
</tr>
</thead>
<tbody>
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</table>
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

7. List the total amount of premiums (in dollars) required to be paid to the insurer to maintain the policy from the date of viatication to the date of death.

8. List the total death benefit collected from the insurer.

9. List the number of months between the date of contract and the insured's date of death.

10. List the number of months between the life expectancy of the insured at the time of contract and the insured's date of death. This should be noted as a plus (+) figure if the insured died after the estimated life expectancy or a minus (-) if the insured died prior to the estimated life expectancy.
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED RULES

Section 5701.EXHIBIT D  Viatical Settlement Provider Certification

<table>
<thead>
<tr>
<th>Viatical Settlement Provider Certification</th>
</tr>
</thead>
</table>

This section should be completed by viatical settlement providers.

Please check all forms submitted:

- [ ] Viatical Settlement Provider Reporting Form – All States and Territories
- [ ] Viatical Settlement Provider Reporting Form – Illinois Transactions Only
- [ ] Individual Mortality Report – Illinois Transactions Only

I hereby certify that the information contained in the reports indicated above is true and accurate. I acknowledge that providing false and misleading information in the reports, or failing to divulge a fact material thereto, is sufficient grounds for administrative action by the Director and, potentially, applicable criminal penalties.

_________________________  ______________________
Signature of individual that prepared reports  Date:   /   /  

_________________________
Print or type name

_________________________
Signature of Authorized Representative  Date:   /   /  

_________________________
Print or type name
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Medical Payment

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

3) **Section Number:** Proposed Action:
   - 140.442 Amendment

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

5) **Complete Description of the Subjects and Issues Involved:** The proposed amendment imposes a limitation concerning the dispensing of brand name prescription drugs to medical assistance clients. Under this limitation, the Department may require prior approval for brand name prescription drugs for a client who is 21 years of age and older when he or she has already received three brand name prescription drugs in the preceding 30 day period. Certain therapeutic classes of drugs, which are specified in the proposed changes, will not be subject to this policy. Other policy exceptions are also described concerning drugs that have no generic alternatives and brand name drugs that are cost effective. This promotion of therapeutically effective generic alternatives to brand name drugs is expected to result in an approximate annual savings of $27 million.

6) **Will this rulemaking replace any emergency amendments currently in effect?** Yes

7) **Does this proposed rulemaking contain an automatic repeal date?** No

8) **Does this rulemaking contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** Yes

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10) **Statement of Statewide Policy Objective:** This rulemaking does not affect units of local government.
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

11) **Time, Place, and Manner in Which Interested Persons May Comment on this Proposed Rulemaking:** Any interested parties may submit comments, data, views, or arguments concerning this proposed rulemaking. All comments must be in writing and should be addressed to:

Joanne Scattoloni  
Office of the General Counsel, Rules Section  
Illinois Department of Healthcare and Family Services  
201 South Grand Avenue East, Third Floor  
Springfield, Illinois  62763-0002

(217)524-0081

The Department requests the submission of written comments within 30 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].

12) **Initial Regulatory Flexibility Analysis:**

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

B) **Reporting, bookkeeping or other procedures required for compliance:** None

C) **Types of professional skills necessary for compliance:** None

13) **Regulatory Agenda on which this rulemaking was summarized:** July 2005

The full text of the Proposed Amendment is identical to the text of the Emergency Amendment that appears in this issue of the *Illinois Register* on page 16515:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

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

PART 140
MEDICAL PAYMENT

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SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.442 Prior Approval of Prescriptions

a) The Department may require prior approval for the reimbursement of any drug except as provided in this Section. Determinations of whether prior approval for any drug is required shall be made in the following manner:

1) The Department shall consult with individuals or organizations which possess appropriate expertise in the areas of pharmacology and medicine. In doing so, the Department shall consult with organizations composed of physicians, pharmacologists, or both, and shall, to the extent that it consults with organizations, limit its consultations to organizations which include within their membership physicians practicing in all of the representative geographic areas in which recipients reside and practicing in a majority of the areas of specialization for which the Department reimburses physicians for providing care to recipients.

2) The Department shall consult with a panel from such organizations (the panel is selected by such organizations) to review and make recommendations regarding prior approval. The panel shall meet not less than four times a year for the purpose of the review of drugs. The actions of the panel shall be non-binding upon the Department and can in no way bind or otherwise limit the Department's right to determine in its sole discretion those drugs which shall be available without prior approval.

3) Upon U.S. Food and Drug Administration approval of a new drug, or when post-marketing information becomes available for existing drugs requiring prior approval, the manufacturer shall be responsible for submitting materials to the Department which the Department and the consulting organization shall consider in determining whether reimbursement for the drug shall require prior approval.

4) New dosage strengths and new dosage forms of products currently included in the list of drugs available without prior approval (see Section 140.440(e)) shall be available without prior approval upon the request of the manufacturer, unless otherwise designated by the Director. In such a case, the Director shall submit the new dosage strength, or new form, to the prior approval procedures described in this Section.
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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5) Upon receipt of the final agenda established for each meeting of the above described panel, the Department shall promptly review materials and literature supplied by drug manufacturers. Additional literature may be researched by the Department to assist the panel in its review of the products on the agenda. The Department shall make comments and within ten working days after receipt of the agenda, transmit such comments either in person or in writing to the panel. This shall be done for each meeting of the above described panel.

6) The consulting organization shall transmit its recommendations to the Department in writing.

7) Upon receipt of this transmittal letter, the Department shall, within 15 business days, notify all interested parties, including pharmaceutical product manufacturers, of all recommendations of the consulting organization accepted or rejected by the Director. Notifications to pharmaceutical manufacturers of the Director's decision to require prior approval shall include reasons for the decision. Decisions requiring prior approval of new drug products not previously requiring prior approval shall become effective no sooner than ten days after the notification to providers and all interested parties, including manufacturers. The Department shall maintain a mailing list of all interested parties who wish to receive a copy of applicable notices.

8) Drug manufacturers shall be afforded an opportunity to request reconsideration of products recommended for prior approval. The Drug manufacturers may submit whatever information they deem appropriate to support their request for reconsideration of the drug product. All reconsideration requests must be submitted in writing to the Department and shall be considered at the next regularly scheduled meetings of the above described expert panel convened by the consulting organization.

9) The Department shall provide that the following types of drugs are available without prior approval:

A) Drugs for the treatment of Acquired Immunodeficiency Syndrome (AIDS) which the Federal Food and Drug Administration has indicated is subject to a treatment investigational new drug application;
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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B) Contraceptive drugs and products;

C) Oncolytic drugs; and

D) Non-innovator products, listed in the State of Illinois Drug Product Selection Program's current Illinois Formulary, when the innovator product is available without prior approval.

b) Except as provided in subsection (c) below, prior approval shall be given for drugs requiring such authorization if:

1) The drug is a legend item (requires a prescription); and

2) The drug is used in accordance with predetermined standards consistent with the compendia consisting of the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information and the American Medical Association Drug Evaluations, as well as the peer-reviewed medical literature; and

3) The drug is necessary to prevent a higher level of care, such as institutionalization; or

4) The prescriber has determined that the drug is medically necessary.

c) For recipients covered by the General Assistance Medical Program, prior approval shall be given for drugs requiring such authorization if:

1) The drug is a legend item (requires a prescription), and

2) The drug is used in accordance with predetermined standards consistent with the compendia consisting of the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information and the American Medical Association Drug Evaluations, as well as the peer-reviewed medical literature, and

3) The physician has documented that the requested item is necessary to prevent a life threatening situation and that items covered under the basic health protection plan are not effective to maintain the patient's life or to avoid the life threatening situation.
d) Decisions on all requests for prior approval by telephone or other telecommunications device and, upon the Department's receipt of such request, shall be made by the same time of the Department's next working day. In an emergency situation, the Department shall provide for the dispensing of at least a 72-hour supply of a covered prescription drug.

(Source: Amended at 26 Ill. Reg. 13641, effective September 3, 2002)
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1) Heading of the Part: Health Facilities Planning Procedural Rules

2) Code Citation: 77 Ill. Adm. Code 1130

3) 

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4) **Statutory Authority:** Illinois Health Facilities Planning Act [20 ILCS 3960]

5) **A Complete Description of the Subjects and Issues Involved:** Parts 1130, 1140, 1180 and 1190 of the Health Facilities Planning Board (IHFPB) rules have been reviewed and revised to accomplish the following objectives:
   1. Eliminate redundancy;
   2. Clarify language;
   3. Make language consistent throughout the Sections;
   4. Update language in response to current statutory requirements; and
   5. Streamline and clarify the review processes.

As part of this endeavor, the four previously cited Parts have been consolidated into one, entitled "Part 1130". Said Part contains all the procedural rules of the Board, including those pertaining to: the review processes for permit and exemption; fees; public hearings; and administrative hearings.

The existing Parts 1140, 1180 and 1190 have been submitted for repeal.

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this rulemaking contain incorporations by reference?** Yes

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objectives:** This rulemaking may affect units of local government that own or operate health care facilities.

11) **Time, Place and Manner in which interested persons may comment on this rulemaking:**

    **Public Comment Period:**
    October 28, 2005 through December 14, 2005

    Written public comment can be sent to:
    Illinois Health Facilities Planning Board
    525 West Jefferson Street
    2nd Floor
HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

Springfield, Illinois
Email: IHFPB_rules@idph.state.il.us

Public Hearing to be conducted at:

IHFPB Board Meeting
Wednesday, November 2, 2005
9:00 a.m.-5:00p.m.
Student Center Scheduling Office
Southern Illinois University
1255 Lincoln Drive
Carbondale, Illinois 62901-4407

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Licensed hospitals, long term care facilities, ambulatory surgical treatment centers, and end stage renal dialysis centers

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not on either of the Department's most recent Regulatory Agendas because: the need for the rulemaking was not apparent at the time that the Regulatory Agendas were prepared.

The full text of the Proposed Amendments begins on the next page:
HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1130
HEALTH FACILITIES PLANNING PROCEDURAL RULES

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# HEALTH FACILITIES PLANNING BOARD

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AUTHORITY: Implementing and authorized by the Illinois Health Facilities Planning Act [20 ILCS 3960].


SUBPART A: AUTHORITY, PURPOSE AND DEFINITIONS
Section 1130.110 Statutory Authority/Applicability

a) This Part is promulgated by authority granted to the Illinois Health Facilities Planning Board (State Board) under Public Act 78-1156, the Illinois Health Facilities Planning Act (the Act) [20 ILCS 3960].

b) After March 1, 2006 May 1, 1990, all applications in the review process and all projects for which permits or exemptions have been issued but which have not been completed shall be subject to the provisions of this Part.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 1130.120 Introduction/Public Hearings

Part 1130 establishes the procedures and requirements for processing and review of applications for permit, applications for exemptions, and other matters that are subject to the Act and to determinations by the Illinois Health Facilities Planning Board (HFPB). This Part pertains to, but is not limited to: persons and transactions subject to the Act; the requirements for submission of applications for permit or exemption; the IDPH and HFPB review process, public hearing procedures for applications and proposed rules; requirements for maintaining valid permits; declaratory rulings; and administrative hearings. Public hearings on this Part were held in accordance with the provisions of Section 12 of the Act. Copies of the public hearing records are available for inspection at the headquarters of the State Board at 525 West Jefferson Street, Springfield, Illinois 62761.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 1130.130 Purpose

a) The purpose of the Health Facilities Planning Act is to establish a procedure designed to reverse the trends of increasing costs of health care resulting from unnecessary construction of health care facilities. This program is established to improve the financial ability of the public to obtain necessary health services, and to establish an orderly and comprehensive health care delivery system which will guarantee the availability of quality health care to the general public [20 ILCS 3960/2]. Decisions regarding proposed new health services and facilities shall be made for reasons having to do with the community health needs in the various parts of the State. The burden of proof on all issues pertaining to an application shall be on the applicant.
HEALTH FACILITIES PLANNING BOARD

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b) The health facilities planning program shall be administered with the goal of containing capital investment and the objectives of:

1) Promoting development of more effective methods of delivering health care;

2) Improving distribution of health care facilities and services and ensuring access to needed health care services for the general public, the medically indigent and similar underserved populations;

3) Controlling the increase of health care costs;

4) Promoting planning for health care services at the facility, regional and State levels;

5) Maximizing the use of existing health care facilities and services that represent the least costly and most appropriate levels of care; and

6) Minimizing the unnecessary duplication of health care facilities and services.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 1130.140 Definitions

Definitions pertaining to program components can be found in the Act and in 77 Ill. Adm. Code 1100 and 1110. Definitions which will assist in the understanding of this Part are presented below.

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

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

"Adverse Action" means a disciplinary action taken by IDPH, CMMS, or any other State or federal agency against a person or entity that owns and/or operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to all Type "A" violations.

"Agency" or "IDPH" means the Illinois Department of Public Health.
HEALTH FACILITIES PLANNING BOARD

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


"Applicant" means one or more persons as defined in the Illinois Health Facilities Planning Act [20 ILCS 3960/3], who apply for a permit or exemption to construct or modify a health care facility or to acquire major medical equipment. See Section 1130.220 to determine what parties are necessary for an application.

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

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

"Capital Expenditure Minimum" is defined in Section 3 of the Act means the dollar amount or value which would require a permit for capital projects and major medical equipment. Capital expenditure minimums are annually adjusted to reflect the increase in construction costs due to inflation per Section 1130.310.

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

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

"Chairman" means the presiding officer of HFPB.

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

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

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

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

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

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

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

"Change in the Bed Count of a Health Care Facility" means a change in a health care facility's bed capacity as specified in Section 5 of the Act. Changes in a health care facility's bed capacity may be reductions, additions with permit or additions without permit, as specified in the Act.

"Charity Care" is defined in Section 3 of the Act.

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

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

"Completion" or "Project Completion" means that the project has been brought to a conclusion, and that the HFPBState Board has determined that the finished project is or is not in accordance with what the HFPBState Board authorized, and that a project completion date has been established by the HFPBState Board (see Section 1130.770 for further information on project completion).

For projects that have documented compliance with the provisions of the permit as authorized by the State Board, the date of project completion is:

for projects with no cost that are limited to total discontinuation of a facility or of a category of service, the date the last patient is discharged or
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the date the permit for discontinuation is issued whichever comes later; or

for projects with no cost that are limited to a substantial change in beds in licensed long-term care facilities, the date the Agency issues a revised license; or

for projects with no cost that are limited to a substantial change in beds in licensed hospitals or in state-operated facilities, the date the Agency receives a revised physical plant survey or the date of permit issuance whichever is later; or

for projects limited to the establishment of a category of service, the date the first patient is treated or the date the Agency receives a report of final realized cost, whichever is later; or

for projects limited to the establishment of a health care facility, the date the health care facility is licensed or the date the Agency receives a report of final realized cost, whichever is later; or

for projects limited to the acquisition of major medical equipment, the date IDPH receives a report of final realized costs or the date the equipment is utilized to treat the first patient, whichever is later; or

for projects limited to the addition of end-stage renal dialysis stations and for projects, with a cost, that are limited to the addition of beds, the date the first patient is treated or the date IDPH receives a report of final realized cost, whichever is later; or

for all other projects including modernization of existing facilities, the date the Agency receives a report of final realized costs; or

for projects that the State Board has found not in compliance with the provisions of the permit as authorized by the State Board, including projects with cost overruns, the date of project completion is the date established by the State Board.

"Completion Date" or "Project Completion Date" means the date established by HFPB indicating the conclusion of a project. The completion date is determined as follows:
for projects that have specific stipulations or conditions, the completion date is established by HFPB when all conditions are met;

for projects in compliance with HFPB requirements with no cost that are limited to total discontinuation of a facility or of a category of service, the date the last patient is discharged or the date the permit is issued, whichever comes later;

for projects in compliance with HFPB requirements with no cost that are limited to a substantial change in beds in licensed long-term care facilities, the date IDPH issues a revised license;

for projects in compliance with HFPB requirements with no cost that are limited to an increase in beds in licensed hospitals or in State-operated facilities, the date HFPB receives a revised physical plant survey or the date of permit issuance, whichever is later;

for projects in compliance with HFPB requirements that are limited to the establishment of a category of service, the date the first patient is treated or the date HFPB receives a report of final realized cost, whichever is later;

for projects in compliance with HFPB requirements that are limited to the establishment of a health care facility, the date the health care facility is licensed or the date HFPB receives a report of final realized cost, whichever is later;

for projects in compliance with HFPB requirements that are limited to the acquisition of major medical equipment, the date HFPB receives a report of final realized costs or the date the equipment is utilized to treat the first patient, whichever is later;

for projects in compliance with HFPB requirements that are limited to the addition of end-stage renal dialysis stations, and for projects with a cost that are limited to the addition of beds, the date the first patient is treated or the date HFPB receives a report of final realized cost, whichever is later;
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for all other projects in compliance with HFPB requirements, including modernization of existing facilities, the date HFPB receives a report of final realized costs; or

for projects that the HFPB has found not in compliance with HFPB requirements, including projects concluded with cost overruns or in violation of the provisions of the Act, the date of project completion is the date established by HFPB.

"Consolidation" means the combination of two or more existing health care facilities into a new health care facility terminating the existence of the existing or original facilities (A + B = C). Consolidation results in the establishment of a health care facility within the meaning of the Act and in the discontinuation of the existing facilities, resulting in termination of license for facilities subject to licensure or the loss of certification for facilities not subject to licensure. In example, consolidation becomes reviewable only when a new facility with a new license will be established due to the consolidation. In this case the A and B facilities which consolidate are reviewed for discontinuation and the new licensed facility C is reviewed for establishment. It is this discontinuation and establishment which creates the need for review.

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

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

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

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

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

having the power to appoint or remove 50% or more of the governing board members of an entity;
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having the power to require or approve the use of funds or assets of the entity; or

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

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

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

serving as lessee or sublessee.

the right or power to approve and to remove without cause a controlling portion of the governing body of another person; or

the right or power to require or approve the use of funds or assets of another person for any purpose; or

the right or power to approve, amend, or modify the health care facility's by-laws or other rules of governance.

A person may control one or more other persons. For the purpose of this definition, "governing body" means:

with respect to a corporation having stock, such corporation's board of directors and the owners, directly or indirectly, of more than 50% of the securities (as defined in Section b(a)(1) of the Securities Act of 1933 (15 USC 77b(a)(1)) of any class or classes, the holders of which are ordinarily, in the absence of contingencies, entitled to elect a majority of the corporation's directors (both of which groups shall be considered a governing body);

with respect to a not for profit corporation not having stock, such corporation's members if the members have complete discretion to elect the corporation's directors, or the corporation's directors if the
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corporation's members do not have such discretion; and

with respect to any other entity, its governing board or body.

For the purposes of this definition, all references to directors and members shall be deemed to include all persons or entities performing the function of directors or members, however denominated.

A controlling person or entity indirectly controls all persons or entities controlled, or owned directly or indirectly, by any person or entity controlled by such controlling person or entity.

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

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

change of ownership;

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

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

"Director" means the Director of the Department of Public Health.

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

- a category of service has not been utilized for its intended purpose for a period of twelve months or more; or

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

- an existing category of service is not operating at utilization standards/target occupancy rates specified in 77 Ill. Adm. Code 1100, for that category of service, on average for any two-year period commencing on January 1, 1995 and thereafter (based upon data reported by the facility to IDPH pursuant to Section 13 of the Act), and that need no longer exists in the planning area based upon the existence of such factors as, but not limited to, access to other services in the planning area, excess service capacity in the planning area, and the facility's ability to adequately staff the existing service.
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BOARD NOTE: HFPB may determine that discontinuation has not occurred when a facility has complied with the requirements of this definition. Failure to obtain a permit prior to discontinuation may result in the imposition of sanctions or penalties as provided by the Act.

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

"Entity" means any corporation, company, partnership, joint venture, association, trust, foundation, fund or other legally recognized organization, public body or municipality, but does not include the State of Illinois or any agency of the State.

"Establish" or "Establishment" means the construction of a new health care facility, the licensing of unlicensed buildings or structures as a health care facility, the replacement of an existing health care facility on another site, or the development, licensing, or certification (if licensing is not applicable) of a category of service.

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

preplanning costs;

site survey and soil investigation fees;

site preparation costs;

off-site work;

collection contracts and contingencies (including demolition);

capital equipment included in construction contracts;
architectural and engineering fees;

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

capital equipment not in construction contracts;

bond issuance expenses;

net interest expense during construction; and

all other costs that are to be capitalized.

"Executive Secretary" means the chief executive officer of HFPB, responsible to the chairman and, through the Chairman, responsible to HFPB for the execution of its policies and procedures.

"Existing Health Care Facility" means any health care facility or any person or organization that owns or operates a health care facility subject to the Act that:

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

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

is a facility operated by the State of Illinois.

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

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

for equipment that is to be leased, statements from the manufacturers as to the purchase price of the equipment;

for equipment or other real property that will be a gift or donated, a statement from the donor attesting to the dollar value reported to the Internal Revenue Service pursuant to IRS Document 170;

for existing property (other than equipment) that is to be leased or otherwise acquired, copies of an appraisal performed by a certified appraiser or copies of financial statements detailing actual construction costs if the property is less than three years old; or

for property (other than equipment) that is being or will be constructed and then leased, a statement from the lessor as to the anticipated costs of construction.

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

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

the decision by HFPB the State Board on all matters other than the issuance of a permit.

BOARD NOTE: The decision is final at the close of business of the HFPB State Board meeting at which the action is taken.

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

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

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

"Impending" means, with respect to an application for permit or exemption, that a letter of intent to file an application has been received in accordance with Sections 1130.500 and 1130.620 of this Part.

"Major Construction Project" is defined in Section 3 of the Act means:

Projects for the construction of new buildings;

Additions to existing facilities; and

Modernization projects whose cost is in excess of $1,000,000 or ten percent of the facility's operating revenue, whichever is less. [20 ILCS 3960/5]

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

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

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

"Modification of an Application" or "Modification" means any change to an application of a proposed project during the review period (i.e., prior to a final HFPB State Board action). Such changes include, but are not limited to: which results in changing the proposed project's physical size or gross square feet, the site within a planning area, the operating entity when the operating entity is not the applicant, the number of proposed beds, the categories of service to be provided, the cost, the method of financing, the timing, the configuration of space within the building, or any change in the person who is the applicant, including the addition or deletion of one or more persons as co-applicants.

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

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

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

"Non-clinical Service Area" is defined in Section 8.5 of the Act. It means an area for the benefit of the patients, visitors, staff or employees of a health care facility and not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service areas" include, but are not limited to, chapels; gift shops; newsstands; computer systems; tunnels, walkways, and elevators; telephone systems; projects to comply with life safety codes; educational facilities; student housing; patient, employee, staff, and visitor dining areas; administration and volunteer offices; modernization of structural components (such as roof replacement and masonry work); boiler repair or replacement; vehicle maintenance and storage facilities;
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parking facilities; mechanical systems for heating, ventilation, and air conditioning; loading docks; and repair or replacement of carpeting, tile, wall coverings, window coverings or treatments, or furniture. Solely for the purpose of this definition, "non-clinical service area" does not include health and fitness centers. [20 ILCS 3960/3]

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

"Obligation" means the commitment of at least 33% of total funds assigned to cover total project cost, that occurs by: the project has been initiated on a given date; the financial resources to fund the project are available or committed; and the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in accord with what the State Board has approved.

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

The commitment to expend 33% or more of the total project cost by signed contracts or other legal means.

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

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

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

"Person" is defined in Section 3 of the Act.

"Project Obligation Date" means the date on which the permit holder expended or committed to expend by contract or other legal means at least 33% or more of the total project cost initiated or commenced the project as attested to in the notarized certification submitted to the Executive Secretary as evidence of project obligation.

"Proposal" or "Project" means any proposed construction or modification of a health care facility or any proposed acquisition of equipment to be undertaken by an applicant.

"Related Person" is defined in Section 3 of the Act, means any person that:

- is at least 50 percent owned, directly or indirectly, by either the health care facility or a person owning, directly or indirectly, at least 50 percent of the health care facility; or
- owns, directly or indirectly, at least 50 percent of the health care facility; or
- is otherwise controlled or managed by one or more health care facilities or a person that controls or manages the health care facility; or
- otherwise controls or manages the health care facility; or
- is otherwise, directly or indirectly, under common management or control with one or more health care facilities.

"Review Period" means the time from the date an application for permit or exemption is deemed complete until HFPB the State Board renders its final decision.

"Site" means the physical location of a proposed project and is identified by address or legal property description.
"Square Feet" or "SF" or "Square Footage" means a unit of measure of physical service areas or buildings considered by HFPB. Departmental Gross Square Feet (DGSF) means the designation of physical areas for departments and/or services. It consists of the entirety of space dedicated to the use of that department or service, including walls, shafts and circulation. Building Gross Square Feet (BGSF) means the designation of physical area of an entire building. It includes all exterior walls and space within those walls.

"Substantially Changes the Bed Count of a Health Care Facility" means construction or modification, including acquisition of equipment, which changes the bed capacity of a health care facility by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than 10 beds or more than 10% of total bed capacity as defined by the State Board, whichever is less, over a two year period. (Section 5 of the Act) The two year period begins on the date when additional beds added to the facility inventory become operational. When a permit is issued that will result in a change in bed capacity, the applicant facility may not add any more beds in those services affected by the permit for two years from the date that such beds become operational without obtaining an additional permit from the State Board. The facility may add beds (as long as the number added does not exceed 10 beds or 10% of the total facility capacity, whichever is less, over the two year period) in the other services not affected by the permit. Each facility will be contacted annually to verify bed inventory. If there is found, through this verification process, an increase in the calculated bed capacity of the facility, IDPH shall determine the date the two year period begins. The date shall be published in the next available compilation of the Inventory of Health Care Facility and Need Determinations by Planning Area.

BOARD NOTE: The discontinuation (reduction) of beds requires notice to IDPH. The effective date of the bed reduction can be no earlier than the date of IDPH's receipt of the bed reduction notice. It should also be noted that all proposed capital expenditures (including those which do not substantially change the bed capacity) in excess of the capital expenditure minimum require a permit, regardless of the purpose or nature of the project or transaction. However, proposals for less than the capital expenditure minimum, including those with no capital expenditure, also require a permit if the project or transaction is for a substantial change in the facility's bed capacity.

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

- the addition or discontinuation of a category of service as defined in HFPB rules at 77 Ill. Adm. Code 1100.220;
- discontinuation as defined in this Part; and
- a change of a material representation made by the applicant in an application for permit or exemption subsequent to receipt of a permit that is relied upon by HFPB the State Board in making its decision. Material representations are those that provide a factual basis for issuance of a permit or exemption and include:
  - withdrawal or non-participation in the Medicare and/or Medicaid programs;
  - charge information;
  - requirements of variances pursuant to 77 Ill. Adm. Code 1110;
  - other representations made to HFPB the State Board as stipulated or agreed upon in the public record and specified in the application or the permit or exemption approval letter;
  - the addition of a surgical specialty not previously approved by HFPB the State Board for an ambulatory surgical treatment center (ASTC) that has not been classified as a multi-specialty ASTC by HFPB the State Board in accordance with the provisions of 77 Ill. Adm. Code 1110.1540;
  - an increase of more than three dialysis stations or more than 10% of the facility's total number of dialysis stations, whichever is less, over a two-year period. The two-year period begins on the date the facility's additional stations are certified. When a permit is issued for additional stations or for the establishment of an additional facility/service, the facility may not add any more dialysis stations for two years from the date that such stations approved in the permit are certified without obtaining an additional permit; and

BOARD NOTE: Section 1130.310 details the review requirements (or...
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grandfathering) for kidney dialysis treatment center projects that were undertaken prior to March 1, 1995.

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

BOARD NOTE: All proposed capital expenditures (including those which do not substantially change the scope) in excess of the capital expenditure minimum require a permit, regardless of the purpose or nature of the project or transaction. However, it should also be noted that proposals from the capital expenditure minimum or less including those with no capital expenditure, also require a permit if the project or transaction is for a substantial change in the facility's scope or functional operation.

"Supplemental Permit" means an approved application for permit that augments or enhances an existing permit. The initial permit must be obligated, but not yet completed. Applications for permits intended to be supplemental permits shall include the basic details of the existing permit, including its status, and shall explain the inter-relationship between the two projects. The application for a supplemental permit is a distinct application for permit that is to be reviewed and considered based upon its conformance with this Part. A permit holder may need to request an alteration to an existing permit if an alteration is needed to accommodate the supplemental project. The completion date of the permit being supplemented will be extended as needed, based upon approval of the supplemental application. Failure for a supplemental permit application to be approved will not affect the validity of the underlying existing permit.

"Technical Assistance" means help provided by an employee of HFPB or IDPH to a person, health care facility or HFPB, and is not considered ex parte communication as defined in Section 4.2 of the Act. Technical Assistance may be provided to any person regarding pre-application conferences, the filing of a letter
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of intent, impending or pending application, or other request to HFPB provided that the communication is not intended to influence any decision on the application. Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided. [20 ILCS 3960/4.2] Technical Assistance may be provided for the benefit of HFPB to clarify issues relevant to an application or other business of HFPB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. All communications and responses pertaining to an application to HFPB must be documented in writing by the employee within 10 business days after occurrence and made a part of the application or project record.

"10 Percent Rule" means that a facility may increase its total number of beds or distribute beds among various categories of service without HFPB action up to the limits stated in the Act. (See Section 5(c) of the Act.)

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.150 Referenced Incorporated Materials

The following rules, regulations, standards and statutes are incorporated or referenced in this Part:

a) Federal Guidelines, Statutes and Regulations:


b) State of Illinois Statutes:

1) Illinois Health Facilities Planning Act [20 ILCS 3960];
2) Hospital Licensing Act [210 ILCS 85];
3) Ambulatory Surgical Treatment Center Act [210 ILCS 5];
4) Nursing Home Care Act [210 ILCS 45];
5) Illinois Administrative Procedure Act [5 ILCS 100];
6) The Alternative Health Care Delivery Act [210 ILCS 3].
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7) End Stage Renal Disease Facility Act [210 ILCS 62];

8) Administrative Review Law [735 ILCS 5/Art. III];

9) Illinois State Agency Historic Resources Preservation Act [20 ILCS 3420];

10) Code of Civil Procedure [735 ILCS 5].

c) State of Illinois Rules Regulations:

1) Permit Application Fees (77 Ill. Adm. Code 1190);

2) Narrative and Planning Policies (77 Ill. Adm. Code 1100) (See Section 1100.220);

3) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 1180);

4) Public Notice of Opportunity for Public Hearing and Public Hearing Procedures (77 Ill. Adm. Code 1140);

5) Financial and Economic Feasibility Review (77 Ill. Adm. Code 1120);

6) Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110);


d) All incorporations by reference of federal regulations and the standards of nationally recognized organizations refer to the regulations and standards on the date specified and do not include any additions or deletions subsequent to the date specified.

d) Other referenced materials:

1) Executive Order 1979-4;

2) Rules of the Illinois Supreme Court.
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(Source: Amended at 30 Ill. Reg. _____, effective ____________)

SUBPART B:  GENERAL REQUIREMENTS

WHO IS SUBJECT TO THE HEALTH FACILITIES PLANNING ACT

Section 1130.210 Persons and Facilities Subject to the Act

Any person who proposes to establish, construct, or modify a health care facility, and any person who proposes to acquire major medical equipment, is subject to the Act. In addition, health care facilities are subject to certain provisions of the Act, such as, but not limited to, submission of an annual report of capital expenditures and providing information, reports, and data necessary to carry out the purposes of the Act. The Act applies to private and public (including State-operated) hospitals, ambulatory surgical treatment centers, long-term care facilities, end stage renal disease facilities, and facilities used for outpatient surgical procedures that are leased, owned, or operated by or on behalf of an out-of-state facility. The following persons are subject to the Act:

a) Hospitals licensed pursuant to the Hospital Licensing Act [210 ILCS 85];

b) Ambulatory surgical treatment centers required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act [210 ILCS 5];

c) Long-term care facilities licensed pursuant to the Nursing Home Care Act [210 ILCS 45];

d) Kidney disease treatment centers, including free standing hemodialysis units;

e) Any of the above types of facilities operated by the State or any department or agency thereof; and

f) Any person proposing to establish, construct or modify any of the above types of facilities or proposing to acquire major medical equipment; and

g) An institution, place, building, or room used for the performance of outpatient surgical procedures that is leased, owned, or operated by or on behalf of an out-of-state facility.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)
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Section 1130.220 Necessary Parties to the Application for Permit or Exemption

*A permit or exemption shall be obtained prior to the acquisition of major medical equipment or to the construction or modification of a health care facility [20 ILCS 3960/5].* The following person(s) must be the applicant(s) for permit or exemption, as applicable:

a) For construction or modification projects (including excluding projects to establish or change the ownership of health care facilities and including projects to acquire major medical equipment by or on behalf of health care facilities) of one or more existing or proposed health care facilities:

1) the person who **will hold and who currently (as applicable)** holds the license (or Medicare and/or Medicaid certification if licensing is not applicable) for each facility; and

2) the person who has final control of the person who **will hold or who currently** holds (as applicable) the license (or Medicare and/or Medicaid certification if applicable) for each facility; and

3) any related person who is or will be financially responsible for guaranteeing or making payments on any debt related to the project; and

4) any other person who actively will be involved in the operation or provision of care and who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, building or portions of buildings, structures such as parking garages, etc.

b) For projects to establish new health care facilities or to change the ownership of one or more existing health care facility(ies), the applicant(s) must be:

1) the person who **will hold the license (or certification if licensing is not applicable) for each facility;** and

2) the person who has final control of the person who **will hold the license (or certification if applicable) for each facility;** and

3) any related person who is or will be financially responsible for guaranteeing or making payments on any debt related to the project; and
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4) any other person who actively will be involved in the operation or provision of care and who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, building or portions of buildings, structures such as parking garages, etc.

be) For projects to acquire major medical equipment that is not located in a health care facility and that is not being acquired by or on behalf of a health care facility, the applicant must be:

1) the person who is acquiring the equipment; and
2) the person who will be responsible for operation of the proposed equipment; and
3) the person(s) who has final control of the person(s) who is acquiring the equipment or the person who will be responsible for operation of the equipment; and
4) any other person who controls the use of equipment or other capital assets that are components of the project, such as, but not limited to, fixed equipment, mobile equipment, buildings or portions of buildings, structures such as parking garages, etc.

BOARD AGENCY NOTE: A person or entity that participates in the management of a health care facility or category of service is not an applicant unless that person or entity possesses the rights or powers specified in the definition of "control" contained in Section 1130.140 this Part.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.230 Fees

a) IDPH shall charge and collect an amount determined by HFPB to be reasonable application fees for the processing of the applications by HFPB, IDPH and appropriate recognized areawide health planning organizations. HFPB shall set amounts by rule. All fees and fines collected under the Act shall be deposited into the Illinois Health Facilities Planning Fund to be used for the expenses of administering the Act. [20 ILCS 3960/12.2]
b) A fee shall be assessed on all matters requiring an application processing fee (as detailed in other Sections of this Part), except for the following:

1) projects classified as emergency; or

2) projects that are not subject to a fee in accordance with the provisions of Subpart E.

c) Fee payment shall be by check or money order made payable to the Illinois Department of Public Health.

d) Any matter requiring an application processing fee shall be declared null and void if payment of the total fee has not been received by IDPH within 30 days after notice of the amount due has been received by an applicant or person requesting action from HFPB.

e) No action shall be taken by HFPB on any matter requiring an application processing fee for which the total required fee has not been received.

f) Fee payments are not refundable and may be recovered in full or in part only by petitioning the Illinois Court of Claims for recovery.

g) Appeal on any required fee amount is to HFPB, pursuant to Section 1130.810.

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 1130.240 Reporting and Notification Requirements

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

a) Annual Report of Capital Expenditures
HFPB shall require each health care facility to submit an annual report of capital expenditures in accordance with the provisions of the Act. (See Section 5.3 of the Act.)

b) Health Planning Information
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HFPB, in conjunction with IDPH, shall require all health care facilities operating in the State to provide information for the purpose of fulfilling the planning responsibilities specified in the Act. (See Section 13 of the Act.) Such reports may be on an annual or other basis.

c) Notice of Hospital Reduction of 50% or More in Health Care Services

Each hospital is required to notify HFPB, IDPH, and the individual members of the General Assembly representing the legislative district in which the hospital is located of a reduction in services of 50% or more, within 30 days after that reduction [20 ILCS 3960/12.4]. A reduction in service occurs whenever the physical capacity and/or availability of a service is reduced. Reporting shall include the identification of the service, reasons for reduction and anticipated duration (permanent or temporary). If the reduction is temporary, then an anticipated restoration date is to be established and notification of restoration is to be made to the parties indicated in this subsection (c). Reduction of 50% or more is determined by the following:

1) If the reduction is in a bed category of service, reduction is determined by the number of physically available beds as compared to the authorized number of beds stated in the Inventory of Health Care Facilities as updated, or the number of staffed beds as compared to the number of staffed beds reported in the Annual Hospital Questionnaire;

2) If the reduction is in a non-bed category of service (i.e., cardiac surgery, cardiac catheterization, organ transplantation, etc.), reduction is determined when the physical number of procedure rooms, stations or equipment necessary to provide that service is reduced, or the number of clinical staff and/or hours of operation are reduced.

d) Temporary Suspension of Service

A facility that has ceased operation or that has ceased to provide a category of service due to unanticipated or unforeseen circumstances (such as the loss of appropriate staff or a natural or unnatural disaster) may file notice to HFPB of a temporary suspension of service. The notice shall be filed within 30 days after the suspension of the service, and must include a detailed explanation of efforts being made to correct the problem and a timetable to reopen the service. Reports documenting the progress of corrections must be filed every 30 days thereafter until services are reopened.

e) Failure to Provide Required Information
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Health care facilities and persons that fail to comply with the notice and information requirements of HFPB are subject to the sanctions and penalties provided by the Act. (See 20 ILCS 3960/13 and 14.1.)

f) Changes in a Health Care Facility's Bed Capacity
   A health care facility that reduces bed capacity, or adds bed capacity without a permit, as specified by the Act, must notify HFPB and IDPH of that change. Such a change is limited to once every two years and that two year period begins on the date when the additional beds become operational. If the facility has already changed its bed capacity through a permit process, then the facility may not add any more beds in those services affected by the permit for two years from the date that those beds established by permit become operational without obtaining an additional permit from HFPB.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

SUBPART C: PROJECTS OR TRANSACTIONS SUBJECT TO THE ACT REVIEW

Section 1130.310 Projects or Transactions Subject to the Act Review

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

1) requires a total capital expenditure in excess of the capital expenditure minimum. In determining the total capital expenditure, all costs (including the fair market value of assets acquired by lease or other means), that which under generally accepted accounting principles are not properly chargeable as expenses of operation and maintenance, must be included even if any of such costs are not capitalized for reimbursement or other purposes. All capital expenditure minimums (Section 1130.140) shall be annually adjusted upon the date established by the Act to reflect the increase in construction costs due to inflation. The basis for such adjustment for major medical equipment shall be the latest annual inflation rate as reflected in the Producer's Price Index as calculated in the DRI/McGraw-Hill Health Care Cost Review section on Special Machinery.
and Equipment (DRI/McGraw-Hill, 1200 G Street, N.W., Suite 1000, Washington, D.C. 20005). The basis for the adjustment to capital expenditures other than major medical equipment shall be the latest annual inflation rate as reflected in the medical construction component of the Means Cost Data (R.S. Means Company Inc., 100 Construction Plaza, P.O. Box 800, Kingston MA 02364-0800). The revised minimums shall be published on HFPB’s internet site as an appendix to this Part; or

2) substantially changes the scope or changes the functional operation of the facility as defined in Section 1130.140; or

3) results in the establishment of a health care facility as defined in Section 1130.140; or

4) changes the bed capacity of a health care facility as specified in the Act by increasing the total number of beds or by distributing beds among various categories of service or by relocating beds from one physical facility or site to another by more than ten beds or more than ten percent of total bed capacity as defined by the State Board, whichever is less, over a two year period (pursuant to Section 1130.140); or

5) involves a change of ownership, as defined in Section 1130.140, unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E of Section 1130.520; or

6) results in the discontinuation of an entire health care facility or category of service (see Section 1130.140); or

7) involves the acquisition of major medical equipment, unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E.

b) A permit must be obtained prior to the acquisition of major medical equipment unless an exemption has been issued in accordance with the provisions of Subpart D and Subpart E.

b) Components of a Project or Transaction

e) In determining the elements of a transaction or a project subject to the Act, the following factors apply:
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1) Components of construction or modification that are interdependent must be grouped together into one permit application. Interdependence occurs when components of construction or modification are architecturally and/or programmatically interrelated to the extent that undertaking one or more of the components compels the other components to be undertaken.

2) Components of construction or modification that are to be undertaken by means of a single construction contract or are to be financed through the issuance of a single debt instrument, such as, but not limited to, a mortgage, bonds, or lease, must be grouped together into an application for permit.

3) Projects involving acquisition of equipment that are linked with construction for the provision of a service cannot be segmented. A health service linkage exists when all components must be present for a service to be operational, or when financing is obtained at one time for a series of related components. Computer software, for example, cannot be separated from the equipment needed to run the program.

4) Components under an application for permit must be for a single health care facility unless the components are interdependent among multiple facilities.

c) Prohibition on Splitting or Separating Components of a Project or Transaction

12) No health care facility or other person proposing a project or transaction that is subject to the Act required to obtain a permit shall split what should properly be considered a single capital expenditure into discrete components undertaken during a fiscal year period to evade the capital expenditure review threshold.

23) No health care facility or other person proposing a project or transaction that is subject to the Act required to obtain a permit shall separate portions of a single project into components, including, but not limited to, site, facility, and equipment, to evade the capital expenditure review threshold or other requirements of the Act or HFPB State Board rules.

d) Examples of Projects or Transactions Subject to the Act
Examples of projects that constitute construction or modification of a health care
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facility subject to the Act and require a permit include:

1) Projects located within a licensed or certified health care facility;

2) Projects that result in a health care facility:
   A) Billing for services provided by the proposed project, or
   B) Capitalizing any portion of the proposed project, or
   C) Receiving reimbursement for services provided by the proposed project, or
   D) Receiving recognition as the provider of the proposed service by third party payors;

3) Projects that are staffed or operated by the health care facility;

4) Projects that are otherwise of, by, through or on behalf of a health care facility;

5) Projects that provide a category of service as defined in 77 Ill. Adm. Code 1100 that are offered or made available on a regular basis to inpatients or outpatients of a health care facility.

   e) Existing kidney disease treatment centers (ESRD facilities) that have undertaken projects to add additional ESRD stations prior to March 1, 1995 are not required to obtain a permit for the addition of these stations provided that documentation has been submitted to the State Board that verifies that the project had been committed prior to March 1, 1995. Project commitment means that the facility had executed a binding lease or contract to acquire additional space for the project and that financing of the project had been secured and that an application for certification of the additional stations was submitted to IDPH prior to January 1, 1995.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

SUBPART D: PROJECTS OR TRANSACTIONS ELIGIBLE FOR EXEMPTION FROM PERMIT REQUIREMENTS EXEMPT FROM REVIEW
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Section 1130.410 Projects or Transactions Exempt from Permit Requirement Review

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

a) the acquisition of major medical equipment which will not be owned by, operated on behalf of, or located in a health care facility or be used to provide services to an inpatient of a health care facility.

b) the change of ownership of an existing health care facility.

c) the discontinuation of an existing health care facility or of a category of service when that discontinuation is the result of:

1) revocation of or denial of license renewal by a State or local regulatory agency;

2) for facilities not subject to licensure, the loss of Medicare and/or Medicaid certification;

3) discontinuation action taken by the State Board;

4) the voluntary surrender of a suspended license.

d) the combination of two or more existing health care facilities into a single licensed health care facility, when:

1) the existing facilities are located on the same site or on sites adjacent to one another;

2) the licensed person for the existing facilities is the same;

3) the combination is for the sole purpose of operating the existing facilities under a single license;

4) the combination does not involve any cost, any change in scope of services provided, or any change in bed capacity.

e) the temporary use of beds within existing health care facilities for purposes other
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than categories of service as defined in 77 Ill. Adm. Code 1100, provided the following are met:

1) the beds will be utilized to provide services as part of a demonstration program authorized by State or federal law, such as, but not limited to, the supportive living facility demonstration project established under Section 5-5.01a of the Illinois Public Aid Code; and

2) the beds will continue to be inventoried according to their presently approved use; and

3) the temporary use of such beds shall cease upon withdrawal from or completion of the demonstration program; and

4) that if such beds are to be permanently used for purposes other than those inventoried, a permit will be obtained from the State Board; and

5) that the temporary use of such beds will not be for demonstration models established pursuant to the Alternative Health Care Delivery Act [210 ILCS 3].

f) the proposed acquisition or replacement of equipment by or on behalf of a health care facility that does not substantially change the bed count or the scope or functional operation of a health care facility and that does not exceed the lesser of $4 million or 10% of the facility's operating revenues derived from patient/resident care (based upon the latest available audited financial statements of the facility or of the person who controls the facility).

dg) a proposed project for the addition of dialysis stations to existing facilities located in planning areas where the Inventory indicates a need for additional stations provided that the number of stations to be added does not exceed the planning area's need for additional stations as calculated in the Inventory and also provided that the number of stations to be added does not exceed the lesser of 10 stations or 50% of the facility's certified station capacity.

eh) proposed projects or transactions (such as name changes or corporate restructuring) that HFPB the State Board has determined pursuant to Section 1130.810 to be ministerial or non-material and do not warrant review.

fi) a proposed project limited to the establishment or expansion of a neonatal
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intensive care service or beds as specified in Subpart E.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

SUBPART E: PROCEDURAL REQUIREMENTS FOR EXEMPTIONS

Section 1130.500 General Requirements for Exemptions

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

a) Letter of Intent

1) Prior to submission of an application for exemption, a letter of intent must be filed with HFPB. The letter of intent must be received by HFPB at least 90 days prior to receipt of an application for exemption.

2) A letter of intent shall be valid for a period of one year from the date of receipt by HFPB.

3) A letter of intent must contain the following information:

A) the name of the applicant;

B) the name and location of the facility;

C) the type of exemption that is being sought (e.g., change of ownership, the addition of dialysis stations);

D) a brief description of the project or transaction, including number of beds or stations involved, categories of service involved, the estimated maximum project cost, and the date the project or transaction is to be initiated;

b) Application for Exemption

Any persons proposing a project for an exemption to permit requirements must submit to HFPB (no sooner than 90 days following receipt of a letter of intent) an
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application for exemption containing the information required by this Subpart, submit an application fee (if a fee is required), and receive approval from HFPB.

c) General Information Requirements
The application for exemption shall include the following information and any additional information specified in this Subpart:

1) the name and address of the applicant (see Section 1130.220);

2) the name and address of the health care facility or, if the proposed project is for the acquisition of major medical equipment, the address of the premises where the equipment will be installed or used;

3) a description of the project, e.g., change of ownership, increase in dialysis stations;

4) documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states;

5) a description of the applicant's organization structure, including a listing of controlling or subsidiary persons;

6) the estimated project cost, including the fair market value of any component and the sources and uses of funds;

7) the anticipated project obligation date and the anticipated project completion date;

8) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFPB; and

9) application processing fee.

BOARD NOTE: Projects are eligible for exemptions to a full permit process providing that they can meet all of the requirements delineated in this Subpart. If a person or project cannot meet the requirements of exemption, then an application for permit may be filed.
Section 1130.510 Requirements for Exemptions Involving the Acquisition of Major Medical Equipment

a) Submission of Application for Exemption
Prior to any person acquiring major medical equipment which will not be owned by or located in a health care facility, the person must submit an application for exemption to the State Board, submit the required application processing fee pursuant to 77 Ill. Adm. Code 1190, and receive approval from the State Board.

b) Application for Exemption
The application for exemption is subject to approval under Section 1130.560 and shall include the information required by Section 1130.500 and the following information:

1) The name and address of the applicant proposing to acquire the equipment (see Section 1130.220);

2) Name and address of any person related to the applicant;

3) Identification of the equipment to be acquired, including model number, manufacturer and equipment specifications;

4) The address of the premises where the equipment will be installed or used and a description of the premises, which includes a gross square footage space allocation for the equipment and for any other functions contained in the space therein, such as, but not limited to, diagnostic or treatment areas, administrative space, doctors offices, waiting rooms, etc., and whether any common space is shared or utilized by persons other than the applicant;

5) Copies of any existing or proposed lease or purchase agreements or a proof of ownership regarding the premises where the equipment will be installed;

6) Name and address of the person who owns the premises and whether that person is related to a health care facility or to the applicant;

7) Verification that the equipment will not be used to provide
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services to inpatients of any health care facility;

5) Verification that use of the proposed equipment will not result in the inpatient admission of patients to a health care facility following outpatient treatment except in emergency conditions;

6) Verification that there is or will be a description of each component of an existing or proposed quality assurance plan for the proposed equipment addressing the following:

A) how regular objective evaluation of all audits and medical care will be performed;

B) how patient interviews and complaint evaluation will be performed;

C) infection control measures;

D) incident reporting;

E) allied health professional credentialing;

F) evaluation of external surveys affecting quality of care;

G) safety committee concerns;

H) problem resolution; and

I) confidentiality concerns;

10) The cost or fair market value of the equipment plus all capital costs associated with the acquisition, installation, or operation of the equipment, including the construction costs or fair market value of the premises where the equipment will be installed; and

7) Certification that failure to complete the project in accordance with the applicable provisions of Section 1130.570 no later than 12 months from the date of exemption approval (or by a later date established by HFPB upon a finding that the project has proceeded with due diligence) comply with the completion requirements of this Section will
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invalidate the exemption.

be) Completion Requirements

A project that has received an exemption for acquisition of major medical equipment must be complete in accordance with the applicable provisions of Section 1130.570 no later then 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

Application Processing Fee

The application processing fee shall be .1% of the total estimated project cost (see Section 1130.230).

BOARD NOTE: A permit is required for the acquisition of major medical equipment that will be owned by, located in, or utilized to serve inpatients of a health care facility. Equipment acquired by exemption cannot be used to treat patients who are directly admitted into an inpatient unit of a health care facility except in the case of a medical emergency that threatens the life of the patient. A physician licensed to practice medicine in all of its branches must verify that such inpatient admission was caused by a medical emergency.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

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

Projects for the acquisition of an existing health care facility are exempt from the requirement of obtaining a permit if the requirements of this Section and Subpart are met.

a) Submission of Application for Exemption

Prior to any person acquiring or entering into a contract to acquire an existing health care facility, the person must submit an application for exemption to HFPBthe State Board, submit the required application processing fee and receive approval from HFPBthe State Board.

b) Application for Exemption

The application for exemption is subject to approval under Section 1130.560 and shall include the information required by Section 1130.500 and the following information shall contain the following:
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1) the name and address of the person proposing to acquire the facility;

2) the name and location of the existing health care facility to be acquired;

3) verification certification that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities maintained by IDPH will not substantially change (per definition in Section 1130.140) for at least 12 months following the project's completion date;

24) documents, such as letters of intent, options to purchase, or lease or sale agreements, that have been signed by both the applicant and the existing owner that contain a provision that execution is subject to HFPB issuance of an exemption and that contain the documents that detail conditions and terms of the change of ownership or lease or purchase arrangement;

3§) proof that the applicant is fit, willing, and able and has the qualifications, background and character to adequately provide a proper standard of health service for the community [20 ILCS 3960/6] by certifying that no material adverse action has been taken against the applicant by the federal government, licensing or certifying bodies, or any other agency of the State of Illinois against any health care facility owned or operated by the applicant, directly or indirectly, within three years preceding the filing of the application;

4) proof that the applicant has sufficient the anticipated acquisition price and the fair market value of the facility to be acquired (determination of fair market value is stipulated by 77 Ill. Adm. Code 1190.40(b)) and the sources of funds to finance the acquisition and to operate the facility for a period of 36 months by providing evidence of a bond rating of "A" or better (that must be less than two years old) from Fitch's, Moody's, or Standard and Poor's rating agencies or evidence of compliance with HFPB financial viability review criteria applicable to the type of facility to be acquired as specified in Subchapter a (Illinois Health Care Facilities Plan);

5) verification that the applicant intends to maintain ownership and control of the facility for a minimum of three years;

6) proof of publication of the required legal notice of the change of ownership (as required by subsection (c) of this Section);
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7) documentation from the Illinois Secretary of State that the legal entity that is the exemption applicant is registered to conduct business in Illinois and is in good standing;

8) certification that the acquisition or purchase agreement has not yet been entered into or executed, or if the acquisition or purchase agreement has been executed it contains a clause stating the transaction is contingent upon receiving approval from the Illinois Health Facilities Planning Board;

9) verification certification that any projects for which permits have been issued have been completed or will be completed or altered in accordance with the provisions of this Section;

7) if the change of ownership is for a hospital, certification that, for a period of two years after the change of ownership transaction is effective, the hospital will not adopt a charity care policy that is more restrictive than the policy in effect during the year prior to the transaction [20 ILCS 3960/8.5]; and

10) if the change of ownership is for a governmental or not-for-profit facility or for a proprietary hospital, a copy of the applicant's latest audited financial statements;

11) if the change of ownership is for a governmental or not-for-profit facility or for a proprietary hospital, a certified copy of the transcript of the public hearing and copies of all exhibits, documents and other written materials presented at the hearing;

12) if the change of ownership is for a governmental or not-for-profit facility or for a proprietary hospital, copies of the bylaws for the existing facility and for the applicant; and

13) if the change of ownership is for a governmental or not-for-profit facility, or for a proprietary hospital, a written response addressing the review criteria of 77 Ill. Adm. Code 1110.240. The response shall be made available for public inspection on the premises of the health care facility at least 10 days prior to the public hearing required by this Section;
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8(4) verification certification that failure to complete the project in accordance with the applicable provisions of Section 1130.570 no later than 12 months from the date of exemption approval (or by a later date established by HFPB upon a finding that the project has proceeded with due diligence) and failure to comply with the material change requirements of this Section will invalidate the exemption.

c) Opportunity for Public Hearing

Legal Notice Requirements

Upon a finding by the Department of Public Health that an application for a change of ownership is complete, the Department shall publish a legal notice on 3 consecutive days in a newspaper of general circulation in the area or community to be affected and afford the public an opportunity to request a hearing. If the application is for a facility located in a Metropolitan Statistical Area, an additional legal notice shall be published in a newspaper of limited circulation, if one exists, in the area in which the facility is located. If the newspaper of limited circulation is published on a daily basis, the additional legal notice shall be published on 3 consecutive days. The legal notice shall also be posted on HFPB's web site and sent to the State Representative and State Senator of the district in which the health care facility is located. [20 ILCS 3960] This legal notice must provide the following:

Any person requesting an exemption for a change of ownership must publish a legal notice in a newspaper of general circulation in the community in which the facility is located. This legal notice must provide the following:

1) the name and address of the facility for which the exemption is sought;

2) the name and address of the applicant entity requesting the exemption;

3) the nature of the transaction (e.g., the purchase, lease, or transfer of stock of the licensed entity);

4) when the entity that will be assuming ownership of the facility is a wholly owned subsidiary of another corporation, the name and address of the parent firm; and

5) a certification that the categories of service and number of beds as reflected in the Inventory of Health Care Facilities maintained by IDPH will not substantially change (per the definition in Section 1130.140) for at least 12 months following the exemption's completion date.
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6) if the change of ownership is for a governmental or not-for-profit facility or for a proprietary hospital, an announcement of a public hearing containing the information requirements of this Section; and

7) a name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.

d) Public Hearing Requirements for Proprietary Hospital and Governmental or Not-For-Profit Facility Changes of Ownership

Any person requesting an exemption for a change of ownership of a governmental or not-for-profit facility or for a proprietary hospital must conduct a public hearing in the community in which the facility is located. The hearing shall be held in a place of reasonable size and accessibility and a full and complete written transcript of the proceedings shall be made. The applicant shall include in the legal notice required in this Section the following information:

If a public hearing is requested in accordance with the requirements of the Act, the applicant shall be notified by IDPH of the hearing and the applicant shall provide a summary of the proposed change of ownership for distribution at the public hearing [20 ILCS 3960/8.5]. The summary shall contain at least the following:

1) a statement as to the anticipated benefits of the proposed changes in ownership to the community;

2) the anticipated or potential cost savings, if any, that will result for the community and the facility as a result of the change in ownership;

3) a description of the mechanism that will be utilized to assure quality control;

4) a description of the applicant's organizational structure, including a listing of controlling or subsidiary persons;

5) a description of the selection process that the acquiring entity will utilize in selecting the facility's board of directors;

6) a statement that the applicant has prepared a written response addressing the review criteria contained in 77 Ill. Adm. Code 1110.240 and that the
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response is available for public review on the premises of the health care facility; and

7) a description or summary of any proposed changes to the scope of services or levels of care currently provided at the facility that are anticipated to occur within 24 months after acquisition, the location, time, and date of the hearing, which must be no later than 10 days nor more than 30 days after the date of publication of the legal notice; and

8) a statement that the hearing is an open public meeting at which time an opportunity will be afforded to all persons wishing to present written or oral comments.

e) Application Processing Fee
The application processing fee is $2,500.

f) Completion of Projects with Outstanding Permits
A permit or exemption cannot be transferred.

1) For purposes of a change of ownership exemptions, outstanding permits will not be considered transferred if the following conditions are met:

   A) the existing permit is not for the establishment or discontinuation of a new facility or category of service;

   B) the existing permit is not a substantial change in scope as defined in Section 1130;

   C) the existing permit has been obligated and is being carried out with due diligence.

2) Permits for the establishment of a new facility or for substantial change in scope will not be considered transferred under the following circumstances:
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A) for projects involving the establishment of a new facility, the facility must be licensed (or certified if licensing is not applicable) and also be operational as defined in Section 1130.140; and

B) for projects involving a substantial change in scope, the change must be completed (as defined in Section 1130.140) (e.g., a new service initiated and operational, discontinuation of a service completed, a new surgical specialty commenced).

23) If the requirements of this subsection (f) are not met, any outstanding permit change of ownership will be considered a transfer of the permit and results in the permit being null and void.

4) In the event of a change of ownership of a health care facility prior to the completion of an approved project that does not meet the requirements of this subsection, it is the responsibility of the permit holder to seek State Board approval to alter the permit to reflect only that construction or modification that will be completed at the time ownership of the facility transfers to another person. Failure to obtain an alteration approval will result in the totality of the permit being considered abandoned. Any person requesting an exemption for a change of ownership of a health care facility for which an outstanding permit exists must in the case where a permit has been altered to avoid abandonment, submit documentation in accordance with the provisions of Section 1130.750 to detail as to the scope and costs associated with completing the project as originally proposed. IDPH shall advise the applicant for exemption if a permit is required under Section 1130.310. A permit is required if the remainder of the project meets the review conditions specified in Section 1130.310.

g) Material Change and Completion Requirements

1) Material Change Requirements

A) A material change to a project for a proposed change of ownership requires prior notice to and approval from the State Board. For purposes of this Section, "material change" means an increase or decrease of more than 5% and less than 10% of the proposed acquisition or transaction cost for a change of ownership of a proprietary hospital and for any governmental or not-for-profit facility and an increase of more than 10% for all other facility
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changes of ownership.

B) The notice to the State Board shall consist of a request for material change and proof of publication of a legal notice in a newspaper of general circulation that contains the following information:

i) name and address of the exemption holder;

ii) description of the proposed project or transaction, including facility name and location;

iii) a statement that the project received exemption approval from the State Board and the date of such approval;

iv) description of the proposed change;

v) name, title, address, phone number and e-mail address, if applicable, of the individual from whom interested parties may obtain information on the proposed project.

C) The notice must be received by IDPH at least 45 days prior to the next scheduled State Board meeting. The Chairman shall review and take action on the material change request in accordance with the provisions of Section 1130.560.

D) In the case of a change of ownership of a proprietary hospital or of a governmental or not-for-profit facility, an increase of 10% or more in the project cost and a decrease of 5% or more in the project cost is not allowable and invalidates the exemption.

2) Completion
A project that has received an exemption for a change of ownership must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.531 Requirements for Exemptions for the Establishment or Expansion of
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Neonatal Intensive Care Service and Beds

A project to establish or expand a neonatal intensive care category of service (NICU) and add beds is not subject to review and to the requirements of obtaining a permit, provided a application for exemption is submitted in accordance with the requirements of this Section and an exemption is issued by the State Board. The application for exemption shall be subject to review and action by the State Board pursuant to Section 1130.560:

a) Application for Exemption

The application for exemption is subject to approval under Section 1130.560 and shall include the information required pursuant to Section 1130.500 and the following information shall contain the following:

1) the name and address of the person proposing the project;

2) the name and location of the existing facility where the project will occur;

3) a description of the project that identifies the location of the neonatal intensive care unit and the number of neonatal intensive care beds proposed;

4) the total estimated project cost and the sources and uses of funds;

5) the anticipated date of project obligation and project completion;

6) a copy of a signed letter of support for the proposed project from the Regionalized Perinatal Advisory Committee (77 Ill. Adm. Code 640);

7) a verification certification that a final cost report will be submitted to the Agency no later than 60 days following the anticipated project completion date;

8) a verification certification that failure to complete the project by the anticipated project completion date or no later than 12 months from the date of exemption approval, whichever is later (or by a later date established by HFPB upon a finding that the project has proceeded with due diligence), comply with the material change and completion requirements of this Section will invalidate the exemption.

b) Application Processing Fee
The application processing fee shall be the greater of $1,000 or .1% of the total estimated project cost with a maximum application processing fee of $20,000 for projects with $20,000,000 or more estimated project cost.

c) Material Change and Completion Requirements

1) Material Change Requirements
A material change to a project for establishment or expansion of an NICU requires prior notice to and approval from the State Board. For purposes of this Section, "material change" means an increase or decrease in the number of neonatal intensive care beds being established or added. An exemption holder proposing to change the number of neonatal intensive care beds must provide notice to the State Board of the revised number of beds, any change in project costs, and a signed letter of support from the Regionalized Perinatal Advisory Committee regarding the proposed change. The notice must be received by IDPH at least 45 days prior to the next scheduled State Board meeting. The State Board shall review and take action on the material change request in accordance with the provisions of Section 1130.560.

2) Completion
A project that has received an exemption to establish a neonatal intensive care category of service must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.540 Requirements for Exemptions Involving Discontinuation

Discontinuation of a facility or category of service as specified in Section 1130.410 is exempt from the requirement of obtaining a permit. No letter of intent, exemption application, or fee is required for discontinuation. Facilities that have discontinued as defined in Section 1130.410 in accordance with the provisions of Subpart D are not required to submit an application for exemption or fee. The State Board shall take action to confirm the discontinuation and determine the date of discontinuation and adjust the Inventory of Health Care Facilities and Services and Need Determinations accordingly.
BOARD NOTE: A permit is required for all discontinuation that is not exempt pursuant to the provisions of Section 1130.410. Discontinuation that has occurred without a permit is in violation of the Act and will be subject to the imposition of sanctions.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.541 Requirements for Exemptions for Combined Facility Licensure
(Repealed)

A person proposing to combine two or more existing health care facilities into a single licensed health care facility must submit an application for exemption to the State Board, submit the required application processing fee pursuant to 77 Ill. Adm. Code 1190, and receive approval from the State Board.

a) Application for Exemption
   The application for exemption shall consist of a written notice, notarized and attested to by an authorized representative of the applicant, that contains the following:

   1) the name and address of the applicant proposing the combination;

   2) documentation that the requirements of Section 1130.410 pertaining to the transaction will be met;

   3) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facilities are located. The notice shall provide the name and address of the applicant and the facilities to be combined, a description of the transaction addressing the applicable requirements of Section 1130.410, and the name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction;

   4) certification that the transaction has not yet been entered into or executed;

b) Completion Requirements
   A project that has received an exemption for combining facility licenses must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.
Section 1130.542 Requirements for Exemptions for Temporary Use of Beds for Demonstration Programs

A person proposing the temporary use of existing beds for purposes other than categories of service currently approved must submit an application for exemption to the State Board, submit the required application processing fee pursuant to 77 Ill. Adm. Code 1190, and receive approval from the State Board.

a) Application for Exemption

The application for exemption shall consist of a written notice, notarized and attested to by an officer of the person who is the applicant, that contains the following:

1) certification that the applicant will adhere to and comply with the applicable provisions of Section 1130.410;

2) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facility is located. The notice shall provide the name and address of the applicant and of the facility that proposes to participate in the demonstration program, a description of the demonstration program, the number of beds proposed to participate in the demonstration program, and the name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.

b) Completion Requirements

A project that has received an exemption for the temporary use of beds for demonstration programs must be complete in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

Section 1130.544 Requirements for Exemption for the Addition of Dialysis Stations

A person proposing a project to add dialysis stations to an existing facility that is located in a planning area where the Inventory of Health Care Facilities and Services and Need...
Determinations (Inventory) indicates a need for additional stations must submit an application for exemption to the State Board, submit the required application processing fee and receive approval from the State Board. The number of stations to be added cannot exceed the planning area's need for additional stations as calculated in the Inventory and also cannot exceed the lesser of 10 stations or 50% of the facility's certified station capacity.

a) Application for Exemption
The application for exemption shall be subject to approval pursuant to Section 1130.560 and shall include the information required pursuant to Section 1130.500 and the following information:

1) the name and address of the person proposing the project;
2) the name and location of the existing facility where the additional dialysis stations will be added;
3) the number of dialysis stations to be added and the cost associated with the addition and the sources and uses of funds;
4) the anticipated project schedule, including the anticipated date of project obligation and project completion;
5) documentation that, for the most recent twelve month period, the existing facility has operated at or in excess of the minimum utilization rate specified at 77 Ill. Adm. Code 1100.630;
6) a certification that a final cost report will be submitted to IIDPH the Agency no later than 60 days following the project completion date;
7) proof of publication of a legal notice in a newspaper of general circulation in the community in which the facility is located;
8) confirmatory evidence that the project has not yet been entered into or executed; and
9) confirmation that failure to comply with the material change and completion requirements of this Section will invalidate the exemption.

BOARD NOTE: Certification of compliance with the exemption information requirements of this Section must be in the form of a notarized statement signed
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by two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the applicant entity.

b) Legal Notice Requirements
Any person requesting an exemption for a proposed addition of dialysis stations must publish a legal notice in a newspaper of general circulation (professional and trade association publications that are intended to serve a defined population will not be considered a newspaper of general circulation) in the community in which the facility is located that provides the following:

1) the name and address of the facility for which the exemption is sought;
2) the number of dialysis stations to be added and the proposed project costs;
3) a name, title, address and phone number of an individual from whom interested parties may obtain information on the proposed transaction.

c) Application Processing Fee
The application processing fee shall be the greater of $1,000 or .01% of the total estimated project cost (see Section 1130.230) assessed in accordance with the fee assessment provisions for Applications for Exemption of Major Medical Equipment (see Section 1130.510) specified at 77 Ill. Adm. Code 1190.90.

d) Material Change and Completion Requirements

1) Material Change Requirements
A material change to a project to add dialysis stations requires prior notice to and approval from the State Board. For purposes of this Section, "material change" means an increase or decrease in the number of dialysis stations that are proposed. An exemption holder proposing to change the number of dialysis stations must provide notice to the State Board of the revised number of stations, any change in project costs, and document continued compliance with the Application for Exemption requirements of this Section. The notice must be received by IDPH at least 45 days prior to the next scheduled State Board meeting. The State Board shall review and take action on the material change request in accordance with the provisions of Section 1130.560.

2) Completion
A project that has received an exemption to add dialysis must be complete
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in accordance with the applicable provisions of Section 1130.570 no later than 24 months from the date of exemption approval. Failure to complete the project within this time period invalidates the exemption.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 1130.550 Agency Processing of an Application for Exemption

a) Application for Exemption Form
Requests for exemptions must be made on an application for exemption form that may be obtained from IDPH the Agency and are to be submitted to HFPB. No application for exemption shall be received by HFPB before a required letter of intent pertaining to the project has been received and has been on file for at least the minimum number of days specified in this Subpart.

b) Completeness
IDPH The Agency shall review an application for exemption to determine whether all required information and the required application processing fee have been submitted. The Agency shall notify the applicant by certified mail no later than 30 days after receipt of the application whether the application is complete or incomplete. Applications that do not contain the required information, documentation, or fee shall be deemed incomplete. If IDPH The Agency deems the application incomplete, it shall notify the applicant of the reasons specific deficiencies within 30 days after receipt. The required information or fee must be received by IDPH The Agency within 30 days after receipt of notification. Failure to submit the requested additional information shall result in the application for exemption being voided with the loss of all fees paid.

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

c) Submission to Chairman or HFPB State Board
IDPH The Agency shall forward all complete applications for review and action to the Chairman or HFPB the State Board, as applicable.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 1130.560 State Board Action
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a) Action by Chairman
The Chairman, acting on behalf of HFPB, shall review all applications for exemption and any proposed change to a project that has received an exemption as provided by the applicable Sections of this Subpart and approve, deny, or refer the applications or material change to HFPB for review and action. An exemption application for a change of ownership of a health care facility between related persons shall be acted upon by the Chairman no later than 60 days after being declared complete by IDPH or 60 days after receipt of all public hearing comments and transcripts, whichever is later.

b) Action by HFPB
HFPB shall evaluate each application for exemption and any proposed material change to a project that has received an exemption that requires State Board action pursuant to the applicable Sections of this Subpart and any application for exemption and any proposed material change to a project that has received an exemption referred by the Chairman and either issue an exemption or advise the applicant or exemption holder in writing that the application or change is denied and is not in conformance with exemption requirements. The minimum review period for an application that requires action by the State Board is 30 days after being deemed complete by the Agency. The number of affirmative votes for approval of an application for exemption or a proposed material change requiring action by or referred to the State Board is specified in the Act. HFPB shall approve an application for exemption or a proposed material change that it determines to be in compliance with the requirements. Exemptions will not be issued for projects that have failed to meet the applicable requirements of this Subpart.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.570 Validity of an Exemption and Reporting Requirements

a) A project that has received an exemption must be completed within the time frames specified in the applicable Sections of this Subpart. An exemption shall be valid through completion provided the requirements of this Section are met.

b) For purposes of this Section, "completion" occurs on the date that means:

1) for major medical equipment, the equipment is in operation;
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2) for change of ownership of a health care facility, a new license has been issued (or, if licensing is not applicable, Medicare and/or Medicaid certification has been obtained), or a stock transfer has been accomplished, or a majority change in voting membership or sponsorship of a not-for-profit corporation has been accomplished, or the transfer of assets has occurred, or the merger or consolidation has been accomplished, whichever is applicable;

3) for demonstration programs, the facility has received all required approvals to participate in the demonstration program; or

34) for all other projects, construction has been completed and patients or residents are receiving service the requisite licensure or certification has been obtained.

c) The exemption holder shall provide written notice and related documentation to HFPB of the following information and documentation, as applicable:

1) The project completion date; A prior written notice submitted to the State Board of any proposed alteration that constitutes a material change to a project or transaction in accordance with the provisions of the applicable section of this Subpart; and

2) Where required under other Sections of this Part, a final cost report submitted to HFPB the State Board no later than 3060 days following the project completion date.

d) An exemption for a change of ownership of a health care facility shall be invalid if the health care facility ceases to be an existing health care facility as defined in Section 1130.140.

e) An exemption is not transferable or assignable and cannot be bought or sold on its own or as part of any other transaction. However, an exemption for a project that has been initiated and is in compliance with the provisions of this Section will not be considered transferred in the case of an existing health care facility change of ownership that has met the exemption requirements of this Part.

f) Failure to comply with the requirements of this Section within the specified timeframes shall subject the exemption holder to the sanctions and penalties provided by the Act and this Part as for permits.
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BOARD NOTE: See Section 1130.520 regarding changes of ownership for facilities with outstanding permits.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

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

Section 1130.610 Duration of the Review Period and Time Frames

a) Emergency Applications
Initial application for emergency projects (as defined in 77 Ill. Adm. Code 1110.40) may be made orally or in writing or by electronic means to the Executive Secretary IDPH. The Executive Secretary IDPH, upon receiving the concurrence of the Chairman (or in the absence of the Chairman the Vice-Chairman) that the situation is emergent in nature in accordance with the provisions of 77 Ill. Adm. Code 1110.40, is authorized to give oral approval. Any such communications shall be followed by a written application and written approval. This procedure is exempt from the public hearing requirements of the Act [20 ILCS 3960/12] and any and all letter of intent requirements. The written application must identify the applicant and must summarize the nature of the problem the emergency project will correct and the anticipated cost of the project.

b) Substantive and Non-substantive Applications
The review period for IDPH shall be a minimum of 30 days following the application's completeness date and shall not exceed 60 days for nonsubstantive projects and 120 days for substantive projects, unless the review period is extended pursuant to the provisions of this Subpart. All applications other than emergency applications shall be acted upon by HFPB the State Board at the next regularly scheduled meeting that is at least 10 business days following the completion of the IDPH review between 60 days and 120 days from the date the application is declared complete by IDPH, unless the review period is extended. All non-substantive applications shall be acted upon by the State Board at the State Board meeting following 60 days from the date the application is declared complete, unless the review period is extended by the applicant.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.620 Technical Assistance, Letter of Intent Consultation, Classification,
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Completeness Review, and Review Procedures

a) Technical Assistance Consultation

1) The application must be completed in accordance with the requirements of this Part which are applicable to the individual project. An applicant may request technical assistance or a pre-application conference from consultation with IDPH regarding completion of the application and the applicability of the requirements of HFPB rules this Part prior to submission of the application.

2) Technical assistance may be provided to any person regarding pre-application conferences, the filing of a letter of intent, impending or pending application, or other request to HFPB, provided that the communication is not intended to influence any decision on the application. Any assistance shall be documented in writing by the applicant and employees within 10 business days after the assistance is provided. [20 ILCS 3960/4.2]

3) Technical assistance may be provided for the benefit of HFPB to clarify issues relevant to an application or other business of HFPB. The assistance may be in the form of written correspondences, conversations, site visits, meetings, and/or consultations with independent experts. All such communications and responses pertaining to an application to HFPB must be documented in writing by the employee within 10 business days after occurrence and made a part of the application or project record.

b) Letter of Intent

1) Prior to submission of an application for permit, a letter of intent must be filed with HFPB. The letter of intent must be received by HFPB at least 90 days prior to receipt of an application for permit.

2) A letter of intent shall be valid for a period of one year from the date of receipt by HFPB.

3) A letter of intent must contain the following information:

A) the name of the applicant;
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B) the site of the proposed project and the name of the existing or proposed health care facility that is being established, constructed, or modified;

C) a brief description of the project or transaction, including number of beds or stations involved, categories of service involved, the estimated maximum project cost, the approximate gross square footage being added or modernized, and the date the application is to be submitted; and

D) if the project involves discontinuation of a facility or of a category of service, the reason for the discontinuation and the proposed discontinuation date.

cb) Classification of an Application

1) An application for permit shall be classified as substantive, nonsubstantive or emergency, as classified in 77 Ill. Adm. Code 1110.40.

   A) Substantive; or
   B) Non-Substantive; or
   C) Emergency.

2) Definitions of each classification are set forth in 77 Ill. Adm. Code 1110.40 1100.220.

de) Completeness Review

1) Upon receipt of an application for permit, IDPH shall determine whether the application is complete or incomplete. An application for any project shall be deemed complete within 10 business days after receipt if all of the following have been met:

   A) all review criteria applicable to the individual project (77 Ill. Adm. Code 1110 and 1120) have been addressed;

   B) the required fee (as outlined in subsection (e) of this Section 77 Ill. Adm. Code 1190, Permit Application Fees) has been submitted;
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C) the number of copies, forms, and format as specified in the application; six copies of the application including one copy of the application containing original signatures have been submitted;

D) all annual progress reports on previously approved projects for the facility and/or applicants have been submitted;

E) all required information concerning completion of previously approved projects for the facility and/or applicants has been submitted;

F) when the project proposed contains major medical equipment, the cost of the equipment to be acquired has been provided;

G) all persons who are applicants have been identified and the applicants that hold the license and that will operate the facility have provided documentation from the Illinois Secretary of State that the applicant is registered to conduct business in Illinois and is in good standing or, if the applicant is not required to be registered to conduct business in Illinois, evidence of authorization to conduct business in other states; have submitted a Certificate of Good Standing or evidence that the persons are authorized to conduct business in Illinois from the Illinois Secretary of State; and

H) all HFPB requests and questionnaires for information or data for all Illinois facilities owned or operated by any applicant, such as but not limited to the Annual Hospital or Long-term Care Questionnaire (77 Ill. Adm. Code 1100.60 and 1100.70) or Cancer Registry (77 Ill. Adm. Code 840.110(d) and 840.115(i)) have been received and are complete; required by IDPH's Office of Epidemiology and Health Systems Development or the State Board, have been submitted in accordance with IDPH's promulgated rules.

I) verification that the applicant has fulfilled all compliance requirements with all existing permits that have been approved by HFPB;

J) documentation of compliance with the Flood Plain Rule of Executive Order 1979-4;
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K) documentation of compliance with the requirements of the Illinois State Agency Historic Resources Preservation Act; and

L) identification of a site.

2) An application shall be incomplete if any of the elements described in subsection (de)(1) are not present or if additional information or documentation is required to clarify a response. Failure to address an applicable criterion or to respond that an applicable criterion does not apply to the proposed project shall be a basis for deeming the application incomplete.

3) Applications received after 8:30 a.m. shall be deemed as being received the following business day.

4) IDPH shall notify the applicant in writing, within the completeness review period, ten working days, of its decision and, in the case of an incomplete application, the reasons.

5) If the application is deemed complete, the date of completion shall initiate the review period. If the application is deemed incomplete, the applicant shall be allowed 45 days from the date of receipt of the notification to provide all necessary information to complete the application. Upon receipt of all additional information requested, IDPH shall again review the application for completeness and shall notify the applicant of its decision within ten working days. If IDPH finds that the application remains incomplete at the end of the allotted response period, the application shall be declared null and void, and all fees paid forfeited.

BOARD NOTE: It is the responsibility of the applicant to assure that IDPH is in receipt of the additional information within the prescribed timeframe.

Review Procedures

1) All applications will be reviewed and evaluated for conformance with the applicable review criteria of 77 Ill. Adm. Code 1110 and 1120 in effect at the time the application is deemed complete.
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2) Each application will be reviewed and considered on an individual basis unless HFPB has established review criteria or procedures that pertain or relate to comparative review or "batching" of applications.

3) Applications for permit shall be subject to the need figures set forth in the most recent update to the Inventory of Health Care Facilities and Services and Need Determinations, as adjusted by HFPB decisions (refer to 77 Ill. Adm. Code 1100.70) in effect prior to the date HFPB takes action on the application. HFPB action includes the following: the approval, issuance of an intent to deny, a notice of intent to deny, or denial of an application.

4) All applications except emergency are subject to the public hearing requirements of the Act. All evidence submitted pursuant to a public hearing shall be taken into account in the determination of compliance or noncompliance of an application with applicable review criteria.

f) Application Processing Fee

1) All applicants, except those with projects that are not subject to a fee (see Section 1130.230), are required to submit an application processing fee. An initial fee deposit of $2,500 must accompany each application for permit submitted to HFPB. Upon the application being deemed complete, the full amount of the fee shall be determined.

2) Fees shall be assessed based upon the total estimated project costs. For each project having a total estimated project cost of:

   A) less than $1,250,000, then the application fee shall be $2,500;

   B) above $1,250,000, then the application fee shall be 0.2 of 1% of the total estimated project cost (total estimated project costs X .002 = Application Processing Fee);

   C) more than $50,000,000, the maximum application fee shall be $100,000.

3) Once an application is deemed complete, written notice for any additional fee balance due will be sent to the applicant. Applications shall be
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declared null and void if the total application fee has not been paid within 30 days after receipt of notice.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.630 Agency Actions During the Review Period

During the course of the review period, the Agency shall:

a) Transmit a complete copy of the application (or such part thereof as may be necessary) to offices of IDPH, the Department of Public Health or to any other State-agencies that have requested an opportunity to comment on the application;

b) Notify the applicant of completeness and the start of the review period and forward to the applicant the scheduled date for HFPB State Board action;

c) Offer an opportunity for a public hearing, provide a period for written comments concerning the proposed project, and when requested, conduct a public hearing in accordance with the provisions of 77 Ill. Adm. Code 1400;

d) Evaluate the application for compliance with the review criteria applicable to the specific project (as set forth in 77 Ill. Adm. Code 1110 or 1120);

e) Transmit to HFPB the State Board and to the applicant the following: IDPH's Agency's report and findings, the public hearing report, and a summary of all written public comment received 20 days prior to the scheduled HFPB State Board meeting, and written comments that are received within the prescribed time periods established in this Part.

BOARD NOTE: Any communication, written or oral, received from a member of the public, news media, interested persons, legislators, or other persons regarding any matter other than the status of an application that is not authorized by the public comment process specified in this Part is ex parte and is prohibited. After the 20 day period shall be submitted to the State Board and to the applicant and made part of the application for permit record only if the State Board does not make a final decision and considers the application at a subsequent meeting.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.635 Additional Information Provided During the Review Period
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a) Requested Information
As needed to clarify the application, IDPH may request information or data during the review period from the applicant or from other persons in order to conduct its review. Requested information or data furnished to IDPH shall be made part of and included in the project record.

b) Supplemental Information
Supplemental information or data may be provided by the applicant only if the information is due to a modification of the project, is in response to an Intent to Deny, or is in response to a request from HFPB. Supplemental information shall be made part of and included in the project record.

c) Public Comment Information
Public comment information from persons other than the applicant that has been submitted in accordance with the public comment and public hearing provisions of this Part shall not be considered requested or supplemental information. The information shall be made part of and included in the project record.

d) Ex Parte Information
Information submitted by the applicant or by any other person that is not requested information, that is not supplemental information, or that is not public comment or public hearing information is ex parte and will not be considered in the review of the project.

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 1130.640 Extension of the Review Period Prior to Initial State Board Action

a) Extension by IDPH of the Review of Information Requested and Supplemental Information
As required to complete its review, IDPH may extend the review period for up to 60 days for the analysis of requested or supplemental information. HFPB will consider the application at the next regularly scheduled meeting that is at least 10 days following the completion of the IDPH review of the requested or supplemental information.

1) IDPH may request information or data during the review period. Information furnished at the request of IDPH shall not constitute supplemental information. IDPH may extend the review period until the
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next scheduled State Board meeting to review requested information.

2) Prior to initial State Board action, the applicant may provide supplemental information or data in support of the project only if such information is for a modification of the application. IDPH shall review the supplemental material for the modification within 60 days after receipt and extend the review period if necessary and present its findings to the State Board for action at its next scheduled meeting.

3) Any submissions of additional or other information (other than that requested by IDPH) by the applicant prior to initial State Board action will not be considered in the review of the project and will be returned to the applicant and will not be included in the project file.

4) Written comments from persons other than the applicant regarding a proposed project shall not constitute requested or supplemental information. The applicant shall be afforded an opportunity to address any written comments received that are in opposition to the proposed project at the State Board meeting.

b) Modification
The review period may be extended up to 60 days by IDPH if the applicant modifies the application prior to initial review by the State Board.

be) Extension Due to Deferral by Applicant
The applicant may defer initial consideration of a project by HFPB the State Board. A deferral extends from the HFPB State Board meeting at which the project has been scheduled to the next scheduled HFPB State Board meeting, subject to a review period of up to 60 days for analysis of requested and/or supplemental information. A request for deferral may be provided in writing A request for deferral may be made in writing prior to the scheduled HFPB State Board meeting or verbally at the HFPB State Board meeting. An applicant may not defer:

1) initial consideration of the application by HFPB beyond to a scheduled meeting date that is scheduled more than 6 months one calendar year from the date the application was deemed complete; or;

2) HFPB consideration of an application that has received an Intent to
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Deny beyond a meeting date that is more than 6 months from the date of HFPB's decision of Intent of Deny.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.650 Modification of an Application

a) Modifications to an application are allowed prior to final State decision. Modifications (as defined in Section 1130.140) shall be classified as Type A or Type B. Type A modifications shall be subject to the public hearing requirements of 77 Ill. Adm. Code 1140. If requested, a hearing would occur within the time allocated for IDPH review. Type A modifications consist of any of the following:

1) An increase in the number of beds proposed in the project.

2) A change in the site of the project to a new location within the planning area. A change in site to a location outside the planning area originally identified in the application is not considered a modification and voids the application.

3) An increase in the cost of the project exceeding 10% of the original estimated project cost.

4) A change in the square footage of the project if such change results in an increase in the exterior dimensions of the project.

5) An increase in the categories of service to be provided.

6) A change in the person who is the applicant, including the addition of one or more co-applicants to the application.

7) Any modification to a project, including modifications specified in subsections (a)(1) through (a)(6) above, that, by itself, would require a certificate of need (CON) or exemption.

b) All other modifications, including those made by an applicant in conformance with and limited to the comments, recommendations or objections of HFPB the State Board, are Type B modifications and are not subject to public hearing.

c) An applicant can modify a project only twice during the review period, provided,
notwithstanding anything contained herein to the contrary, an applicant may modify a project at any time if the modification is in conformance with and limited to the comments, recommendations or objections of HFPB the State Board.

d) If an applicant modifies an application that is not a modification made in conformance with and limited to the comments, recommendations or objections of HFPB the State Board, IDPH shall have up to 60 days to review the modification and any supplemental information submitted pursuant to the applicable review criteria, hold a public hearing if requested, and submit its findings to HFPB the State Board at the next regularly scheduled meeting that is at least 10 days following the completion of the IDPH review next scheduled meeting.

AGENCY NOTE: A change in site to a location outside the planning area originally identified in the application is not considered a modification, and will void the application. (See Section 1130.140.)

e) If a modification results in an increase in the total estimated project cost, the application processing fee shall be recalculated on the basis of the revised estimated project cost. Section 1130.230 is applicable with respect to any additional fees required for a modified application.

f) If a modification results in the need of an additional notification of opportunity for public hearing, then an additional fee of $2,000 will be assessed.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.655 HFPB Consideration and Action

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

a) approve the application and issue a permit;

b) issue an Intent to Deny;

c) issue an initial denial of a project and afford the applicant an opportunity for an administrative hearing;
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d) issue a final denial of a project subsequent to an administrative hearing or waiver of such hearing;
e) defer action on an application to a subsequent meeting. HFPB deferral of an application shall extend the review period, if it were to otherwise expire, until the date of the subsequent HFPB meeting.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.660 Approval of an Application

a) The number of affirmative votes required for approval of an application and issuance of a permit by HFPB the State Board is specified in the Act requires eight affirmative votes. HFPB The State Board shall consider the application and any supplemental information or modification submitted by the applicant, IDPH report(s), the public hearing testimony, if any, and other information coming before it in making its determination whether to approve the project. The applications are reviewed to determine compliance with review criteria enumerated in 77 Ill. Adm. Code 1110 and 1120. The failure of a project to meet one or more review criteria, as set forth in 77 Ill. Adm. Code 1110 and 1120, shall not prohibit the issuance of a permit. A permit is effective on the date of HFPB State Board authorization.

b) Projects that are approved with conditions or stipulations shall contain the following:

1) Specified conditions that are expressly agreed to by the applicant;
2) Establishment of time frames for compliance with conditions;
3) Establishment of reporting requirements; and
4) Assurance that any change to the application for permit does not constitute a Type A modification that would require a public hearing.

c) Failure to comply with any conditions within the prescribed time frames shall provide a basis to invalidate the permit.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)
Section 1130.670  Intent to Deny Notice of Intent to Deny an Application

a) Issuance of Intent to Deny Notice of Intent to Deny

Failure of an application for permit to receive the number of affirmative votes required by the Act upon initial consideration by HFPB shall constitute an Intent to Deny. If an application for permit fails to receive eight affirmative votes upon the initial State Board consideration, the applicant shall be issued a Notice of Intent to Deny the application for permit. Subsequent to the issuance of an Intent to Deny, the applicant will be given an opportunity to appear before HFPB and present information as may be relevant to the approval of a permit [20 ILCS 3960/10]. The date of the Intent to Deny is the date of the HFPB meeting when the action occurred. The Notice of Intent to Deny shall be sent to the applicant by certified mail and shall afford the applicant an opportunity to appear before the State Board and an opportunity to submit additional information in support of the project.

b) Applicant's Response

The applicant shall notify HFPB the State Board in writing within 14 calendar days after issuance of an Intent to Deny and indicate if the applicant and within ten working days after receipt of the Notice of Intent to Deny, whether it intends to: 1) appear before HFPB the State Board; and/or 2) submit supplemental additional information.

BOARD AGENCY NOTE: It is the responsibility of the applicant to assure that HFPB the State Board is in receipt of the response within 14 days after issuance of an Intent to Deny the ten day prescribed time frame.

c) Action Following Notice of Intent to Deny

1) If the applicant waives the right to appear before HFPB the State Board or if a written response is not received within 14 days after issuance of an Intent to Deny ten working days after receipt of the notice of opportunity to appear, then the application shall be considered withdrawn.

2) If the applicant indicates that no supplemental additional information will be submitted, HFPB the State Board shall take action on the application at its next meeting.

3) If the applicant indicates that supplemental information additional
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Documentation shall be submitted, the applicant shall be afforded a period of 3060 days from the date of issuance of the State Board's decision of the Intent to Deny Notice of Intent to Deny to submit the such material. Upon receipt of supplemental information, IDPH shall commence a review and submit its findings to HFPB in accordance with the provisions of this Subpart. No material will be accepted by IDPH after the 60 day period expires. IDPH shall be allowed up to 60 days following the receipt of all material to review the material and issue a supplemental report. IDPH may request additional information or data during the review of the information submitted by the applicant. IDPH may extend the 60 day review period by no more than an additional 30 days to review the requested information. The project shall be considered at the next regularly scheduled State Board meeting following completion of IDPH review.

4) Written comments submitted to IDPH from persons other than the applicant regarding a proposed project that has received an Intent to Deny Notice of Intent to Deny are ex parte and prohibited and shall not be considered shall not be included in the project file. This provision does not apply to public hearing testimony or comments that are received pursuant to a provision in Subpart I (Public Hearing and Comment Procedures) or to comments or testimony that has been submitted in response to requests by HFPB for information to assist in consideration of the application subsequent to the Intent to Deny. Type A modification.

d) Deferrals by Applicant
A project that has received an Intent to Deny Notice of Intent to Deny and has been scheduled for HFPB State Board consideration can be deferred only by the applicant. A notice of deferral may be provided in writing prior to the scheduled HFPB meeting or be provided verbally at the HFPB meeting. An applicant may not defer HFPB State Board consideration beyond a HFPB State Board meeting date that is more than six months from the date of issuance of the Intent to Deny the applicant received an intent to deny.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 1130.680  Denial of an Application

a) If, subsequent to an issuance of an Intent to Deny, an application for permit fails to receive the required number of affirmative votes for approval specified in the
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Act eight affirmative votes upon the second State Board consideration, the HFPB vote the applicant shall constitute be issued a denial of the application for permit.

b) If HFPB the State Board denies an application for permit, the decision and notice of opportunity for administrative hearing (as set forth in 77 Ill. Adm. Code 1180) shall be transmitted to the applicant by certified mail.

c) At the conclusion of such administrative hearing, or upon default of the applicant, HFPB the State Board shall make its final administrative decision, specifying its findings of fact and conclusions of law. The Executive Secretary shall transmit the decision to the applicant by certified mail.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

SUBPART G: PERMIT VALIDITY, REPORTING REQUIREMENTS AND REVOCATION

Section 1130.710 Validity of Permits

A permit is effective on the date of HFPB State Board authorization.

a) A permit shall be valid until such time as the project has been completed, provided that:

1) obligation of the project occurs within the time frames specified in the Act; 12 months following issuance of the permit except for "major construction projects" and Master Construction projects, in which case obligation must occur within 18 months unless the obligation period is extended by HFPB the State Board (as defined in Section 1130.730); and

2) the project commences and proceeds to completion with due diligence (as defined in Section 1130.140). The obligation period shall be extended for any project for which issuance of a permit has been contested and is in administrative review. The obligation period will be extended by the length of time equal to the number of days from the date a summons was received until the date of final disposition of the suit.

b) Projects must proceed with due diligence and must be concluded and have a completion date (see Section 1130.140) that is no later than the completion date specified in the application for permit or two years from the date of obligation, whichever is later be completed within the timetable for completion specified in
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the "Application for Permit". All permits for projects that are not completed in the timeframes specified shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart, unless renewed by HFPB pursuant to Section 1130.740.

cb) A permit is valid only for the defined construction or modification, equipment, site, amount, time period and persons named in the application for the permit and shall not be transferable or assignable. A transfer or assignment of a permit includes a change in the person who is the permit holder; a change in the membership or sponsorship of a not-for-profit corporation that is the permit holder; or the transfer, assignment, or other disposition of 10% or more of the stock or voting rights of a for-profit corporation that is the permit holder, invalidates the permit.

dc) A permit shall not be bought, sold, nor transferred either on its own or as part of a transaction for a change of ownership of a health care facility or for the acquisition of major medical equipment. When a facility with a valid permit is purchased or otherwise acquired, the permit may not be transferred to allow the acquiring entity to complete the project for which the permit was issued. For projects not yet complete, alteration must be obtained by the permit holder in accordance with the provisions of Section 1130.750. If a change of ownership occurs involving a valid permit that has not been completed, the permit shall be considered abandoned by the permit holder.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.720  Obligation

a) Projects for construction, establishment or modification must be obligated (pursuant to Section 1130.140) prior to the expiration date of the permit within the time frames specified in the Act. Projects that have no cost shall be considered obligated upon HFPB issuance of a permit.

b) Permits for projects that have a cost and that have not been obligated prior to the expiration date of the permit or the time frame specified in the Act, whichever is sooner, shall be considered expired and the project abandoned.

c) The permit holder of a project that has a cost shall submit a notarized verification by an authorized representative certification by two authorized representatives of the permit holder (in the case of a corporation, one must be a member of the
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permit holder's board of directors) that the project has been obligated on a stated date certain; that the financial resources to fund the project are available or otherwise committed; and that the project's cost, scope, design, square footage, number of beds or stations, etc. (as applicable) are in compliance with that which the State Board has approved. This submittal must be made within 30 days after obligation. Failure by the permit holder to report obligation in accordance with these provisions Failure by the permit holder to provide the required certification of obligation to the Executive Secretary no later than 10 business days following the permit expiration date shall subject the permit holder to the sanctions and penalties provided by the Act and this Subpart.

(Source: Amended at 30 Ill. Reg. _____, effective ____________)

Section 1130.730  Extension of the Obligation Period

a) The State Board may grant the permit holder a single extension of time to obligate the project. An extension shall be for a period of 90 days not exceed three months and shall commence on the expiration date of the permit (i.e., 12 or 18 months from the date of State Board approval pursuant to Section 1130.710). Permits not obligated within approved time frames will expire and the project will be considered abandoned.

b) The permit holder shall submit a written request for extension, along with an application processing fee. In requesting an extension, the permit holder shall describe, in writing, the events which have delayed the project's timely obligation and shall provide the following documentation, as applicable:

1) for major construction proposals, evidence that final working design development drawings have been submitted to IDPH for review or, if IDPH review is not required, evidence that final working drawings have been completed;

2) for projects that are solely for the acquisition of major medical equipment, evidence that suppliers have been solicited and cost estimates received;

3) for projects that are solely for the provision of new services, verification by the permit holder's authorized representative that necessary staff has been recruited or that an application for reimbursement, recognition, or Medicare and/or Medicaid certification has been sought from third party
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Payors or certification agencies evidence that substantial actions leading to the provision of such services have been accomplished;

4) A revised schedule indicating how obligation will be accomplished within the extension period requested;

5) Confirmatory evidence that financial resources are available to complete the project evidence that approval of loans, issuance of bonds or other necessary means of financing have been approved or can be secured where necessary for project funding per the application;

6) The amount of funds expended to date for the project.

c) A request for extension must be in writing and received by HFPB at least 45 days prior to the permit expiration date. A request for extension shall be assessed a $500 application processing fee and is subject to the requirements of Section 1130.230. A request for extension that is not received at least 45 days prior to the permit expiration date shall be subject to an additional $500 late application processing fee. If payment has not been received within 30 days after receipt of written notice for payment, the request for extension shall be considered withdrawn. A request for extension which is not submitted in accordance with the time frame above shall not be presented to the State Board for action.

d) IDPH shall review the request for extension and prepare a report of its findings. If the findings are that the request is in conformance with all HFPB criteria, IDPH's findings and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFPB, shall approve or deny the request, or refer the request to HFPB for action. If IDPH finds that all criteria are not positive or if the Chairman refers this to HFPB for action, then the matter shall be sent by IDPH to HFPB. The State Board and HFPB shall evaluate the information submitted in making its determination whether to grant the extension. Projects that continue to comply with the provisions of 77 Ill. Adm. Code 1110 and 1120 and that have shown good cause by submitting the required information for an extension request specified in subsection (b) of this Section, and for which the causes for delays are beyond the permit holder's control, shall be approved for extension. Eight affirmative votes are required for approval of an extension. Denial by HFPB of an extension request shall constitute the final HFPB State Board decision and is not subject to administrative appeal.
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(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.740  Renewal of a Permit

A project must proceed with due diligence and must be concluded and have a completion date (see Section 1130.140) that is no later than the completion date specified in the application for permit or two years from the date of obligation, whichever is later, be completed within the timeframes specified in the Application for Permit unless a new project completion date has been approved and the permit renewed by HFPB the State Board.

a) Renewal of a permit by HFPB the State Board must be obtained for projects not completed is subject to the following: 1) Projects that have not obtained permit renewals and that were obligated prior to May 1, 1990 must have obtained permit renewals no later than March 26, 1994. 2) Projects that have obtained permit renewals or that were obligated after May 1, 1990 must be completed or obtain permit renewals prior to the required project completion date.

b) Failure to complete a project or to renew a permit within the prescribed timeframes shall subject the permit holder to the sanctions and penalties provided in the Act and this Subpart.

c) A permit renewal shall commence on the expiration date of the original or renewed completion period.

d) The request for permit renewal shall be in writing and shall be received by HFPB the State Board at least 45 days but no more than 90 days prior to the expiration date of the completion period, and shall include the following information:

1) the requested completion date;

2) a status report on the project detailing what percent has been completed and a summary of project components yet to be finished and the amount of funds expended on the project to date;

3) a statement as to the reasons why the project has not been completed; and

4) confirmatory evidence by the permit holder's authorized representative that the project's costs and scope are in compliance with what HFPB
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approved and that sufficient financial resources are available to complete
the project, evidence of financial commitment to fund the project, and

5) the anticipated final cost of the project.

e) IDPH shall review the request and prepare a report of its findings. If the findings
are that the request is in conformance with all HFPB criteria, and if this is the first
request for this project, then the request, IDPH's findings, and all related
documentation shall be sent to the Chairman. The Chairman, acting on behalf of
HFPB, shall approve or deny the request or refer the request to HFPB for action.
If IDPH finds that all criteria are not positive or, if this is not the first request for
this project, or, if the Chairman refers this to HFPB for action, then HFPB The
State Board will evaluate the information submitted to determine if the project has
proceeded with due diligence (as defined in Section 1130.140). The number
of eight affirmative votes are required to approve a renewal request is specified in
the Act. Denial of a permit renewal request shall constitute HFPB's the State
Board's Notice of Intent to Revoke a permit and the permit holder shall be
afforded an opportunity for an administrative hearing pursuant to Subpart J shall
be subject to appeal under the provisions of 77 Ill. Adm. Code 1180 (Practice and
Procedure in Administrative Hearings).

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

f) A permit renewal request shall be assessed a $500 application processing fee and
is subject to the requirements of Section 1130.230. Permit renewal requests that
are not received at least 45 days prior to the expiration date of the completion
period shall be subject to an additional $500 late application processing fee. If
payment has not been received within 30 days after receipt of written notice for
payment, the request for renewal shall be considered withdrawn.

g) Permit holders who have not submitted permit renewal requests at least 45 days
prior to the expiration date of the completion period may also be subject to the
Act's sanctions or penalties should a project not be completed and the permit
completion period expires prior to HFPB approval of a renewal request.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.750 Alteration of a Project for which a Permit Has Been Issued
A permit is valid only for the defined construction or modification, equipment, site, amount and persons named in the application. Any change to a project subsequent to the State Board’s issuance of a permit constitutes an alteration to the project. Projects for which a permit has been issued can be altered during the time period between the permit issuance and the date of project completion. However, all proposed alterations that require HFPB review and action must be submitted to HFPB for review prior to the execution of the alteration. Some alterations must be reviewed and approved by HFPB. All alterations are to be reported to the State Board prior to incurring the alteration. Certain alterations require only notice to the State Board; others require notice and approval from the State Board; and others are not allowable and, if undertaken, will invalidate the permit. All alterations will be reviewed and approved on a cumulative basis. A permit holder may apply for more than one alteration during the life of a project. However, the limits on alterations shall apply cumulatively to all alterations for a single permit. The cumulative effect of alterations to a project shall not exceed the requirements stated below:

A permit holder must also report any alterations that have occurred without prior notice to the State Board. A permit holder that has incurred an alteration without providing prior notice is in violation of permit validity requirements of this Section and is subject to the imposition of sanctions or penalties as provided by the Act.

a) The permit holder shall notify IDPH in writing of any proposed or incurred alterations to a project for which a permit has been issued. The notice shall include a description of the alteration and related costs (if any). If the alteration requires State Board approval, the notice must also address all applicable review criteria related to the alteration. In addition, a proposed alteration that requires State Board approval must be received by IDPH at least 45 days prior to the next scheduled State Board meeting.

b) Alterations that necessitate only notice to the State Board are those alterations that do not require State Board approval and that do not invalidate the permit.

c) [Redacted for brevity]

d) Allowable alterations Proposed or incurred alterations that require HFPB action notice and approval from the State Board are:

1) Before project obligation: A change in the approved number of beds or stations, provided that the change would not independently require a permit or exemption from HFPB;

2) Abandonment of an approved category of service established under the permit;
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3G) any increase in the square footage of the project up to 5% of the approved gross square footage or 5,000 additional gross square feet (Note: an increase in excess of those allowable by this provision invalidate the permit);

4D) any decrease in square footage up to 5% of the project for projects (other than projects approved pursuant to a master design permit) approved prior to March 1, 1995, an increase in the cost of the project that exceeds 10% of the original approved permit amount;

5E) for projects approved subsequent to March 1, 1995 including projects approved pursuant to a master design permit, any increase in the cost of the project not to exceed 5% of the total project cost. This alteration may exceed the capital expenditure minimum in place when the permit was issued, provided that it does not exceed 5% of the total project cost in the cost of the project that exceeds the permit amount;

6) any increase to an altered permit amount;

6G) any increase in the amount of funds to be borrowed for those permit holders that have not documented a bond rating of "A" or better; or

7H) any increase in the project costs components (i.e., line item amounts) if the increase is not in compliance with the 77 Ill. Adm. Code 1120 review criteria; or

8) any substantive change in the project's design, including, but not limited to, footprint, functions and basic configuration.

2) after project obligation:

A) a change in the approved number of beds or stations;

B) abandonment of an approved category of service;

C) any change in the project's design or change in the project's gross square footage unless such change is required or mandated by local, State, or federal building or life safety requirements that were not in effect at the time of project obligation;
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D) any increase in the amount of funds to be borrowed; or

E) any increase to the permit amount or to an altered permit amount.

b)(d) Alterations Not Allowed
Notwithstanding the provisions of subsection (a)(e) of this Section, the following alterations are not allowed and, if incurred, invalidate the permit:

1) an increase in the project costs, subsequent to obligation, that exceeds the lesser of 5% of the permit amount or the capital or major medical equipment minimums;

2) an increase in the project's gross square footage, prior to obligation, that exceeds the lesser of 5% of the project's approved gross square footage or 5,000 additional gross square feet; or

3) an increase in the project's gross square footage, subsequent to obligation, unless the increase is required or mandated by local, State or federal building or life safety requirements that were not in effect at the time of permit issuance.

3) any other change in the project's scope or funding that would require a CON or exemption.

c) Alterations Requiring Notice Only to HFPB
For any allowable change to the project that does not require an action of HFPB independently, notification must occur within 30 days after the alteration.

d)(e) Alteration Procedures

1) The permit holder shall notify HFPB in writing of any alteration to a project. The notice shall include a description of the alteration and related costs (if any) and shall address all applicable review criteria related to the alteration if the alteration requires HFPB approval. IDPH shall review the alteration request for compliance with the review criteria and submit its findings to HFPB. If additional information is needed by IDPH to perform a review of the request, the permit holder shall be notified.

2) A request for alteration reviewed by HFPB is subject to the
provisions of 77 Ill. Adm. Code 1110 or 1120 that are applicable to the individual project. Any proposed increase to a permit amount that exceeds the State Board's thresholds for capital expenditures can be reviewed as an alteration to the project providing that there are no other components to the proposed alteration that, when taken as a separate component, require a permit under the Act. The components and any other proposed alterations to a project that would, when taken as a separate component, require a permit under the Act, shall not be subject to review under this Section but shall require a new application for a supplemental permit.

e) IDPH shall review the request for alteration and prepare a report of its findings. If the findings are that the request is in conformance with all HFPB criteria and, if this is the first request for this project, then the request, IDPH's findings, and all related documentation shall be sent to the Chairman. The Chairman, acting on behalf of HFPB, shall approve or deny the request or refer the request to HFPB for action. If IDPH finds that all criteria are not positive or, if this is not the first request for a particular project, or, if the Chairman refers a request to HFPB for action, then the matter shall be sent by IDPH to HFPB for consideration and action. The number of affirmative votes required for approval of an alteration request is specified in the Act. The approval or denial of a request for alteration constitutes HFPB's final administrative decision. Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable.

f) Upon approval of a request for alteration, HFPB will revise the permit to reflect the alteration and shall adjust all inventories accordingly. If a permit holder reduces the scope or size of the project, the permit amount shall be reduced accordingly.

g) Decisions on requests for alteration shall be transmitted, in writing, to the permit holder by the Executive Secretary.

h) Eight affirmative votes are required for approval of an alteration. The approval or denial of a request for alteration constitutes the State Board's final administrative decision. Approval of an alteration is based on the continued compliance of the project with 77 Ill. Adm. Code 1110 or 1120, as applicable. Any alteration undertaken without prior HFPB State Board approval (when required) shall be considered a violation of the Act and shall be subject to the penalties mandated in the Act and in Section 1130.790.
i) A request for alteration shall be assessed an application processing fee of $1,000 or .02% percent of the dollar amount in excess of the approved permit amount, whichever is greater, and is subject to the requirements of Section 1130.230.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.760 Annual Progress Reports

a) Each permit holder shall submit annual progress reports to IDPH the Agency every 12 months from the permit issuance date until such time as the project is completed. The annual progress reports are due between 30 days prior to andor 30 days after the anniversary date of HFPB approval of the permit issuance. Such reports shall include:

1) current status of the project, including: the percentage of the project finished; components finished and components yet to be finished; and any changes in the scope of the project and size; and

2) cost incurred to date and an itemized listing of the total current estimated project costs by sources and use of funds as detailed in 77 Ill. Adm. Code 1120 and a comparison of those costs to the approved permit amounts; and current information on financing for the project; and

3) the method of financing the project and sources of funds; the schedule of construction stages to completion; and

4) for major construction projects, the most recent Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects, or equivalent; and

5) the anticipated date of completion.

b) Failure to provide the required annual progress reports will result in future applications being considered incomplete by IDPH until the required reports are received by the Agency.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1130.770 Project Completion, Final Realized Costs and Cost Overruns
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Each permit holder shall notify HFPB the State within 30 days after the project's conclusion and provide the following: Agency regarding completion of the project.

a) For projects with no cost, the permit holder must submit a written notice to HFPB of the project's conclusion (e.g., initiation of a new service, discontinuation, certification of additional dialysis stations) of project completion to the Agency. Such notice is required only when a completion date has not been determined by the Agency pursuant to Section 1130.140(g).

b) For a project with a cost below the capital expenditure minimum all other projects, the permit holder must submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:

1) a detailed itemization of all project costs and sources of funds as detailed in 77 Ill. Adm. Code 1120;

2) an itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX of the Social Security Act;

3) a certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project that will be submitted for reimbursement under Title XVIII or XIX;

4) certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by an authorized representative of two authorized representatives (in the case of a corporation, one must be a member of the board of directors) of the entity that is the permit holder; and,

5) for major construction projects, the final Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects or equivalent.

c) For a project with a cost above the capital expenditure minimum, the permit holder must submit a notice that the project has been brought to a conclusion and submit a report of final realized costs containing the following:

1) an audited financial report of all project costs and sources of funds;
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2) an itemization of those project costs that have been or will be submitted for reimbursement under Titles XVIII and XIX;

3) a certification that the final realized costs are the total costs required to complete the project and that there are no additional or associated costs or capital expenditures related to the project that will be submitted for reimbursement under Title XVIII or XIX;

4) certification of compliance with all terms of the permit to date, including project cost, square footage, services, etc.; certification attesting to compliance with the requirements of this Section must be in the form of a notarized statement signed by an authorized representative the permit holder; and

5) the final Application and Certification for Payment for the construction contract, as per form G702 published by the American Institute of Architects or equivalent.

d) Failure to file final realized costs reports will result in subsequent applications for permit filed by the permit holder to be deemed incomplete by IDPH until the required report is filed.

d) All permits for projects which are not completed in required timeframes shall constitute a basis to revoke the permit, unless renewed by the State Board (reference Section 1130.710 and 1130.740).

e) For projects approved prior to the March 1, 1995, if the final realized cost exceeds the originally approved permit amount or revised permit amount (if less than the original amount) by more than ten percent, the amount over ten percent shall be considered a cost overrun without a permit unless subsequently approved by the State Board.

f) For projects which have an altered permit amount approved by the State Board, regardless of permit or alteration approval date, any amount of the final realized cost which exceeds the revised permit amount shall be considered a cost overrun and without permit unless subsequently approved by the State Board.

f) Any projects approved subsequent to March 1, 1995, any amount of the final realized cost that exceeds the approval permit amount shall be considered a cost
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overrun without a permit unless the amount is subsequently approved by HFPB the State Board.

gh) Any project with a cost overrun shall not be complete until such time as HFPB the State Board determines that the project is complete.

h) Any project that is compliant with the conditions of its permit shall not be complete until such time as HFPB determines that the project is complete.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

Section 1130.780  Revocation of a Permit

a) A permit shall be revoked by HFPB upon a finding that a permit holder has failed to comply with the requirements of the Act and this Part. Revocation proceedings shall be initiated by the State Board for any of the following reasons:

1) the project for which the permit was granted has been altered without the required approval of HFPB the State Board;

2) the permit holder has failed to complete the project with due diligence comply with the authorization to obligate requirements;

3) representations in the CON application that served as a basis for HFPB approval of the project and issuance of a permit have been materially changed there has been a change in the amount for which the permit was granted which was not approved by the State Board; or there has been information was submitted by the permit holder that is false or fraudulent and served as the basis and was material to the issuance of the permit or completion of the project.

b) If at any time HFPB the Agency has information that a reason for revocation of a permit exists, the permit holder shall be provided written notification of the allegations and pursuant to subsection (a) above, the Agency shall provide the permit holder written notification of the allegations and of the date, time and place when such allegations will be reviewed by the State Board. The permit holder will be afforded 30 days following receipt of the Agency notification to prepare and submit a written response to the allegations, which will be submitted along with the Agency report to the State Board for review.
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NOTE: It is the responsibility of the permit holder to assure that the Agency is in receipt of the written response within the 30 day prescribed time frame.

c) The permit holder shall be provided written notification of the date, time, and place when the allegations will be reviewed by HFPB and afforded an opportunity to appear before HFPB. If, after reviewing the allegations and the permit holder's response, if any, HFPB finds that a basis for revocation exists pursuant to subsection (a) above, it shall issue and transmit to the permit holder a "Notice of an Intent to Revoke" a permit.

d) The permit holder may request an administrative hearing by filing a written request with the Chairman within 30 days after receipt of the "Notice of Intent to Revoke" a permit pursuant to 77 Ill. Adm. Code 1180. The administrative hearing shall be conducted in accordance with 77 Ill. Adm. Code 1180.

e) If at the end of the 30-day period the permit holder has not responded or requested an administrative hearing, HFPB shall, at its next regularly scheduled meeting, act on the matter of the revocation of the permit. If an administrative hearing has been held, HFPB shall act on the matter of the revocation of the permit following the submission of the hearing officer's report.

f) If HFPB revokes a permit, the Executive Secretary shall transmit the decision to the permit holder by certified mail or shall serve it personally on the permit holder. All inventories shall be amended to indicate the elimination of the proposed project.

g) The decision by HFPB on the revocation of a permit constitutes its final administrative decision and shall be subject to the provisions of the Administrative Review Law (Ill. Rev. Stat. 1991, ch. 110, par. 3-101 et seq.) [735 ILCS 5/Art. III].

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

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

a) Any person establishing, constructing, or modifying a health care facility or portion thereof without obtaining a required permit, or in violation of the terms of
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the required permit, shall not be eligible to apply for any necessary operating licenses or be eligible for payment by any State agency for services rendered in that facility or portion thereof until the required permit is obtained. (Section 13.1 of the Act)

b) Any person acquiring major medical equipment or establishing, constructing or modifying a health care facility without a permit issued under this Act or in violation of the terms of such a permit is guilty of a business offense and may be fined up to $25,000. (Section 14 of the Act)

c) The State Board may deny an application for permit or may revoke or take other action as permitted by the Act with regard to a permit as the State Board deems necessary, including the imposition of fines. (Section 14.1(a) of the Act)

d) The State Board may impose fines as specified below for the enumerated violations:

1) A permit holder who fails to comply with the requirements for maintaining a valid permit shall be fined an amount not to exceed 1% of the approved permit amount, plus an additional 1% of the approved permit amount for each 30-day period, or fraction thereof, that the violation continues. (Section 14.1(b)(1) of the Act)

2) A permit holder who alters the scope and size of an approved project or whose project costs exceed the allowable permit amount without first obtaining approval shall be fined an amount not to exceed the sum of:

   A) The lesser of $25,000 or 2% of the approved permit amount; and

   B) In those cases where the approved permit amount is exceeded by more than $1,000,000, an additional $20,000 for each $1,000,000, or fraction thereof, in excess of the approved permit amount. (Section 14.1(b)(2) of the Act)

3) A person who acquires major medical equipment, or who establishes a category of service without first obtaining a permit or exemption, as the case might be, shall be fined an amount not to exceed $10,000 for each such acquisition or category of service established plus an additional
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$10,000 for each 30-day period, or fraction thereof, that the violation continues. (Section 14.1(b)(3) of the Act)

4) A person who constructs, modifies or establishes a health care facility without first obtaining a permit shall be fined an amount not to exceed $25,000 plus an additional $25,000 for each 30-day period, or fraction thereof, that the violation continues. (Section 14.1(b)(4) of the Act)

5) A person who discontinues a health care facility or category of service without first obtaining a permit shall be fined an amount not to exceed $10,000 plus an additional $10,000 for each 30-day period, or fraction thereof, that the violation continues. (Section 14.1(b)(5) of the Act)

6) A person subject to this Act who fails to provide information requested by HFPB or IDPH, the State Board or State Agency within 30 days after a formal written request shall be fined an amount not to exceed $1,000 for each 30-day period, or fraction thereof, that the information is not received by HFPB or IDPH, the State Board or State Agency. (Section 14.1(b)(6) of the Act)

e) If an individual or entity has failed to comply with the Act or HFPB's rules and has been notified by HFPB about an allegation of noncompliance, this shall provide a basis for HFPB to defer consideration of any and all applications, rulings, or advisory opinions filed before HFPB until the noncompliant matter is resolved.

fe) Failure to pay any fine imposed under this Section within 30 days after its imposition shall subject the person to other sanctions permitted by the Act as HFPB, the State Board deems appropriate.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

SUBPART H: DECLARATORY RULINGS

Section 1130.810 Declaratory Rulings

HFPB, the State Board shall render determinations on various matters relating to permits and the applicability of the statute and regulations. Requests for determination shall be made in writing. Pursuant to Section 5-150 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1991, ch. 127, par. 1009), such determinations are declaratory rulings and are not subject to appeal.
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The following matters shall be subject to declaratory rulings by the State Board, but are not limited, to:

a) whether a proposed project requires a permit or exemption;
b) corrections to the facility inventories utilized by the State Board;
c) recognition that a particular service was in existence prior to permit requirements;
d) amount of fees required;
e) project classification as substantive or non-substantive; and
f) applicability of rules.

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

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

SUBPART I: PUBLIC HEARING AND COMMENT PROCEDURES

Section 1130.910 Applicability

a) Public Hearing on Applications for Permit and Certificates of Recognition
   The Act requires that IDPH affords an opportunity for public hearing when an application for permit is declared complete (see 20 ILCS 3960/8) and with respect to the approval of or revocation of a certificate of recognition of an areawide health planning organization (see 20 ILCS 3960/9).

b) Public Hearing on Certificates of Exemption for Change of Ownership
   The Act requires that IDPH afford an opportunity for public hearing when an application for a change of ownership exemption is declared complete (see 20 ILCS 3960/8.5).

c) Public Hearing on Proposed Rules
   In addition to the requirements of the APA, the State Board shall adopt procedures concerning public notice and hearing on proposed rules (see 20 ILCS 3960/12).
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(Source: Added at 30 Ill. Reg. ______, effective ____________)

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

a) Notice of Review and Opportunity for Public Hearing and Comment

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

1) Identification of the proposed project, including the project cost and a brief description of the project and the tentative date that the application is scheduled for HFPB review;

2) Identification, including the mailing address and telephone number, of the agency that is responsible for the public hearing;

3) Information regarding where a copy of the application may be viewed by the public and how copies of the application may be obtained;

4) A statement that any person has the right to request a public hearing and to submit written comments on the proposed project;

5) The date (which shall be at least 15 days from the date of publication of the Notice) by which a written request for a public hearing must be received by IDPH; and

6) All public comment regarding an application must be received by IDPH no later than 20 days prior to tentatively scheduled consideration of the application by HFPB. If that date of consideration is extended, then the public comment period will also be extended. If subsequent to HFPB consideration of an application, a final decision is not made (application is deferred or is issued an Intent to Deny, or is denied), then the public comment period shall be extended to the 20 days prior to the next consideration.
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BOARD NOTE: The provisions of this subsection (a) do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing concerning an application for permit.

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

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

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 1130.930 Notice of Public Hearing on Applications for Permit

a) Content and Distribution of Notice of Public Hearing on Application for Permit

If IDPH receives a request for a public hearing on a proposed project in response to the Notice of Review and Opportunity for Public Hearing or Comment within the time frame established in the notice, IDPH shall schedule a public hearing on the proposed project and prepare and publish a Notice of Public Hearing. The content of the Notice of Public Hearing shall consist of at least the following:

1) Identification of the subject to be heard;

2) Identification of the law under which it is being heard;

3) Identification of the agency conducting the hearing;

4) Announcement of the time, date and location of the hearing;

5) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the project; and

6) Announcement that allegations or assertions should be relevant to the need for the proposed project and be supported with two copies of documentation or materials that are preferably printed or typed on paper size 8 1/2" by 11".
b) Notice of such hearing shall be made promptly by certified mail to the applicant, and within 10 days prior to the hearing, by publication in a newspaper of general circulation in the area or community to be affected 

\[20 \text{ ILCS 3960/8}\].

c) Notice to all other persons, including members of the general public, who are to be served by the proposed project shall be deemed to have been given by publication of the Notice of Public Hearing in a newspaper in the area or community where the project is to occur.

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

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 1130.940 Procedures for Public Hearing on Applications for Permit

a) Provisions for Public Hearing

Procedures for public hearing shall include at least the following:

1) The hearing shall be conducted in the area or community where the proposed establishment, construction, or modification of a health care facility is to occur \[20 \text{ ILCS 3960/8}\];

2) A place of reasonable size and accessibility shall be provided;

3) A hearing officer or officers with shall conduct the hearing and take all necessary steps to assure the hearing’s proper completion;

4) All interested persons attending such hearing shall be given reasonable opportunity to present their views or arguments in writing or orally. \[20 \text{ ILCS 3960/8}\] Any person shall have the right to be represented by counsel;

5) The hearing officer shall have the authority to require the swearing in of
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persons presenting testimony and to determine the order in which testimony is taken and the time to be allocated for each person to testify;

6) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. The hearing officer's verbal announcement shall, for this purpose, constitute public notice;

7) The proceeding shall be tape-recorded or otherwise recorded. A full and complete transcript need not be made, however, unless required by law and paid for by the requesting party;

8) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his or her custody; and

9) The hearing officer shall, within a reasonable time, submit a public hearing report that shall include all exhibits and documents to IDPH for submission to HFPB.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.950 Written Comments on Applications for Permit

a) Provision for and Types of Written Comments
Written comments regarding an application and any supplemental information pertaining to an application must be submitted in accordance with the Notice of Review requirements of this Subpart, in accordance with public hearing requirements established at the direction of the hearing officer, or in accordance with requirements for additional testimony established as a request from and at the direction of HFPB.

b) Submission of Comments
Written comments are to be submitted to IDPH. Only those written comments that have been addressed or submitted to HFPB or Executive Secretary and received at HFPB headquarters shall be included as part of the public record, provided that such comments have been received within the prescribed time frame and are in accord with the requirements of this Subpart. Persons submitting comments are responsible for assuring that IDPH receives of the comments within the prescribed time frame. In addition, persons providing comments to HFPB are
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responsible to assure that any submission is not in violation of the ex parte provisions of the Act.

c) Format of Comments
Written comments must contain a signature and the name and address of the person submitting the comments. Written comments, other than those submitted electronically, must be on paper and not exceed a width of 8½" and a length of 11".

d) Forwarding of Comments to HFPB and to Applicant
All written comments that are received within the specified time frame will be forwarded by IDPH to HFPB and to the applicant in advance of the HFPB meeting date.

e) Ex Parte Comments
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to HFPB or to the applicant.

(Source: Added at 30 Ill. Reg. _____, effective __________)

Section 1130.960 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition)

a) Scheduling of Public Hearing
Upon receipt of an application for a certificate of recognition (or in the case of proposed revocation of a certificate of recognition) of an areawide health planning organization for health facilities planning made to HFPB, IDPH shall conduct a public hearing within a reasonable period after receipt of the application, not to exceed 90 days [20 ILCS 3960/9].

b) Content and Distribution of Notice of Public Hearing on Application for Certificate of Recognition (or Revocation of Recognition)
In addition to scheduling the public hearing, IDPH shall also prepare a Notice of Public Hearing and provide for distribution of the notice in accordance with the requirements of the Notice of Public Hearing for Applications for Permit as specified in this Subpart.

(Source: Added at 30 Ill. Reg. _____, effective __________)
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Section 1130.970  Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation of Recognition)

The procedures for public hearing concerning an application for certificate of recognition or for the revocation of recognition shall be in accordance with the requirements of the Procedures for Public Hearing for Permit as specified in this Subpart.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

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

The procedures pertaining to public hearing requirements concerning an application for exemption for a proposed change of ownership of a health care facility are as specified in the Act (see 20 ILCS 3960/8.5).

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.990  Procedures for Public Hearing and Comment on Proposed Rules

All proposed rulemaking is subject to the provisions of the Illinois Administrative Procedure Act (IAPA). HFPB shall conduct public hearings on all proposed rules and provide notice of public hearings as part of the IAPA first notice requirements. Written comments should be submitted in accordance with the first notice requirements published in the Illinois Register.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.995  Procedures for Public Comment on All Other Matters

Public comment is permitted for all other matters subject to HFPB proceedings that are not specified above (e.g., requests for alterations, renewals, extensions, declaratory rulings). Public comment shall identify the subject matter and be in conformance with the following:

a) All public comment must be received by IDPH no later than 20 days prior to tentatively scheduled consideration of the matter by HFPB. If that date of consideration is extended, then the public comment period will also be extended.

b) Comments shall be in writing. Written comments are to be submitted to IDPH. Only those written comments that have been addressed or submitted to HFPB or Executive Secretary and received at HFPB headquarters shall be included as part
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of the public record, provided that such comments have been received within the prescribed time frame and are in accord with the requirements of this Subpart. Persons submitting comments are responsible for assuring that IDPH receives the comments within the prescribed time frame. In addition, persons providing comments to HFPB are responsible to assure that any submission is not in violation of the ex parte provisions of the Act.

c) Written comments must contain a signature and the name and address of the person submitting the comments. Written comments, other than those submitted electronically, must be on paper and not exceed a width of 8½" and a length of 11".

e) Ex Parte Comments
Written comments that are received after the prescribed date shall be considered ex parte and shall not be forwarded to HFPB or to the applicant and shall not be considered in making a determination.

(Source: Added at 30 Ill. Reg. ______, effective ____________)

SUBPART J: PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS

Section 1130.1010 The Right to an Administrative Hearing and Applicable Rules

a) This Subpart of practice and procedures for administrative hearings is promulgated pursuant to Section 5-10(a)(i) and Article 10 of the IAPA and Sections 10 and 11 of the Illinois Health Facilities Planning Act.

b) A person whose application for permit, a renewal thereof, or a certificate of recognition is denied or whose permit or certificate of recognition is revoked by the Illinois Health Facilities Planning Board shall be afforded an opportunity for a hearing before a hearing officer. [20 ILCS 3960/10] Such hearings shall be governed by this Part.

c) Administrative hearings in contested cases as defined by the IAPA shall be governed by this Part.

d) In case of a conflict between the provisions of this Part and the IAPA, the provisions of the IAPA shall apply. Provisions of the IAPA that relate to contested cases shall apply to all hearings.
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(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 1130.1020 Initiation of a Contested Case (Pleadings)

a) In contested cases, where HFPB shall serve on the respondent a Notice of Opportunity for an Administrative Hearing, that notice shall contain:

1) a statement of the nature of the action;

2) a statement of the legal authority and jurisdiction under which the action is being initiated;

3) a reference to the particular Sections of the statutes and/or rules involved;

4) allegations of noncompliance;

5) a statement of the procedure for requesting an administrative hearing (Section 10-25 of the IAPA), including a date by which the request must be received by HFPB, which must be set at least 10 days after the notice is mailed or personally served;

6) except where a more detailed statement is otherwise provided for by law, a short and plain statement of the matters asserted, the consequences of a failure to respond, and the official file or reference number. (Section 10-25 of the IAPA)

b) A person who receives a Notice of an Opportunity for an Administrative Hearing must submit a written request for a hearing to HFPB. The request is to be sent to HFPB at the address stated in the notice and must be received by the date set forth in the notice. Failure to comply with this Section shall constitute a waiver of the person's right to an administrative hearing.

c) Upon receipt of a timely request for hearing, HFPB shall issue a Notice of Hearing or Prehearing Conference. The notice of hearing or prehearing conference shall contain:

1) a statement of the nature of the hearing;

2) a statement of the time and place that the hearing or prehearing conference will be held;
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3) a statement of the legal authority and jurisdiction under which the hearing is to be held; and

4) the names and mailing addresses of the administrative law judge, all parties, and all other persons to whom the agency gives notice of the hearing, unless otherwise confidential by law. (Section 10-25 of the IAPA)

d) Amendments to the pleadings may be allowed upon proper motion at any time during the pendency of the proceedings on such terms as shall be just and reasonable.

e) All written documents provided for under this Section shall be liberally construed with a view toward doing substantial justice between the parties.

f) Venue shall be the location designated in the Notice of Administrative Hearing. Venue may be moved to another location upon stipulation by all parties or upon a showing to and a finding by the administrative law judge that exceptional circumstances, including but not limited to age, infirmity or inability to travel, exist that make it desirable, in the interest of justice, to allow a change of venue.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1030 Waiver of Hearing

An applicant's right to an administrative hearing on an application denied by HFPB pursuant to Section 10 of the Act shall be waived by the submission of a modified application for permit for the project that was the subject of the application that was denied. Any pending administrative hearing on an application for permit shall be dismissed by the administrative law judge upon the showing that a modified application was submitted by the applicant and the matter was referred to HFPB. The waiver of a right to an administrative hearing on a denied application does not waive the right to an administrative hearing on the denial of the modified application.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1040 Parties to Hearings

a) The parties to proceedings before HFPB are complainants, applicants, respondents, and intervenors.
b) **HFPB** shall be deemed a complainant in any proceedings initiated by its own action.

c) An applicant is the person required by the Act to obtain a permit from **HFPB** who files an application with **HFPB**.

d) A respondent is a party other than an applicant against whom a complaint or petition is filed.

e) Intervenors are "adversely affected persons" and are granted the right to be parties to proceedings before **HFPB**. Such persons are defined as:

   1) the areawide health planning organization for the health service area in which the proposed project is to be located;

   2) areawide health planning organizations serving contiguous health service areas or located within the same Standard Metropolitan Statistical Area (SMSA);

   3) any person residing within the geographic area served or to be served by the applicant;

   4) any person who regularly uses health care facilities within that geographic area;

   5) health care facilities and HMOs located in the health service area in which the project is proposed to be located that provide services similar to the services of the applicant;

   6) health care facilities and HMOs that, prior to receipt by **IDPH** of the application being reviewed, have formally indicated an intention to provide similar services in the future;

   7) third party payers who reimburse health care facilities for services in the health service area in which the proposed project is to be located;

   8) any agency that establishes rates for health care facilities or HMOs located in the health service area in which the project is proposed to be located; and
Section 1130.1050 Appearance — Right to Counsel

Any party to the proceeding may appear and be represented by an attorney at law authorized to practice in the State of Illinois.

Section 1130.1060 Prehearing Conferences

a) A prehearing conference may be scheduled by the administrative law judge or HFPB at their discretion or as a result of a request pursuant to subsection (b) of this Section. This conference shall be held prior to the date of hearing and shall be for the purpose of considering:

1) the simplification of the issues;
2) amendments to the pleadings;
3) the possibility of obtaining admissions of fact and of documents that will avoid unnecessary proof;
4) the limitation of the number of expert witnesses; and
5) any other matters that may aid in the disposition of the hearing.

b) In any proceedings under this Section in which HFPB has not scheduled a prehearing conference, any party to the proceedings may request the scheduling of a prehearing conference. The request must be made in writing and received by the administrative law judge at least five days prior to the scheduled date of hearing. The requesting party shall serve all other parties to the proceedings with a copy of the request.

c) Upon the receipt of a request for a prehearing conference in accordance with subsection (b) of this Section, the administrative law judge shall schedule the
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prehearing conference and notify all parties of the date, time and place of the conference.

d) After a prehearing conference, the administrative law judge shall make a report that recites any action taken by the administrative law judge and any agreements made by the parties as to any of the matters considered.

e) Any party may request additional prehearing conferences. The administrative law judge, in his or her discretion, may deny or grant the request.

f) A certified stenographic reporter (court reporter) may not be present at a prehearing conference unless one of the parties to the proceeding or the administrative law judge requests a court reporter to be present. The request must be received by HFPB at least two working days in advance of the scheduled prehearing conference. The party, other than the administrative law judge or HFPB, requesting the presence of the court report shall be billed directly for the attendance fee of the reporter.

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 1130.1070 Intervention

a) A right of intervention shall exist for other interested parties, including representatives of health planning organizations and consumer groups who demonstrate a relevant interest.

b) A person desiring to intervene shall present a Petition for Intervention accompanied by any pleadings or motions he proposes to file before the hearing. The Petition to Intervene shall be submitted to the administrative law judge for a determination of whether the petition should be granted.

c) In determining whether to allow intervention, the administrative law judge may consider whether the intervention will unduly delay the hearing, prejudice the rights of the respondent, be unduly burdensome to any party, enlarge the scope of the proceedings, or insert new issues into the proceedings; whether there are other remedies available to the petitioners; and whether there are any other factors that may bear upon the rights of any party.
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d) An intervener shall have all the rights of an original party to the administrative hearing unless the administrative law judge in allowing intervention restricts the petitioner's right to intervene to certain issues in the proceedings.

e) Petition for Intervention

1) The Petition for Intervention shall contain:

A) the name and address of the person making the petition to intervene;

B) if the petitioner is represented by an attorney, the name and address of the attorney; and

C) a plain and concise statement setting forth the grounds for intervention.

2) All petitions shall be filed with the administrative law judge and copies served on all parties to the proceeding.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1080 Disqualification of Administrative Law Judge

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

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1090 Form of Papers

a) All papers filed in any proceeding, except exhibits, shall be typewritten or printed. If typewritten, the impression shall be on one side of the paper; long quotations
shall be single spaced and indented. Mimiographed, multigraphed, hectographed, photostated papers, and the like, will be accepted as typewritten.

b) All papers, except exhibits, shall be cut or folded so as not to exceed a width of 8½" and a length of 14" and shall have inside margins not less than one inch wide. Whenever practical, all exhibits of a documentary character shall conform to these requirements.

c) All pleadings, written motions, or notices filed in the administrative proceeding shall be signed in ink by the party filing the paper or by an officer or agent or an attorney representing the officer or agent.

d) Pleadings, written motions, notices, and applications shall contain the address of the party filing the paper or, if represented by an attorney, the name and business address of such attorney.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1100 Service

a) Notices under this Subpart shall be served either personally or by certified mail upon all parties or their agents appointed to receive service of process.

b) Service of pleadings or motions under this Part, unless otherwise provided for in this Subpart, shall be made by delivering in person or by depositing in the United States Mail, properly addressed with postage prepaid, one copy to each party to the proceeding. When any party or parties has appeared by attorney, service upon the attorney shall be deemed service upon such party or parties.

c) Proof of service under this Subpart shall be by certificate of attorney, affidavit or acknowledgement.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1110 Conduct of Hearings

a) All hearings conducted in any proceedings shall be open to the public.

b) Hearings shall commence and proceed with due diligence.
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c) Hearings will be conducted by an administrative law judge, appointed by the Director of IDPH.

d) The administrative law judge shall conduct hearings; administer oaths; issue subpoenas; regulate the course of hearings; hold informal conferences for the settlement, simplification, or definition of issues; dispose of procedural requests, motions, and similar matters; continue the hearing from time to time when necessary; examine witnesses; and rule upon the admissibility of evidence and amendments to pleadings.

e) In a hearing to consider the denial of a permit or certificate of recognition, the applicant shall have the burden of establishing that the proposed project or application for certificate of recognition, as the case may be, for which application for permit or recognition is made is consistent with the standards, criteria, or plans adopted by HFPB upon which the finding and decision of HFPB was made; only such testimony and evidence as is relevant shall be offered or accepted.

f) All parties to an administrative hearing shall have the right to give testimony, produce evidence, cross-examine adverse witnesses and present arguments relevant to the question of consistency and conformity of the proposed project with the adopted standards, criteria or plans upon which the finding and decision of HFPB was made.

g) The administrative law judge shall direct all parties to enter their appearances on the record.

h) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

i) At any stage of the hearing, or after all parties have completed the presentation of their evidence, HFPB or its administrative law judge may call upon any party or the technical staff of IDPH or other departments of State government or State Universities for further material or relevant evidence upon any issue. All parties at interest shall be afforded the right to present further evidence or material, or contradict the evidence or material presented, as per the provisions of the IAPA.

j) The rules of evidence and privilege as applied in civil cases in the Circuit Court of this State shall be followed. However, evidence not admissible under such rules
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of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Immaterial, irrelevant, unduly repetitious material shall be excluded. All admissible evidence shall be considered in accordance with its relative probative value in formulating the final decision of HFPB and also in formulating the findings of fact and conclusions of law (if any) that support the decision. A copy of the whole or any part of an admissible book, record, paper, or memorandum of IDPH that is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy of such copy. When any material or relevant matter offered in evidence by any party is embraced in a book, paper, or document containing other matter not material or relevant, the party offering the same shall plainly designate the matter so offered. If, in the judgment of the administrative law judge, such immaterial or irrelevant matter would unnecessarily encumber the record, such book, paper, or document will not be received in evidence as a whole, but the material or relevant portions thereof, if otherwise admissible, may be read into the record or entered as an exhibit. Objections to evidentiary offers may be made and shall be noted in the record. Any part of the evidence may be received in written form.

k) Official notice may be taken of matters of which Circuit Courts of this State may take judicial notice. In addition, official notice may be taken of generally recognized technical or scientific facts within HFPB's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed, including any staff memoranda or data, and they shall be afforded an opportunity to contest the material so noticed. HFPB's experience, technical competence and specialized knowledge may be used in the evaluation of evidence.

l) The Executive Secretary and/or HFPB's legal counsel will arrange for a certified stenographic reporter (court reporter) to make a stenographic record of the hearings in all administrative hearings under this Part. Any persons may make arrangements to obtain a copy of the stenographic record from the reporter.

m) Suggested corrections to the transcript of record may be offered within 10 days after the transcript is filed in the proceedings, unless the Director of IDPH or the administrative law judge permits suggested corrections to be offered thereafter. Suggested corrections shall be served upon or brought to the attention of such party whose appearance is of record or his/her attorney, the official reporter, and
the administrative law judge. If suggested corrections are not objected to, the
administrative law judge will direct the corrections to be made and the manner
of making them. In case the parties disagree on suggested corrections, they may
be heard by the administrative law judge, who shall then determine the manner in
which the record shall be changed, if at all.

n) Written opening arguments and written closing arguments shall not be permitted
unless all parties so stipulate.

o) Absent a showing of good cause, no document shall be offered into evidence that
was not disclosed in accordance with the requirements in Section 1130.1120, and
no witness shall testify whose name was not provided pursuant to Section
1130.1120. For purposes of this subsection, a showing of good cause shall mean
that a party, through no fault of its own, did not have knowledge of a document to
be offered into evidence or the name of a witness within the time frame necessary
for compliance with Section 1130.1120.

p) If a party, or any person at the insistence of or in collusion with a party, violates
any ruling of the administrative law judge, the administrative law judge, on
motion, may enter such orders as are just, including, among others, the following:

1) that further proceedings be stayed until the order or rule is complied with;

2) that the offending party be barred from filing any other pleadings relating to any
issue to which the refusal or failure relates;

3) that he or she be barred from maintaining any particular claim or defense
relating to that issue;

4) that a witness be barred from testifying concerning that issue;

5) that, as to claims or defenses asserted in any pleading to which that issue is
material, an order of default be entered against the offending party or that his or
her pleading be dismissed without prejudice; or

6) that any portion of his or her pleadings relating to that issue be stricken and, if
thereby made appropriate, judgment be entered as to the issue.

q) At any time, the administrative law judge may order the removal of any person
from the hearing room who is creating a disturbance whether by physical actions,
profanity or otherwise engaging in conduct that disrupts the hearing.
r) At the request of any party, the administrative law judge may exclude all witnesses from the hearing room, except that each party or a representative of a party, in addition to legal counsel, shall be allowed to remain.

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 1130.1120 Discovery

a) Prior to hearing or at the prehearing conference, HFPB shall provide all parties with a copy of HFPB's reports relating to the Allegations of Noncompliance.

b) At least 21 days prior to the commencement of the hearing, each party shall provide all other parties with a copy of any document that it intends to offer into evidence. This subsection shall not require any party to again provide copies of those documents already provided by HFPB under subsection (a).

c) At least 21 days prior to the commencement of the hearing, each party shall provide all other parties with a list containing the name and address of any witness who may be called to testify.

d) All parties shall be entitled to any exculpatory evidence in the HFPB's possession that tends to support the other party's position or that might impeach the credibility of HFPB's witness.

e) Upon a written request by HFPB, at any time after a notice or hearing request is filed, or at any stage of the hearing, the other parties shall be required to produce within seven days documents, books, records, or other evidence that relates directly to conduct of the business entity or other subject of the administrative hearing.

f) All parties shall be under a continuing obligation to promptly update requested discovery until the hearing is concluded without the necessity for further or additional requests.

g) There shall be no depositions for discovery purposes or interrogatories allowed in any proceedings brought pursuant to this Part, except as agreed to by the parties.
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h) For good cause shown, including but not limited to age, infirmity, or inability to travel, evidentiary depositions shall be allowed, by the agreement of the parties or order of the administrative law judge.

i) Requests to Admit Facts and Genuineness of Documents shall be allowed in accordance with Supreme Court Rule 216.

j) Nothing contained in this Section shall preclude the parties from agreeing to the voluntary exchange of more information than is required.

(Source: Added at 30 Ill. Reg. _____, effective _____________)

Section 1130.1130 Motions

a) Motions, unless made during a hearing or pre-hearing, shall be made in writing and shall set forth the relief or order sought and the legal authority for the action requested. Except as otherwise provided in this Part or by a specific statute, motions may seek any relief or order recognized in the Illinois Code of Civil Procedure and Rules of the Illinois Supreme Court, and shall include a reference to the applicable Section of such Code or Rules. Motions based on a matter that does not appear of record shall be supported by affidavit.

b) Written motions shall be titled as to the party making the motion and the nature of the relief sought. The title shall be in capital letters and shall be placed either below the caption or to the right of the caption beneath the docket number. No motion shall be identically titled with any other motion. Examples of properly titled motions: Respondent's Motion to Dismiss, Respondent's Second Motion to Dismiss.

c) Motions to the pleadings if not raised at the earliest opportunity shall be deemed waived. Motions to the pleadings shall not be granted if the pleadings are in conformity with Section 1130.1020.

d) The administrative law judge shall not have the authority to dismiss, postpone, vacate, or overturn an order or notice issued by HFPB, but may make a recommendation to HFPB any time that circumstances merit such a recommendation.

e) Motions for a continuance shall be granted only for good cause shown. Motions for a continuance shall be in writing and filed at least 5 working days prior to the
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hearing. Motions for a continuance shall be made immediately when the party learns that a continuance is needed and statements as to when the party learned that a continuance was needed, steps that were taken to avoid the continuance, and the current reasons the continuance is needed shall be contained in the motion. After one continuance has been granted to a party additional continuances may be granted to that party only if:

1) a hearing on the issue of whether or not to grant the continuance has been held and the administrative law judge finds that the moving party has presented sufficient evidence showing entitlement to another continuance;

2) there is an emergency; or

3) all parties so stipulate.

f) Whenever possible, as much of the hearing as possible shall be completed and only those matters that must be continued shall be continued.

g) If there is an unforeseen emergency, motions for a continuance may be made by telephone rather than in writing. Motions by telephone shall be made through a conference call involving the administrative law judge and all parties and shall be confirmed within three business days by the filing of a written motion.

h) Responses shall be in writing unless made at a prehearing conference or a hearing.

i) Demands for a Bill of Particulars shall not be allowed.

j) All motions under this Section shall be filed with the administrative law judge.

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 1130.1140 Subpoenas

a) Subpoenas requiring the attendance and the giving of testimony by witnesses and subpoenas duces tecum requiring the production of books, papers, records or memoranda may be issued by HFPB or the administrative law judge upon its own motion or upon the written request of any party to the proceeding. HFPB or the administrative law judge may require the party requesting the issuance of subpoenas to demonstrate the relevancy of the request to the issues in the hearing.
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For good cause shown, HFPB or the administrative law judge may deny or modify the request for subpoenas.

b) Subpoenas issued by HFPB or the administrative law judge upon the request of a party to the proceeding shall be delivered to the requesting party who shall be responsible for serving the subpoenas. Subpoenas shall be served personally or by certified mail.

c) The witness fee for attendance and travel shall be the same as the fee of the witness before the Circuit Courts of this State. When a witness is subpoenaed by HFPB or hearing officer upon its own motion or upon the request of IDPH, the witness fee shall be paid in the same manner as other expenses of the agency.

d) Subpoenas shall be enforced in the same manner as subpoenas issued by the Circuit Courts of this State.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1150 Administrative Law Judge's Report and Final Decision

a) At the conclusion of a hearing, the administrative law judge shall make a written report of the hearing, with his findings of fact and conclusions of law and his or her recommendations, if any, to HFPB through the Executive Secretary which report shall be accompanied by a transcript of the record, all exhibits admitted into evidence, copies of all pleadings and documents or evidence made a part of the record and any other material that is deemed to be a part of the record.

b) The administrative law judge shall render a report as promptly as possible. Except in unusual cases and for cause shown, the report should be made within 30 working days following the date the hearing is closed.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1160 Proposal for Decision

a) When a majority of the members of HFPB who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than HFPB, shall not be made final until a written proposal for decision is served upon the parties by certified mail and the provision of this Section complied with.
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b) The proposal for decision shall be written by the administrative law judge. The Proposal for Decision shall:

1) indicate the proposed order;
2) contain a statement of the reasons for the proposed decision;
3) contain a statement of each issue of fact or law necessary to the proposed decision; and
4) indicate the time in which the adversely affected parties have to file written exceptions and a brief.

c) A party adversely affected by a proposal for decision shall within 10 days of receipt of the proposed finding submit in writing a notice of an intent to file exceptions and a written brief. Failure to file such notice within this time limit shall constitute a waiver of the right to file exceptions and a brief.

d) There shall be no right to oral arguments before HFPB on proposed decisions.

e) Written exceptions and brief are to be submitted within 30 days after receipt of the proposed decision. HFPB may in its discretion upon the showing of good cause by a party grant additional time for the submission of the exception and brief if the request for such is made prior to the time for submission of the written exceptions and brief.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1170 Final Decision

a) On the basis of the hearing or upon default of the party to the hearing, HFPB shall make its final decision in each case, supported by concise written findings of fact and appropriate conclusions of law. The decision and supporting findings of fact and conclusions of law shall be made a part of the official record of each hearing.

b) A copy of HFPB's decision shall be sent by Certified Mail or personally served upon all the parties.

(Source: Added at 30 Ill. Reg. _____, effective ____________)
Section 1130.1180 Records of Proceedings

a) A full and complete record shall be kept of all proceedings. The record shall consist of the following:

1) all pleadings (including all notices and responses to pleadings), motions, and rulings;
2) a transcript of the hearing, if any, and all evidence 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 administrative law judge;
7) all staff memoranda or data submitted to the administrative law judge or members of the agency in connection with their consideration of the case; and
8) any communication prohibited by Section 4.2 of the Act, but such communications shall not form the basis for any finding of fact.

b) HFPB shall be the official custodian of all papers and documents filed in proceedings before HFPB.

c) The records of administrative proceedings, including the transcript, are public records and shall be open to reasonable public inspection at the offices of HFPB. The administrative law judge reports shall be available for public inspection after it has been delivered to HFPB.

(Source: Added at 30 Ill. Reg. ______, effective ____________)

Section 1130.1190 Miscellaneous

a) Computation of Time. The time within which any act under this Part is to be done shall be computed by excluding the first day and including the last, unless
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the last day is a Saturday, Sunday, or a holiday as defined or fixed by State statute, and then it shall also be excluded. If the day succeeding the last day is a Saturday, Sunday or holiday, then the succeeding day shall also be excluded.

b) Construction of Rules. This Part shall not be construed to abrogate, modify, or limit any rights, privileges, or immunities granted or protected by the Constitution or laws of the United States or the Constitution or laws of the State of Illinois. In case of any conflict between this Part and the IAPA or a specific licensing statute, the terms of the latter shall control.

c) Waiver. Compliance with any of this Part or with any or all provisions of the IAPA regarding contested cases may be waived by written stipulation of all parties.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1200 Number of Copies of Pleadings to be Filed

Under this Part, the parties shall file answers, amendments, motions, and affidavits in support of Motions, together with proof of service on all parties to the proceedings or their attorneys.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 1130.1210 Applicability

This Subpart applies to all contested cases.

(Source: Added at 30 Ill. Reg. _____, effective ____________)
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Section 1130.APPENDIX A  Annual Inflation Adjustments to Review Thresholds
(Repealed)

1. Capital Expenditures (Other than Major Medical Equipment):

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HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED AMENDMENTS

3. Health and Fitness Centers:

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4. Calculation of Inflation Factors:
Inflation factors, for capital equipment projects represent the percentage increase or decrease in the related health care costs from July 1 of the preceding calendar year to July 1 of the year for which the adjustment is to be made. The capital threshold is adjusted utilizing the annualized data from the report year as compared to the preceding year. A growth in costs of five percent during this twelve-month period would result in an inflation factor of 1.05.

5. Source of Data:
The capital expenditure threshold adjustment for all items other than major medical equipment is taken from the Building Construction Cost Data, Hospitals Component of Square Footage, Cubic Feet and Percent of Total Cost from the R.S. Means Company, Inc., 63 Smiths Lane, Kingston MA 02364-0800 (2003, no later editions or amendments included).

(Source: Repealed at 30 Ill. Reg. ______, effective ____________)
HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED REPEALER

1) **Heading of the Part:** Public Hearing and Comment Procedures

2) **Code Citation:** 77 Ill. Adm. Code 1140

3) **Section Numbers:**
   - 1140.10  Repeal
   - 1140.20  Repeal
   - 1140.30  Repeal
   - 1140.40  Repeal
   - 1140.50  Repeal
   - 1140.60  Repeal
   - 1140.70  Repeal
   - 1140.80  Repeal
   - 1140.90  Repeal

4) **Statutory Authority:** Illinois Health Facilities Planning Act [20 ILCS 3960]

5) **A Complete Description of the Subjects and Issues Involved:**
   Parts 1130, 1140, 1180 and 1190 of the Health Facilities Planning Board (IHFPB) rules have been reviewed and revised to accomplish the following objectives:
   - 1. Eliminate redundancy;
   - 2. Clarify language;
   - 3. Make language consistent throughout the Sections;
   - 4. Update language in response to current statutory requirements; and
   - 5. Streamline and clarify the review processes.
   Part 1140 has been consolidated and amended to Part 1130. This existing Part 1140 is proposed for repeal.

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this rulemaking contain incorporations by reference?** Yes

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

10) **Statement of Statewide Policy Objectives:** This rulemaking may affect units of local government that own or operate health care facilities.

11) **Time, Place and Manner in which interested persons may comment on this**
HEALTH FACILITIES PLANNING BOARD
NOTICE OF PROPOSED REPEALER

Proposed rulemaking:

Public Comment Period:
October 28, 2005 through December 14, 2005

Written public comment can be sent to:
Illinois Health Facilities Planning Board
525 West Jefferson Street
2nd Floor
Springfield, Illinois
Email: IHFPB_rules@idph.state.il.us

Public Hearing to be conducted at:
IHFPB Board Meeting
Wednesday, November 2, 2005
9:00 a.m.-5:00p.m.
Student Center Scheduling Office
Southern Illinois University
1255 Lincoln Drive
Carbondale, Illinois 62901-4407

12) Initial Regulatory Flexibility Analysis:

   A) Types of small businesses, small municipalities and not for profit corporations affected: This rulemaking may affect units of local government that own or operate health care facilities.

   B) Reporting, bookkeeping or other procedures required for compliance: None

   C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: the need for the rulemaking was not apparent at the time that the regulatory agendas were prepared.

The full text of the Proposed Repealer begins on the next page:
HEALTH FACILITIES PLANNING BOARD
NOTICE OF PROPOSED REPEALER

TITLE 77: PUBLIC HEALTH
CHAPTER II: HEALTH FACILITIES PLANNING BOARD
SUBCHAPTER b: OTHER BOARD RULES

PART 1140
PUBLIC HEARING AND COMMENT PROCEDURES (REPEALED)

Section
1140.10 Authority and Definitions
1140.20 Applicability
1140.30 Notice Procedures for Public Hearing and Comment on Applications for Permit
1140.40 Procedures Regarding Public Hearing Notice on Applications for Permit
1140.50 Procedures for Public Hearing on Applications for Permit
1140.60 Written Comments on Applications for Permit
1140.70 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)
1140.80 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)
1140.90 Procedures for Public Hearing and Comments on Proposed Rules

AUTHORITY: Implementing and authorized by Section 12(2) of the Illinois Health Facilities Planning Act [20 ILCS 3960].

SOURCE: Adopted at 24 Ill. Reg. 6103, effective April 7, 2000; repealed at 30 Ill. Reg. ______, effective ____________.

Section 1140.10 Authority and Definitions

This Part is prepared and promulgated by authority granted to the Illinois Health Facilities Planning Board (State Board) under Section 12 of the Illinois Health Facilities Planning Act (the Act) [20 ILCS 3960]. Definitions that will assist in the understanding of this Part are:

"Agency" or "IDPH" means the Illinois Department of Public Health or, in the case of public hearings on applications for permit, an areawide health planning organization that has been recognized by the State Board and delegated the authority to act on behalf of the IDPH.

"Areawide Health Planning Organization" or "Comprehensive Health Planning Organization" means the health systems agency designated by the Secretary, Department of Health and Human Services, or any successor agency.
HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED REPEALER

"State Board" means the Health Facilities Planning Board. [20 ILCS 3960/3]

Section 1140.20 Applicability

a) Applications for Permit

Section 8 of the Act provides that an opportunity for public hearing must be afforded by the Agency when an application for permit is initially reviewed. The public hearing must take place within a reasonable period after receipt of the application, not to exceed 90 days.

b) Certificates of Recognition

Section 9 of the Act provides that a public hearing must be conducted by the IDPH with respect to the approval or denial of an application for a certificate of recognition of an areawide health planning organization or for the revocation of a certificate of recognition. The public hearing on an application for recognition must take place within a reasonable period after receipt of the application, not to exceed 90 days.

c) Proposed Rules

Section 12 of the Act provides that the State Board shall adopt procedures for public notice and hearing on all proposed rules, regulations, standards, criteria, and plans required to carry out the provisions of the Act.

d) No fee shall be charged by the State Agency or the areawide health planning organization for any public hearing held pursuant to the provisions of this Part.

Section 1140.30 Notice Procedures for Public Hearing and Comment on Applications for Permit

a) Notice of Review and Opportunity for Public Hearing and Comment

After an application for permit has been received and has been deemed complete or after a complete application for permit has made a Type A modification (pursuant to the provisions of 77 Ill. Adm. Code 1130), the Agency shall afford an opportunity for public hearing and written comments on the project by preparing and publishing a Notice of Review and Opportunity for Public Hearing and Comment (Notice). The content of this Notice shall consist of at least the following elements:

1) Identification of the proposed project, including the project cost and a
HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED REPEALER

brief description of the project and the tentative date the application is scheduled for State Board review;

2) Identification, including the mailing address and telephone number, of the agency that is responsible for the public hearing;

3) Information regarding where a copy of the application may be viewed by the public and how copies of the application may be obtained;

4) A statement that any person has the right to request a public hearing and to submit written comments on the proposed project;

5) The date (which shall be at least 15 days from the date of publication of the Notice) by which a written request for a public hearing must be received by the Agency; and

6) The date (which shall be 20 days prior to the tentative date the application is scheduled for State Board review) by which written comments on the proposed project must be received by the Agency. The provisions of this Section do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing on application for permit.

b) The "Notice of Review and Opportunity for Public Hearing" (as prepared in accordance with subsection (a) above) shall be forwarded promptly to the applicant by certified mail and shall be published in a newspaper of general circulation in the area or community where the project is to occur.

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

Section 1140.40  Procedures Regarding Public Hearing Notice on Applications for Permit

a) Content and Distribution of Notice of Public Hearing on Applications for Permit
If the Agency receives a request for a public hearing on a proposed project in response to the Notice of Opportunity for Public Hearing or Comment within the "time frame" established in that Notice, the Agency shall schedule a public hearing on the proposed project and prepare and publish a Public Hearing Notice. The content of the Public Hearing Notice shall consist of at least the following
HEALTH FACILITIES PLANNING BOARD

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elements:

1) Identification of the subject to be heard;

2) Identification of the law under which it is being heard;

3) Identification of the agency conducting the hearing;

4) Announcement of the time, date and location of the hearing;

5) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the project; and

6) Announcement that allegations or assertions should be relevant to the need for the proposed project and be supported with two copies of documentation or materials that are preferably printed or typed on paper size 8½" by 11".

b) Notice of such hearing shall be made promptly by certified mail to the applicant, and within 10 days prior to the hearing, by publication in a newspaper of general circulation in the area or community to be affected (Section 8 of the Act).

c) Notice to all other persons, including members of the general public, who are to be served by the proposed project shall be deemed to have been given by publication of the Public Hearing Notice in a newspaper in the area or community where the project is to occur.

AGENCY NOTE: If the applicant or an interested person requests a public hearing on a proposed project after an application for permit has been submitted but prior to the application being deemed complete or after a project has had a Type A modification (pursuant to the provisions of 77 Ill. Adm. Code 1130), the Agency shall not provide a Notice of Opportunity for Public Hearing or Comment but shall, at the time the application is deemed complete or subsequent to a Type A modification, schedule a public hearing and prepare and publish a Public Hearing Notice.

Section 1140.50 Procedures for Public Hearing on Applications for Permit

a) Provisions for Public Hearing

Procedures for public hearing shall include at least the following provisions:
HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED REPEALER

1) Provision that the hearing be conducted in the area or community where the proposed establishment, construction, or modification of a health care facility is to occur (Section 8 of the Act);

2) Provision of a place of reasonable size and accessibility;

3) Provision of a hearing officer or officers with authority to conduct the hearing and to take all necessary steps to assure the hearing's proper completion;

4) Provision to allow all interested persons attending...reasonable opportunity to present their views or arguments in writing or orally... (Section 8 of the Act). Any person shall have the right to be represented by counsel;

5) The hearing officer shall have the authority to require the swearing in of persons presenting testimony and to determine the order in which testimony is taken and the time to be allocated for each person to testify;

6) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. The hearing officer's verbal announcement shall, for this purpose, constitute public notice;

7) The proceeding shall be tape-recorded or otherwise recorded. A full and complete transcript need not be made, however, unless required by law and paid for by the requesting party;

8) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his or her custody; and

9) The hearing officer shall, within a reasonable time, submit a public hearing report that shall include all exhibits and documents to the Agency for submission to the State Board.

Section 1140.60 Written Comments on Applications for Permit

All written comments that are received at least 20 days prior to the scheduled State Board meeting date for consideration of an application for permit will be forwarded to the State Board
and to the applicant in advance of the State Board meeting date. Written comments that are received after the 20 day period shall be submitted to the State Board and made part of the application for permit record only if the State Board does not make a final decision at the scheduled meeting and considers the application at a subsequent meeting. Persons submitting comments are responsible for assuring that the Agency is in receipt of the comments within the prescribed time frame. The provisions of this Section do not apply to written comments that are submitted pursuant to the time frames established by a hearing officer as part of a public hearing on an application for permit.

Section 1140.70 Notice Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)

a) Upon receipt of an application for a certificate of recognition (or in the case of proposed revocation of a certificate of recognition) of an areawide health planning organization for health facilities planning made to the State Board, the Agency shall conduct a public hearing within a reasonable period after receipt of the application, not to exceed 90 days (Section 9 of the Act). In addition to scheduling the public hearing, the Agency shall also prepare a public notice of the hearing. Such public notice shall consist of:

1) Identification of the subject to be heard;

2) Identification of the law under which it is being heard;

3) Identification of the agency conducting the hearing;

4) Announcement that the hearing is an open public meeting at which opportunity will be afforded all parties at interest to present written and/or verbal comments relevant to the issues; and

5) Announcement of the time, date and location of the hearing.

b) Notice of such hearing shall be made promptly to the applicant by certified mail and by publication in a newspaper of general circulation in the area where the applicant intends to conduct health facilities planning (Section 9 of the Act).

c) Notice of the public hearing shall also be forwarded by mail to the following:

1) All contiguous areawide health planning organizations;
ALL existing health care facilities in the health service area that are subject to the Act.

d) Notice to members of the general public who are to be served by the area-wide health planning organization proposed for recognition (or revocation) shall be deemed to have been given by the publication of the notice in the newspaper of general circulation in the area where the applicant intends to conduct health facilities planning.

Section 1140.80 Procedures for Public Hearing on Applications for Certificate of Recognition (or Revocation Thereof)

Procedures for public hearing shall include at least the following provisions:

a) Provision that the hearing be conducted by the Agency in the area affected (Section 9 of the Act);

b) Provision of a place of reasonable size and accessibility;

c) Provision of a hearing officer or officers with authority to conduct the hearing and to take all necessary steps to assure the hearing's proper completion;

d) Provision for allowing any applicant and all interested parties to present public testimony concerning the approval, denial, or revocation of a certificate of recognition. All interested parties attending such hearing shall be given reasonable opportunity to present their views orally or in writing... (Section 9 of the Act);

e) The hearing officer shall determine the order in which testimony is taken and the time to be allocated for each to testify;

f) The hearing officer shall maintain order and may set and announce new hearing dates, times and places. His verbal announcement shall, for this purpose, constitute public notice;

g) The hearing shall be deemed to have been completed and terminated when the hearing officer so finds and has determined that all exhibits, documents and other written materials presented or requested at the hearing are in his custody;

h) The hearing shall be tape-recorded or otherwise recorded. A full and complete
transcription need not be made, however, unless required by law and paid for by the requesting party; and

i) The hearing officer shall, within a reasonable time, make his report and the Agency shall transmit a copy to the State Board. The State Board shall consider all testimony submitted by the Agency pursuant to the public hearing in conjunction with the recommendation of the Agency for the approval, denial, or revocation of the certificate of recognition (Section 9 of the Act).

Section 1140.90 Procedures for Public Hearing and Comments on Proposed Rules

All proposed rule making is subject to the provisions of the Illinois Administrative Procedure Act (IAPA). The State Board shall conduct public hearings on all proposed rules. Notice of public hearings on proposed rules shall be published in the Illinois Register as part of the IAPA first notice requirements. Written comments should be submitted in accordance with the first notice requirements published in the Illinois Register.
HEALTH FACILITIES PLANNING BOARD

NOTICE OF PROPOSED REPEALER

1) **Heading of the Part:** Practice And Procedure In Administrative Hearings

2) **Code Citation:** 77 Ill. Adm. Code 1180

3) **Section Numbers:** Proposed Action:

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4) **Statutory Authority:** Illinois Health Facilities Planning Act [20 ILCS 3960]

5) **A Complete Description of the Subjects and Issues Involved:** Parts 1130, 1140, 1180 and 1190 of the Health Facilities Planning Board (IHFPB) rules have been reviewed and revised to accomplish the following objectives:

1. Eliminate redundancy;
2. Clarify language;
3. Make language consistent throughout the Sections;
4. Update language in response to current statutory requirements; and
5. Streamline and clarify the review processes.

Part 1180 has been consolidated and amended to Part 1130. This existing Part 1180 is proposed for repeal.
HEALTH FACILITIES PLANNING BOARD
NOTICE OF PROPOSED REPEALER

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

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

8) Does this rulemaking contain incorporations by reference? Yes

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

10) Statement of Statewide Policy Objectives: This rulemaking may affect units of local government that own or operate health care facilities.

11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking:

   Public Comment Period:  
   October 28, 2005 through December 14, 2005

   Written public comment can be sent to:  
   Illinois Health Facilities Planning Board  
   525 West Jefferson Street  
   2nd Floor  
   Springfield, Illinois  
   Email: IHFPB_rules@idph.state.il.us

   Public Hearing to be conducted at:  
   IHFPB Board Meeting  
   Wednesday, November 2, 2005  
   9:00 a.m.-5:00p.m.  
   Student Center Scheduling Office  
   Southern Illinois University  
   1255 Lincoln Drive  
   Carbondale, Illinois 62901-4407

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Licensed hospitals, long term care facilities, ambulatory surgical treatment centers, and end stage renal dialysis centers

B) Reporting, bookkeeping or other procedures required for compliance: None
C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not on either of the two most recent regulatory agendas because: the need for the rulemaking was not apparent at the time that the regulatory agendas were prepared.

The full text of the Proposed Repealer begins on the next page:
**HEALTH FACILITIES PLANNING BOARD**

**NOTICE OF PROPOSED REPEALER**

**TITLE 77: PUBLIC HEALTH**

**CHAPTER II: HEALTH FACILITIES PLANNING BOARD**

**SUBCHAPTER b: OTHER BOARD RULES**

**PART 1180**

**PRACTICE AND PROCEDURE IN ADMINISTRATIVE HEARINGS (REPEALED)**

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**AUTHORITY:** Implementing Section 5-10(a)(i) and Article 10 of the Illinois Administrative Procedure Act [5 ILCS 100] and implementing Sections 10 and 11 and authorized by Section 12 of the Illinois Health Facilities Planning Act [20 ILCS 3960].

**SOURCE:** Filed December 19, 1975; rules repealed, new rules adopted by emergency action at 2 Ill. Reg. 51, p. 176, effective December 12, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 12, p. 181, effective March 23, 1979; emergency amendment at 6 Ill. Reg. 6902, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11595, effective September 9, 1982; codified at 8 Ill. Reg. 15482; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2599; amended at 21 Ill. Reg. 13176, effective
NOTICE OF PROPOSED REPEALER

September 19, 1997; repealed at 30 Ill. Reg. ______, effective __________.

Section 1180.10 The Right to an Administrative Hearing: Rules Applicable to Such Hearings

   a) This Part of practice and procedures for administrative hearings is promulgated pursuant to Sections 4(a)(1) and 10-21 of the Illinois Administrative Procedure Act (Ill. Rev. Stat. 1977, ch. 127, pars. 4(a)(1) and 1010-1021) and Sections 10 and 11 of the Illinois Health Facilities Planning Act (Ill. Rev. Stat. 1977, ch. 111½, pars. 1160 and 1161).

   b) Section 10 of the Illinois Health Facilities Planning Act, hereafter referred to as the Act, provides that a person whose application for permit, a renewal thereof, or a certificate of recognition is denied or whose permit or certificate of recognition is revoked by the Illinois Health Facilities Planning Board, hereinafter referred to as the State Board, shall be afforded an opportunity for a hearing before a hearing officer. (See Section 1180.20 of this Part). Such hearings shall be governed by this Part.

   c) Administrative hearings in contested cases as defined as required by the Illinois Administrative Procedure Act shall be governed by this Part.

   d) In case of a conflict between the provisions of this Part and the Illinois Administrative Procedure Act, the provisions of the Illinois Administrative Procedure Act shall apply. Provisions of the Illinois Administrative Procedure Act that relate to contested cases shall apply to all hearings.

Section 1180.20 Definitions


"Chairman" means the duly elected presiding officer of the State Board.

"Contested case" shall have the meaning ascribed to it in Section 3.02 of the APA.

"Director" shall mean the Director of the Department of Public Health.

"Executive Secretary" means the chief executive officer of the State Board, responsible to the chairman and, thru the chairman, responsible to the State Board
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for the execution of its policies and procedures.

"Hearing Officer" shall mean the person appointed by the State Board to preside at the formal administrative hearing.

"Person" shall have the meaning ascribed to it in Section 3.07 of the APA.

"State Board" shall mean the Illinois Health Facilities Planning Board.

Section 1180.30 Waiver of Hearing

An applicant's right to an administrative hearing on an application denied by the State Board pursuant to Section 10 of the Illinois Health Facilities Planning Act shall be waived by the submission of a modified application for permit for the project which was the subject of the application which was denied. Any pending administrative hearing on an application for permit shall be dismissed by the hearing officer upon the showing that a modified application was submitted by the applicant and the matter was referred to the State Board. The waiver of a right to an administrative hearing on a denied application does not waive the right to an administrative hearing on the denial of the modified application.

Section 1180.40 Parties to Hearings

a) The parties to proceedings before the Illinois Health Facilities Planning Board are Complainants, Applicants, Respondents, and Intervenors.

b) The State Board shall be deemed a complainant in any proceedings initiated on its own motion.

c) An applicant is the person required by the Illinois Health Facilities Planning Act to obtain a permit from the State Board who files an application with the State Board.

d) A respondent is a party other than an applicant against whom a complaint or petition is filed.

e) Intervenors are "adversely affected persons" and are granted the right to be parties to proceedings before the State Board. Such persons are defined as:

1) the areawide health planning organization for the health service area in which the proposed project is to be located;
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2) areawide health planning organizations serving contiguous health service areas or located within the same Standard Metropolitan Statistical Area (SMSA);

3) any person residing within the geographic area served or to be served by the applicant;

4) any person who regularly uses health care facilities within that geographic area;

5) health care facilities and health maintenance organizations (HMOs) located in the health service area in which the project is proposed to be located which provide services similar to the services of the applicant;

6) health care facilities and health maintenance organizations (HMOs) which, prior to receipt by the State Agency of the application being reviewed, have formally indicated an intention to provide similar services in the future;

7) third party payers who reimburse health care facilities for services in the health service area in which the proposed project is to be located;

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

9) the State Agency.

Section 1180.50 Appearance - Right to Counsel

a) Any party to the proceeding may appear and be represented by an attorney at law authorized to practice in the State of Illinois.

b) Each party to a proceeding who appears before the Executive Secretary either in person or by counsel, shall inform the Department in writing or upon the record of the address at which any notice or other document may be served upon him or her in such proceedings.

Section 1180.60 Intervention
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a) A right of intervention shall exist for other interested parties, including representatives of health planning organizations and consumer groups who demonstrate a relevant interest.

b) A person desiring to intervene shall present a Petition for Intervention accompanied by any pleadings or motions he proposes to file. Failure to file notice of intent to intervene shall not prevent a party from petitioning to intervene at the hearing. The statements of intent to intervene and petitions to intervene shall be submitted to the hearing officer for a determination of whether relevant interest has been demonstrated.

c) In determining whether to allow intervention, the Hearing Office may consider the following: whether the intervention will unduly delay the hearing, prejudice the rights of the Respondent, be unduly burdensome to any party, enlarge the scope of the proceedings, insert new issues into the proceedings, or whether there are other remedies available to the petitioners, or whether there are any other factors which may bear upon the rights of any party.

d) An intervenor shall have all the rights of an original party to the administrative hearing unless the Hearing Officer in allowing intervention restricts the petitioner's right to intervene to certain issues in the proceedings.

Section 1180.70 Pleadings

a) Notice. In all actions under this Part, the State Board shall serve on all parties to a contested case a Notice of an Opportunity for an Administrative Hearing. The Notice shall be signed by the Executive Secretary and shall accompany the announcement of the decision of the State Board resulting in a contested case.

b) The Notice of an Opportunity for an Administrative Hearing shall contain.

1) a statement of the nature of the hearing;

2) a statement of the date and place at which a Request for a Hearing (see Subsection (c) below) from the person given the opportunity for a hearing is to be received by the State Board;

3) a statement as to the time and place that the hearing will be held if a timely Request for Hearing is received by the Department;
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4) a statement of the legal authority and jurisdiction under which the hearing is to be held;

5) a reference to the particular sections of the statute and rules involved, and;

6) unless accompanied by Allegations of Noncompliance, a short and plain statement of the matters asserted.

c) Request for Hearing. A person who received a Notice of an Opportunity for a Hearing must submit a written request for the hearing to the State Board. This request is to be sent to the State Board's Executive Secretary at the address stated in the Notice within 30 days following notification of the decision of the State Board. Failure to comply with this Section shall constitute a waiver of the person's right to an administrative hearing.

d) For purpose of Subsection (c) above notification of the State Board's action is deemed to be given on the date the written communication is received or delivered.

e) 1) Upon receipt of a request for a hearing, the State Board through the Board Chairman, shall, within 30 days after the receipt of the request, schedule a hearing and appoint a hearing officer.

2) The State Board shall give the applicant or holder of a permit or certificate of recognition notice (See Subsection (b) above) of the scheduling of a hearing and the appointing of a hearing officer and file a petition (See Subsection (c) above) stating the basis for the State Board's action to deny or revoke the permit or certificate of need.

f) Answers. Written Answers to Complaints or Notice to Show Cause may be filed with the hearing officer and all other parties at least 10 days prior to date of hearing. If any respondent or applicant fails to file a written answer or fails to respond to any allegation, such allegations shall be deemed to have been denied issues to which such respondent will be considered joined. Answers shall contain an explicit admission or denial of each allegation of the pleading to which they relate and a concise statement of the nature of the defense. The answer need not be verified. Answers shall be forwarded to all parties and shall become a part of the record.
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g) Petition for Intervention.

1) The Petition for Intervention shall contain:

   A) the name and address of the person making the petition to intervene;

   B) if the petitioner is represented by an attorney, the name and address of the attorney; and

   C) a plain and concise statement setting forth the grounds for intervention.

2) All petitions shall be filed with the Hearing Officer and copies served on all parties to the proceeding.

Section 1180.80 Amendments to Pleadings

a) Amendments to pleadings may be allowed upon proper motion at any time during the pendency of the proceeding on such terms as shall be just and reasonable.

b) All pleadings shall be liberally construed with a view to doing substantial justice between the parties.

Section 1180.90 Motions

a) Motions may be presented requesting a postponement of the hearing; a more sufficient pleading; a bill of particulars; the striking of irrelevant, immaterial, scurrilous, or unethical matter; the dismissal of the proceedings for want of jurisdiction; the quashing of a subpoena; or such other relief or order as may be appropriate.

b) Motions, unless made during a hearing or the pre-hearing conference, shall be made in writing, shall set forth the relief or order sought, and shall be rules upon the day of such hearing, or prior to such hearing after notice to all parties and opportunity to be heard on such motion. The requirement of writing is fulfilled if the motion is stated in a written Notice of Motion. Motions based on a matter which does not appear of record shall be supported by affidavit.
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c) Responses to Motions. Any party to a hearing may respond to any motion or petition. Responses shall be in writing unless made at a pre-hearing conference or a hearing.

d) All motions, petitions and other pleadings under this Section shall be filed with the Hearing Officer.

Section 1180.95 Disqualification of Hearing Officer

Prior to commencement of a hearing, on written motion of any party supported by affidavit setting forth the facts upon which such motion is made, the hearing officer or administrative law judge who is the subject of a motion to disqualify shall review the motion and affidavit and shall issue his or her report to the State Board. The report shall include a proposed ruling on the motion and the reasons for the ruling. If the State Board determines that bias or a conflict of interest exists, it shall grant the motion and the Chairman shall appoint a new hearing officer or administrative law judge within 30 days after the State Board's determination. An adverse ruling, in and of itself, shall not constitute bias or conflict of interest (Section 10-30 of the Illinois Administrative Procedure Act).

Section 1180.100 Form of Papers

a) All papers filed in any proceeding except exhibits shall be typewritten or printed. If typewritten, the impression shall be on one side of the paper; long quotations shall be single spaced and indented. Mimiographed, multigraphed, hectographed, photostated papers, and the like, will be accepted as typewritten.

b) All papers, except exhibits, shall be cut or folded so as not to exceed a width of 8½ inches and a length of 14 inches and shall have inside margins not less than one (1) inch wide. Whenever practical, all exhibits of a documentary character shall conform to said requirements.

c) All pleadings, written motions, or notices filed in the administrative proceeding shall be signed in ink by the party filing the paper or by an officer, agent, or attorney thereof.

d) Pleadings, written motions, notices, and applications shall contain the address of the party filing the paper or, if represented by an attorney, the name and business address of such attorney.

Section 1180.110 Service
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a) Notices under Section 1180.70 shall be served either personally or by certified mail upon all parties of their agents appointed to receive service of process.

b) Service of pleadings or motions under Section 1180.70 of this Part unless otherwise provided for in this Section shall be made by delivering in person or by depositing in the United States Mail, properly addressed with postage prepaid, one copy to each party to the proceeding. When any party or parties have appeared by attorney, service upon the attorney shall be deemed service upon such party or parties.

c) Proof of service under this Section shall be by certificate of attorney, affidavit or acknowledgement.

Section 1180.120 Conduct of Hearings

a) All hearings conducted in any proceedings shall be open to the public.

b) Hearings shall commence and proceed with due diligence.

c) Hearings will be conducted by a Hearing Officer, appointed by the State Board.

d) 1) The Hearing Officer shall conduct hearings; administer oaths; issue subpoenas; take depositions or cause the same to be taken; regulate the course of hearings, hold informal conferences for the settlement, simplification, or definition of issues, dispose of procedural request, motions, and similar matters; continue the hearing from time to time when necessary; examine witnesses; and rule upon the admissibility of evidence and amendments to pleadings.

2) The Hearing Officer shall have the authority to grant one continuance at the request of a party in the proceeding. Requests for further continuances shall be made to the Chairman and shall be granted only if an "Act of God" would prevent the hearing from proceeding.

e) In a hearing to consider the denial of a permit or certificate of recognition, the applicant shall have the burden of establishing the proposed project, or application for certificate of recognition, as the case may be, for which application for permit or recognition is made, is consistent with the standards, criteria, or plans adopted
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by the State Board upon which the finding and decision of the State Board was made; and only such testimony and evidence as is relevant thereto shall be offered or accepted.

f) All parties to an administrative hearing shall have the right to give testimony, produce evidence, cross-examine adverse witnesses and present arguments relevant to the question of consistency and conformity of the proposed project with the adopted standards, criteria or plans upon which the finding and decision of the State Board was made.

g) The Hearing Officer shall direct all parties to enter their appearances on the record.

h) Parties may by stipulation agree upon any facts involved in the proceeding. The facts stipulated shall be considered as evidence in the proceeding. Unless precluded by law, disposition may be made of any contested case by stipulation, agreed settlement, consent order, or default.

i) At any stage of the hearing or after all parties have completed the presentation of their evidence, the State Board or its Hearing Officer may call upon any party or the technical staff of the Department of Public Health or other Departments of State government or State Universities for further material or relevant evidence upon any issue. All parties at interest shall be afforded the right to present further evidence or material, or contradict the evidence or material presented, as per the provisions of the Illinois Administrative Procedure Act.

j) The rules of evidence and privilege as applied in civil cases in the Circuit Court of this State shall be followed. However, evidence not admissible under such rules of evidence may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the conduct of their affairs. Immaterial, irrelevant, unduly repetitious material shall be excluded. All admissible evidence shall be considered in accordance with its relative probative value in formulating the final decision of the State Board and also in formulating the findings of fact and conclusions of law (if any) which support the decision. A copy of the whole or any part of an admissible book, record, paper, or memorandum of the Department which is made by photostatic or other method of accurate and permanent reproduction may be admitted in evidence at the hearing without further proof of the accuracy of such copy. When any material or relevant matter offered in evidence by any party is embraced in a book, paper, or document containing other matter not material or relevant, the party offering the
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same shall plainly designate the matter so offered. If, in the judgment of the
Hearing Officer, such immaterial or irrelevant matter would unnecessarily
encumber the record, such book, paper, or document will not be received in
evidence as a whole, but the material or relevant portions thereof, if otherwise
admissible, may be read into the record or an exhibit. Objections to evidentiary
offers may be made and shall be noted in the record. Any part of the evidence
may be received in written form.

k) Official notice may be taken of matters of which Circuit Courts of this State may
take judicial notice. In addition, official notice may be taken of generally
recognized technical or scientific facts within the State Board's specialized
knowledge. Parties shall be notified either before or during the hearing, or by
reference in preliminary reports or otherwise, of the material noticed, including
any staff memoranda or data, and they shall be afforded an opportunity to contest
the material so noticed. The State Board's experience, technical competence and
specialized knowledge may be utilized in the evaluation of evidence.

l) The Executive Secretary will arrange for a certified stenographic reporter (court
reporter) to make a stenographic record of the hearings in all administrative
hearings under this Part. Any persons may make arrangements to obtain a copy
of the stenographic record from the reporter.

m) Suggested corrections to the transcript of record may be offered within ten (10)
days after the transcript is filed in the proceedings, unless the Director or the
Hearing Officer permits suggested corrections to be offered thereafter. Suggested
corrections shall be served upon or brought to the attention of such party whose
appearance is of record or his/her attorney, the official reporter, and the Hearing
Officer. If suggested corrections are not objected to, the Hearing Officer will
direct the corrections to be made and the manner of making them. In case the
parties disagree on suggested corrections, they may be heard by the Hearing
Officer, who shall then determine the manner in which the record shall be
changed, if at all.

Section 1180.130 Subpoenas

a) Subpoenas requiring the attendance and the giving of testimony by witnesses, and
subpoenas duces tecum requiring the production of books, papers, records or
memoranda may be issued by the State Board or the Hearing Officer upon its own
motion or upon the written request of any party to the proceeding. The State
Board or the Hearing Officer may require the party requesting the issuance of
subpoenas to demonstrate the relevancy of the request to the issues in the hearing. For good cause shown, the State Board or the Hearing Officer may deny or modify the request for subpoenas.

b) Subpoenas issued by the State Board or the Hearing Officer upon the request of a party to the proceeding shall be delivered to the requesting party who shall be responsible for serving the subpoenas. Subpoenas shall be served personally or by certified mail.

c) The witness fee for attendance and travel shall be the same as the fee of the witness before the Circuit Courts of this State. When a witness is subpoenaed by the State Board or Hearing Officer upon its own motion or upon the request of the Department, the witness fee shall be paid in the same manner as other expenses of the agency.

Section 1180.140 Hearing Officer's Report and Final Decision

a) At the conclusion of a hearing the Hearing Officer shall make a written report of the hearing, with his findings of fact and conclusions of law and his recommendations, if any, to the State Board through the Executive Secretary which report shall be accompanied by a transcript of the record, all exhibits admitted into evidence, copies of all pleadings and documents or evidence made a part of the record and any other material which is deemed to be a part of the record.

b) The Hearing Officer shall render his report as promptly as possible. Except in unusual cases and for cause shown, the report should be made within 30 working days following the date the hearing is closed.

Section 1180.150 Proposal for Decision

a) When a majority of the members of the State Board who are to render the final decision have not heard the case or read the record, the decision, if adverse to a party to the proceeding other than the State Board, shall not be made final until a written proposal for decision is served upon the parties by certified mail and the provision of this Section complied with.

b) The proposal for decision shall be written by the Hearing Officer. The Proposal for Decision shall:
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1) indicate the proposed order;
2) contain a statement of the reasons for the proposed decision;
3) contain a statement of each issue of fact or law necessary to the proposed decision; and
4) indicate the time in which the adversely affected parties have to file written exceptions and a brief.

c) A party adversely affected by a proposal for decision shall within ten (10) days of receipt of the proposed finding submit in writing a notice of an intent to file exceptions and a written brief. Failure to file such notice within this time limit shall constitute a waiver of the right to file exceptions and a brief.

d) There shall be no right to oral arguments before the State Board on proposed decisions.

e) Written exceptions and brief are to be submitted within thirty (30) days of receipt of the proposed decision. The State Board may in its discretion upon the showing of good cause by a party grant additional time for the submission of the exception and brief if the request for such is made prior to the time for submission of the written exceptions and brief.

Section 1180.160 Final Decision

a) On the basis of the hearing or upon default of the party to the hearing the State Board shall make its final decision in each case supported by concise written findings of fact and appropriate conclusions of law. The decision and supporting findings of fact and conclusions of law shall be made a part of the official record of each hearing.

b) A copy of the State Board's decision shall be sent by Certified Mail or personally served upon the Respondent and/or Applicant.

Section 1180.170 Records of Proceedings

a) A full and complete record shall be kept of all proceedings. The record shall consist of the following:
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1) all pleadings (including all notices and responses thereto), motions, and rulings;

2) a transcript of the hearing, if any, and all evidence 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 or

7) all staff memoranda or data submitted to the Hearing Officer or members of the agency in connection with their consideration of the case, and;

8) any communication prohibited by Section 14 of the APA but such communications shall not form the basis for any finding of fact.

b) The State Board shall be the official custodian of all papers and documents filed in proceedings before the State Board.

c) The records of administrative proceedings, including the transcript, are public records and shall be open to reasonable public inspection at the offices of the State Board. Hearing officers report available for public inspection after it has been delivered to the State Board.

Section 1180.180 Miscellaneous

a) Computation of Time. The time within which any act under this Part is to be done shall be computed by excluding the first day and including the last, unless the last day is a Saturday, Sunday, or a holiday as defined or fixed by statute now or hereafter in force in this State, and then it shall also be excluded. If the day succeeding such Saturday, Sunday or holiday, then such succeeding day shall also be excluded.

b) Construction of Rules. This Part shall not be construed to abrogate, modify, or limit any rights, privileges, or immunities granted or protected by the Constitution of laws of the United States or the Constitution of laws of the State of Illinois. In case of any conflict between this Part and the APA or a specific licensing statute,
the terms of the latter shall control.

c) Waiver. Compliance with any of this Part or with any or all provisions of the APA regarding contested cases may be waived by written stipulation of all parties.

Section 1180.190 Number of Copies of Pleadings to be Filed

a) Under this Part, the parties shall file with the State Board the following number of copies of each pleading filed in the proceeding:

b) Answers, amendments, motions, and affidavits in support of motions – three copies, together with proof of service on all parties to the proceedings or their attorneys.

Section 1180.200 Applicability

This Part applies to all contested cases.
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1) Heading of the Part: Permit Application Fees

2) Code Citation: 77 Ill Adm. Code 1190

3) Section Numbers: Proposed Action:

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4) Statutory Authority: Illinois Health Facilities Planning Act [20 ILCS 3960]

5) A Complete Description of the Subjects and Issues Involved: Parts 1130, 1140, 1180 and 1190 of the Health Facilities Planning Board (IHFPB) rules have been reviewed and revised to accomplish the following objectives:
   1. Eliminate redundancy;
   2. Clarify language;
   3. Make language consistent throughout the Sections;
   4. Update language in response to current statutory requirements; and
   5. Streamline and clarify the review processes.

   Part 1190 has been consolidated and amended to Part 1130. This existing Part 1190 is proposed for repeal.

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

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

8) Does this rulemaking contain incorporations by reference? Yes

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

10) Statement of Statewide Policy Objectives: This rulemaking may affect units of local government that own or operate health care facilities.
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11) Time, Place and Manner in which interested persons may comment on this Proposed rulemaking:

Public Comment Period:
October 28, 2005 through December 14, 2005.

Written public comment can be sent to:
Illinois Health Facilities Planning Board
525 West Jefferson Street
2nd Floor
Springfield, Illinois
Email: IHFPB_rules@idph.state.il.us

Public Hearing to be conducted at:
IHFPB Board Meeting
Wednesday, November 2, 2005
9:00 a.m.-5:00p.m.
Student Center Scheduling Office
Southern Illinois University
1255 Lincoln Drive
Carbondale, Illinois 62901-4407

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Licensed hospitals, long term care facilities, ambulatory surgical treatment centers, and end stage renal dialysis centers

B) Reporting, bookkeeping or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the need for the rulemaking was not apparent at the time that the regulatory agendas were prepared.

The full text of the Proposed Repealer begins on the next page:
Section 1190.10  Statutory Authority and Public Hearings

a) This Part is prepared and promulgated by authority granted to the Illinois Department of Public Health (Agency) and to the Illinois Health Facilities Planning Board (State Board) under Section 12.1 of the Illinois Health Facilities Planning Act [20 ILCS 3960/12(8)].
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Planning Act (the Act) [20 ILCS 3960/12.1] which provides that the State Agency shall charge and collect an amount determined by the State Board to be reasonable application fees for the processing of the applications by the State Board, the Agency and the appropriate recognized areawide health planning organization. The State Board shall set the amounts by rule. All fees and fines collected under the provisions of the Act shall be deposited into the Illinois Health Facilities Planning Fund to be used for the expenses of administering the Act.

b) Public Hearings on this Part were held in accordance with the provisions of Section 12 of the Act. The Executive Secretary maintains a record of the Public Hearings and copies of the records are available for public inspection at the Official Headquarters of the State Board at 525 West Jefferson Street, Springfield, Illinois 62761.

Section 1190.20 Initial Fee Deposit

An initial fee deposit of $700 must accompany each application for permit submitted to the State Board unless the project is not subject to a fee pursuant to Section 1190(b). No application for permit shall be deemed complete (as per the provisions of 77 Ill. Adm. Code 1130) until this initial fee deposit is paid. Upon the application being deemed complete, the Executive Secretary shall then review the total estimated cost of the project in order to determine the full amount of the fee to be paid. If any additional balance is due, the applicant shall be advised in writing and is expected to make payment of the balance of the fee within 30 days of the receipt of the notice of amount due. The State Board will not place any reviewed application on its docket for action until payment of the full fee due has been received and no permit shall be approved or issued on any application for permit on which the correct fee amount has not been paid. Applications shall be declared null and void if the total application fee has not been paid within 30 days after receipt of the completion notice.

Section 1190.25 Fee Payment

Fee payments shall be made in the form of a check or money order made payable to the Illinois Department of Public Health.

Section 1190.30 Assessment of Fees

a) All projects, except those not subject to a fee pursuant to Section 1190.30(b), are required to submit a fee for an application for permit. Fees shall be assessed in the following manner. For each project having no cost or having a total estimated cost (calculated as per Section 1190.40) of:
1) Less than $350,000, then the application fee shall be $700;

2) $350,000 to $50,000,000, then the application fee shall be 0.2 of one (1) percent of the total estimated cost of the project (Total Estimated Cost of the Project X .002 = Amount of Application Fee). The range of fees shall therefore be from a $700 minimum on a $350,000 (or less) project up to a maximum of $100,000 on a $50,000,000 project;

3) More than $50,000,000, then the application fee shall be $100,000.

b) Projects classified as emergency shall not be charged a fee.

Section 1190.40 Total Estimated Cost of the Project

a) The total estimated cost of the project is the sum of all costs to be incurred to complete the project. The total estimated cost of the project shall include all:

1) Preplanning costs;

2) Site survey and soil investigation fees;

3) Site preparation costs;

4) Off-site work;

5) Construction contracts and contingencies (including demolition);

6) Capital equipment in construction contracting;

7) Architect's fees;

8) Consultants and other fees for professional assistance on the proposed project;

9) Capital equipment not in construction contracts;

10) Bond issuance expenses;

11) Net interest expense during construction; and
12) All other costs which are to be capitalized.

When a project or any component of a project is to be accomplished by lease, donation, gift or any other means, the fair market value or dollar value which would have been required for purchase, construction, or acquisition shall be included in the total estimated cost of the project.

b) The applicant shall submit documentation as to the fair market or dollar value of a project or component of a project. Documentation of fair market value includes:

1) for equipment which is to be leased, statements from the manufacturer(s) as to the purchase price of the equipment;

2) for equipment or other real property which will be a gift or donated, a statement from the donor attesting to the dollar value reported to the Internal Revenue Service pursuant to IRS Code Document 170;

3) for existing property (other than equipment) which is to be leased, copies of an appraisal performed by a certified appraiser or copies of financial statements detailing actual construction costs if the property is less than three years old; or

4) for property (other than equipment) that is being or will be constructed and then leased, a statement from the lessor as to the anticipated costs of construction.

c) Appeal of the Executive Secretary's decision on any fee amounts and any related matters is to the State Board. Appeals must be accomplished in accordance with Section 1130.810, Declaratory Rulings.

d) Fee payments are not refundable and are deposited in the Health Facilities Planning Fund. They may be recovered in full or in part only by petitioning the Illinois Court of Claims for recovery.

Section 1190.50 Fees Related to Modification of an Application or Alteration of a Permit

a) If, during the course of the Review Period, a modification is made in the application for permit which results in an increased "Total Estimated Cost of the Project", the fee shall be recalculated on the basis of the revised cost estimate.
Payment of any additional fee amount due shall be made by the applicant upon receipt of notification. No action on the application will be taken by the State Board until all fees are paid.

b) If, after a permit has been issued, the permit holder proposes to alter a project per Part 1130, a processing fee shall be assessed for the review of the alteration. For alterations which do not increase the project's amount of borrowed funds, the fee amount shall be $1,000 if the proposed alteration does not increase the project cost above the approved permit amount, or the greater of $1,000 or .2 percent of the dollar amount of the project which exceeds the approved amount. For alterations which increase the project's amount of borrowed funds, an additional fee shall be assessed and shall be the greater of $1,000 or .2 percent of the dollar amount of the project's increase in borrowed funds.

Section 1190.60 Obligation Requirements and Cost Overrun

a) A person holding a permit approved under the requirements of Part 1130 must receive an authorization to obligate (per Section 1130.720) prior to obligation of the project. If the total estimated cost of the project at the time of review for authorization exceeds the permit amount, the application processing fee shall be recalculated on the basis of the revised estimated cost. If at the time of the review, the permit holder also proposes an alteration of the project which requires State Board review, the processing fee shall be assessed in accordance with the provision of Section 1190.50(b), Alterations.

b) Permit holders who have obligated the project prior to receipt of an authorization to obligate shall be assessed a processing fee of the greater of $500 or .2 of one percent of the project cost in excess of that approved by permit. This fee must be submitted prior to State Board review of the authorization request.

c) Any project costs which exceed the originally approved permit amount by more than ten percent or which exceed a revised permit amount approved by the State Board pursuant to the alteration provisions of Part 1130 are cost overruns and are without permit unless subsequently approved by the State Board. Processing fees for review of any cost overruns shall be assessed in accordance with the provision of Section 1190.50(b), Alterations.

AGENCY NOTE: Payment of the processing fee shall not preclude the State Board from pursuing the sanction available under the Act or pursuing other available remedies for failure of the permit holder to comply with the provisions of Part 1130.
Section 1190.70 Permit Renewal or Extension

Projects which have been approved and which apply for an extension of the obligation period or renewal or a permit shall be assessed an application processing fee of $500.

Section 1190.80 Applications for Exemptions Other than Major Medical Equipment

Persons submitting applications for exemptions for transactions other than the acquisition of major medical equipment shall be assessed an application fee of $1,000 for the processing of the application. The Chairman or the State Board will not place any application for exemption on its docket for action nor take any action until all required fees have been submitted.

Section 1190.90 Applications for Exemption of Major Medical Equipment

Persons submitting applications for exemption for the acquisition of major medical equipment shall be assessed an application fee of the greater of $1,000 or .1 percent of the total estimated cost of the transaction (calculated as per Section 1190.40). The application fee must accompany each application for exemption. The Chairman or the State Board will not place any application for exemption on its docket for action nor take any action until all required fees have been submitted.
NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Temporary Assistance for Needy Families

2) Code Citation: 89 Ill Adm. Code 112

3) Section Number: Proposed Action:
112.84 Repeal


5) A Complete Description of the Subjects and Issues involved: The Employment Retention and Advancement Demonstration Project has ended.

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

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

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

9) Does this rulemaking contain incorporations by reference? No

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

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11) Statement of Statewide Policy Objectives (if applicable): This rulemaking does not create or expand a State mandate.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

12) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Interested persons may present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

(217) 785-9772

13) **Initial Regulatory Flexibility Analysis:**

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

B) **Reporting, bookkeeping or other procedures required for compliance:** None

C) **Types of professional skills necessary for compliance:** None

14) **Regulatory agenda on which this rulemaking was summarized:** July 2005

The full text of the Proposed Amendment begins on the next page.
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NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

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112.354 Qualified Provider (Repealed)
112.356 Notification of Available Services (Repealed)
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112.414 Child Care Overpayments and Recoveries (Repealed)
112.416 Fees for Service for Transitional Child Care (Repealed)
112.418 Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

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SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section 112.84 Employment Retention and Advancement Project (Repealed)

The Employment Retention and Advancement Project is a 5-year demonstration project, with an experimental design, operated by the Department. The purpose of the demonstration project is to test the effectiveness of directed career advancement compared to conventional approaches. The project may be extended beyond the initial 5-year period.

a) Selection Criteria
The Department will identify TANF cash clients, under the age of 50, who:

1) have been working 30 or more hours per week for 6 or more consecutive months; and

2) have had their TANF cash 60-month limit clock stopped for all 6 months; and

3) reside in Cook or St. Claire county.

These clients will be randomly assigned to one of the two research groups described in subsection (c) of this Section.

b) Participation Requirements
Participation in the Employment Retention and Advancement Project is mandatory for all persons described in subsection (a) of this Section and selected for participation. Clients must discuss participation in the group described in subsection (c)(1)(A) of this Section with the service provider that initially contacts them and cooperate in all activities of their Responsibility and Services Plan (see Section 112.65), as mutually amended with the service provider. The reconciliation process is available to clients who disagree with the resultant RSP (see Section 112.77). A client who, without good cause, fails to participate in the initial discussion with the service provider or with activities added to his/her Responsibility and Services Plan is subject to sanction. (See Section 112.79 for sanctions and Section 112.80 for good cause.)

c) Experimental and Control Groups

1) Working TANF cash clients identified, pursuant to subsection (a) of this
DEPARTMENT OF HUMAN SERVICES

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Section, will be randomly assigned to one of the two following research groups:

A) Experimental—This experimental group will receive intensive services focused on education and/or training and/or work-related activities to improve their advancement and earnings potential. The names of clients selected for this group will be sent to a contracted service provider that will aggressively reach out to the sample clients and work with them in selecting appropriate education, training, and/or work-related activities designed to help them move up to better jobs.

Activities may include developing an advancement plan with specific steps and identifying career ladders, either with the current employer or with another employer or industry. Other approaches might include targeted job development and job search assistance, career counseling, working with employers to develop advancement strategies, removal of specific barriers, coordination of work supports (e.g., child care, transitional Medicaid, employment expenses, etc.). Educational and/or training activities may be included to develop or expand job expertise.

B) Control—This group is subject to existing policy and practices. These clients continue to be served by local office staff and through any existing relationships with other service providers.

2) As long as the Employment Retention and Advancement Project is in effect, a client designated as an experimental or control group member retains that designation for purposes of data collection even if that client leaves the project area or stops receiving TANF cash. An experimental group member may continue receiving services when he or she leaves the project area or stops receiving TANF cash.

d) Time Limit on Receipt of Benefits

1) Individuals who participate in the Employment Retention and Advancement Project are subject to the TANF 60-month time limit as described in 89 Ill. Adm. Code 112.1 and 112.2, except for clients assigned to the educational and training-focused activities. For participants in educational or training-focused activities, a month will not
DEPARTMENT OF HUMAN SERVICES

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count toward the 60-month limit if the client is working at least 20 hours per week and has a combination of work and education hours of at least 30 hours per week for a TANF 04 case (TANF case where a child has one absent parent, one incapacitated parent, or one parent ineligible for assistance) and 35 hours per week for a TANF 06 case (TANF case where a child has 2 parents receiving cash benefits and both are medically able to work). (See Section 112.1.)

2) Education hours are calculated using actual class hours. Study hours are not included in this calculation.

(Source: Repealed at 30 Ill. Reg. _____, effective ___________)
DEPARTMENT OF HUMAN SERVICES

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1) **Heading of the Part**: Food Stamps

2) **Code Citation**: 89 Ill Adm. Code 121

3) **Section Number**: Proposed Action:
   
   121.63 Amendment

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

5) **A Complete Description of the Subjects and Issues involved**: This rulemaking revises the State Air Conditioning/Heating Standard Utility Allowance and the Limited Standard Utility Allowance. These changes are the result of the annual review of the Food Stamp Program standards required by Food and Nutrition Service regulations.

6) **Published studies or reports, and sources of underlying data, used to compose this rulemaking**: The analysis by Illinois’ Bureau of Research and Analysis showed an increase in the heating costs that, consequently, warrants a $7 increase in the State’s Heating and Cooling Standard Utility Allowance and a $2 increase in the Limited Standard Utility Allowance. The single standard utility allowance and the telephone standard utility allowance remain unchanged at $32 and $27 respectively.

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

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

9) **Does this rulemaking contain incorporations by reference?** No

10) **Are there any other proposed amendments pending on this Part?** Yes

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11) **Statement of Statewide Policy Objectives (if applicable)**: This rulemaking does not create or expand a State mandate.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

12) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Interested persons may present their comments concerning this proposed amendment within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

   (217) 785-9772

13) **Initial Regulatory Flexibility Analysis:**

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

   B) **Reporting, bookkeeping or other procedures required for compliance:** None

   C) **Types of professional skills necessary for compliance:** None

14) **Regulatory agenda on which this rulemaking was summarized:** July 2005

The full text of the Proposed Amendment begins on the next page.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

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121.3 Approval of an Application and Initial Authorization of Assistance
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121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203 Collecting Claim Against Households (Recodified)
121.204 Failure to Respond to Initial Demand Letter (Recodified)
121.205 Methods of Repayment of Food Stamp Claims (Recodified)
121.206 Determination of Monthly Allotment Reductions (Recodified)
121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
121.208 Suspension and Termination of Claims (Recodified)

SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

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

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

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SUBPART D: ELIGIBILITY STANDARDS

Section 121.63 Deductions from Monthly Income

a) The deductions described in this Section shall be allowed in the determination of the adjusted net monthly food stamp income.

b) Earned Income Deduction. Eighty percent of total gross earned income is considered. See Sections 121.40 through 121.54 for a description of earned income.

c) Standard Deduction. The standard deduction for a household size of one through four persons is $134. The standard deduction for a household size of five persons is $153. For households of six or more persons, the standard deduction is $175.

d) Dependent Care Deduction

1) The dependent care deduction consists of payments for the care of a child or other dependent when necessary for a household member to accept or continue employment or to seek employment in compliance with the job search criteria or to attend training or pursue education which is preparatory for employment (see 89 Ill. Adm. Code 112.70 through 112.84).

2) The amount of the deduction is to be determined by the actual costs for care and is not to exceed $200 per month for each child under age 2 and
DEPARTMENT OF HUMAN SERVICES

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$175 per month for each other dependent household member.

e) Child Support Deduction. The child support deduction is the amount of legally
obligated child support paid by a household member to or for a nonhousehold
member.

f) Shelter Costs Deduction

1) The shelter deduction is the amount of shelter costs that exceeds 50% of
the household's total income after the allowable deductions in subsections
(b), (c), (d), and (e) of this Section have been made. The shelter deduction
shall not exceed $388.

2) If the household contains a member who is elderly or disabled, as defined
at 7 CFR 271.2 (2004) and Section 121.61, there is no limit on the
amount of the excess shelter deduction.

3) Shelter costs include only the following:

   A) continuing charges for the shelter occupied by the household (rent,
      mortgage and other charges leading to the ownership of the shelter,
      including interest on such charges);

   B) property taxes, State and local assessments and insurance on the
      structure itself; and

   C) utility costs, as described in subsection (g) of this Section.

4) Shelter costs for a home temporarily unoccupied by the household because
of employment or training away from home, illness or abandonment
caused by a natural disaster or casualty loss, if:

   A) the household intends to return to the home;

   B) the current occupants of the home, if any, are not claiming the
      shelter costs for food stamp purposes; and

   C) the home is not leased or rented during the absence of the
      household.
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5) Charges for repair of a home which was damaged or destroyed due to a natural disaster. Shelter costs shall not include repair charges which have been or will be reimbursed by private or public relief agencies, insurance companies or any other source.

g) Utility Costs

1) Utility costs include:

   A) the cost of heating and cooking fuel, air conditioning, electricity, water, sewerage, garbage and trash collection;

   B) basic service fee for one telephone (including tax on the basic fee) of $27; and

   C) fees charged by the utility provider for initial installation.

2) Utility deposits are not considered to be utility costs.

3) A standard must be used if the household is billed for utilities. See Section 121.63(g)(7) for households that claim utility expenses for an unoccupied home. Households that are billed for heating or air conditioning, or both, or heating, air conditioning and electricity, must use the air conditioning/heating standard allowance of $268. Those households that are not billed for air conditioning or heating but are billed for at least two other utilities must use the limited utility standard allowance of $157. Those households that are not billed for air conditioning or heating but are billed for a single utility, other than telephone, must use the single utility standard allowance of $32. If only a separately-billed telephone expense is claimed, the basic telephone allowance of $27 per month will be allowed. Households living in rental housing who are billed on a regular basis by a landlord for costs for utilities must use the appropriate standard.

4) A household that is billed less often than monthly for its costs for utilities must continue to use the appropriate standard between billing months.

5) Households in public housing or privately-owned rental units that receive a bill for over-usage are entitled to use the air conditioning/heating standard allowance. When households (as defined at 7 CFR 273.1(a)
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(2003)  
(2004)  
(2003)

live together, the air conditioning/heating standard allowance, the limited utility standard allowance, or the single utility standard allowance, whichever is appropriate, shall be allowed for each household that contributes toward the utility costs whether or not each household participates in the program.

6) Households whose expense for heat or electricity, or both, is covered by indirect energy assistance payments under the Low Income Home Energy Program (47 Ill. Adm. Code 100) shall be entitled to the air conditioning/heating standard allowance (7 CFR 273.9 and 273.10(d)(6)). Households who receive, apply for, or anticipate applying for a Low Income Energy Assistance Program (IHEAP) (47 Ill. Adm. Code 100) payment during the 12-month period, beginning with the date of the food stamp application, shall be allowed the air conditioning/heating standard (7 CFR 273.9). The provisions of subsection (f)(3) of this Section are applicable to households whose expenses for heating or electricity, or both, are covered by indirect energy assistance payments.

7) A household that has both an occupied home and an unoccupied home is entitled to only one standard. The appropriate utility standard may be used for the home the household chooses.

h) Excess Medical Deduction. A deduction for excess medical expenses shall be allowed for households which contain an elderly or disabled member as defined at 7 CFR 271.2 and Section 121.61. The medical expenses incurred by the qualifying household member which are over $35 will be deducted, if the expenses will not be reimbursed by insurance or a third party.

(Source: Amended at 30 Ill. Reg. ______, effective _____________)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Emergency Medical Services and Trauma Center Code

2) **Code Citation:** 77 Ill. Adm. Code 515

3) **Section Number:** 515.380 **Proposed Action:** Amendment

4) **Statutory Authority:** Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

5) **A Complete Description of the Subjects and Issues Involved:** Public Acts 91-789 and 92-356 amended 20 ILCS 2310 in regard to advance directive information, requiring the Department, in consultation with several Statewide organizations, to develop and publish a uniform form for physician do-not-resuscitate-orders that may be used in all settings. The form is to be referred to as the Department of Public Health Uniform DNR Order form. The law further requires the Department to contract with Statewide professional organizations representing physicians licensed to practice medicine in all its branches to prepare and publish the required materials. The Department may also consult with a Statewide organization representing registered professional nurses on preparing the required materials. The Department developed the DNR form with extensive input from a Task Force that included Illinois professional organizations representing physicians, nursing homes, hospitals, the EMS community, and hospices, and that also received input from the general public and a medical ethicist. The form will no longer be required to be reproduced on brightly colored orange paper, but it is recommended that brightly colored paper be used. The System's policy will no longer be required to include a request that the physician or coroner sign the run sheet. Additional guidance is provided regarding revocation of the Order. First Responders have been added to list of EMS personnel who may respond to a valid DNR Order. The requirement for a yearly report as part of the System's quality assurance policy is being eliminated.

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

7) **Will this rulemaking replace any emergency rulemaking currently in effect?** Yes

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 rulemaking pending on this Part?** No
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11) **Statement of Statewide Policy Objective:** This rulemaking does not impose a State Mandate.

12) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:**

Interested persons may present their comments concerning this rulemaking 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, Illinois 62761  
217/782-2043  
e-mail: rules@idph.state.il.us

13) **Initial Regulatory Flexibility Analysis:**

A) **Types of small businesses, small municipalities and not for profit corporations affected:** EMS Systems (hospitals and vehicle service providers)

B) **Reporting, bookkeeping or other procedures required for compliance:** None

C) **Types of professional skills necessary for compliance:** None

14) **Regulatory Agenda on which this rulemaking was summarized:** This rulemaking was not included on either of the two most recent regulatory agendas because: The need for rulemaking was not apparent when the Regulatory Agendas were developed.

The full text of the Proposed Amendment begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENT

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER f: EMERGENCY SERVICES AND HIGHWAY SAFETY

PART 515
EMERGENCY MEDICAL SERVICES AND TRAUMA CENTER CODE

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515.550 Scope of Practice – Licensed EMT
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515.710 Emergency Medical Dispatcher
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515.2070 Trauma Center Designation Delegation to Local Health Departments
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515.2200 Suspension Policy for Trauma Nurse Specialist Certification

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515.3000 EMS Assistance Fund Administration

SUBPART J: EMERGENCY MEDICAL SERVICES FOR CHILDREN

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515.4000 Facility Recognition Criteria for the Emergency Department Approved for Pediatrics (EDAP)
515.4010 Facility Recognition Criteria for the Standby Emergency Department Approved for Pediatrics (SEDP)

515.APPENDIX A A Request for Designation (RFD) Trauma Center
515.APPENDIX B A Request for Renewal of Trauma Center Designation
515.APPENDIX C Minimum Trauma Field Triage Criteria
515.APPENDIX D Standing Medical Orders
515.APPENDIX E Minimum Prescribed Data Elements
515.APPENDIX F Template for In-House Triage for Trauma Centers
515.APPENDIX G Credentials of General/Trauma Surgeons Level I and Level II
515.APPENDIX H Credentials of Emergency Department Physicians Level I and Level II
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515.APPENDIX J Credentials of Emergency Department Physicians Level I and Level II Pediatric Trauma Centers
515.APPENDIX K Application for Facility Recognition for Emergency Department with Pediatrics Capabilities
515.APPENDIX L Pediatric Equipment Recommendations for Emergency Departments
515.APPENDIX M Interfacility Pediatric Trauma and Critical Care Consultation and/or Transfer Guideline
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AUTHORITY: Implementing and authorized by the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].


SUBPART C: EMS SYSTEMS

Section 515.380 Do Not Resuscitate (DNR) Policy

a) A System shall develop a DNR policy for use by System personnel. The policy shall be implemented only after it has been reviewed and approved by the Department, in accordance with the requirements of this Section. For purposes of this Section, DNR refers to the withholding of cardiopulmonary resuscitation (CPR); electrical therapy to include pacing, cardioversion and defibrillation; tracheal intubation and manually or mechanically assisted ventilations, unless otherwise stated on the DNR Order.

b) The policy shall include, but not be limited to, specific procedures and protocols for cardiac arrest/DNR situations arising in long-term care facilities, with hospice and home care patients, and with patients who arrest during inter-hospital transfers or transportation to or from home.

c) The policy shall include specific procedures and protocols for withholding CPR in situations where explicit signs of biological death are present (e.g., decapitation, rigor mortis without profound hypothermia, profound dependent lividity), or the patient has been declared dead by a coroner/medical examiner or the patient's physician. The policy shall include recording such information on the patient care report/run sheet and requesting the physician or coroner to sign the run sheet (if
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For situations not covered by subsection (c) of this Section, the policy shall require that resuscitative procedures be followed unless a valid DNR Order is present.

e) The Department of Public Health Uniform DNR Order form or a copy of that form shall be honored. (Section 3.57 of the Act) A valid DNR Order shall be written on a form provided by the Department and shall contain the following information. If the Department Uniform DNR Order form is reproduced, it is recommended that brightly colored orange paper shall be used. Systems shall also have a policy in place concerning recognition of other DNR orders written prior to July 1, 2001. The information required on the Department Uniform DNR Order form includes, but is not limited to, the following items:

1) Name of the patient,
2) Name and signature of attending physician,
3) Effective date,
4) The words "Do Not Resuscitate",
5) Evidence of consent – either:
   A) signature of patient; or
   B) signature of legal guardian; or
   C) signature of durable power of attorney for health care agent; or
   D) signature of surrogate decision-maker.

f) A living will by itself cannot be recognized by pre-hospital care providers.

g) Revocation of a written DNR Order shall be made only in one or more of the following ways:

1) The Order is physically destroyed or verbally rescinded by the physician who signed the Order or by the person who gave written consent to the
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Order; or

2) The Order is physically destroyed or verbally rescinded by the physician who signed the Order or by the person who gave written consent to the Order and the word "VOID" is written in large letters across the front of the Order by the physician who signed the Order or by the person who gave written consent to the Order.

h) A System's DNR policy shall require System personnel to make a reasonable attempt to verify the identity of the patient (for example, identification by another person or an identifying bracelet) named in a valid DNR Order.

i) The policy shall describe the roles of the on-line medical control physician and ECRN in DNR situations.

j) The policy shall state which System EMS personnel are authorized to respond to a valid DNR Order (EMT-P, EMT-I, EMT-B, Pre-hospital RN, FR, FR/D).

k) The policy shall cross-reference the System's coroner/medical examiner notification policy.

l) The policy shall describe the System's program for educating System personnel concerning the policy.

m) The policy shall identify the quality assurance measures specific to this policy, including the methods and periods of review, and the submission of a yearly report to the Department indicating issues or problems that have been identified and the System's responses to those issues or problems.

(Source: Amended at 30 Ill. Reg. ______, effective ____________ )
SECRETARY OF STATE

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Commercial Driver Training Schools

2) **Code Citation:** 92 Ill. Adm. Code 1060

3) **Section Numbers:** Proposed Action:
   - 1060.20  Amendment
   - 1060.120 Amendment
   - 1060.150 Amendment
   - 1060.200 Amendment

4) **Statutory Authority:** Section 2-104(b) of the Illinois Vehicle Code [625 ILCS 5/2-104(b)] and 625 ILCS 5/6-401 et. al

5) **A Complete Description of the Subjects and Issues Involved:** This proposed rulemaking amends the Commercial Driver Training Schools (CDTS) owner rules to prohibit the use of unlicensed and/or unqualified instructors. It also amends the instructors rules to prohibit third party safety officers from being licensed as instructors and requires the instructors to hold a Class L or M license for three years prior to teaching in those classifications. The CDL Accreditation rules are amended to limit the brush-up course to those who have previously held a CDL issued under the requirements of the U.S. Department of Transportation's Federal Motor Carrier Safety Regulations, 49 CFR 383.

6) **Will this rulemaking replace an emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this rulemaking contain incorporations by reference?** Yes

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objective:** This rulemaking will not create or enlarge a State mandate.

11) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Texts of the prepared amendments are posted on Secretary of State's website, [www.sos.il.us/departments/index/home](http://www.sos.il.us/departments/index/home) as part of the Illinois Register. Interested persons may present their comments concerning this proposed rulemaking in writing within 45 days after publication of this Notice to:

    Office of the Secretary of State
    Driver Services Department
    JoAnn Wilson, Legislative Liaison
NOTICE OF PROPOSED AMENDMENTS

c/o Director's Office
2701 South Dirksen Parkway
Springfield, IL  62723

(217) 785-1441

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not for profit corporations affected: Commercial driver training schools.

B) Reporting, bookkeeping or other procedures required for compliance: No

C) Types of Professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: July 2005

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

NOTICE OF PROPOSED AMENDMENTS

TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATE

PART 1060
COMMERCIAL DRIVER TRAINING SCHOOLS

Section
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1060.10 Unlicensed Person May Not Operate Driver Training School
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1060.30 Driver Training School Names
1060.40 Refund of Application Fees
1060.50 School Locations and Facilities
1060.60 Driver Training School Student Instruction Record
1060.70 Driver Training School Course of Instruction
1060.80 Driver Training School Contracts
1060.90 Inspection of School Facilities
1060.100 Licenses
1060.110 Safety Inspection of Driver Training School Motor Vehicles
1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License
1060.130 Examination for Driver Training Instructor
1060.140 Temporary Permit
1060.150 Driver Training School Responsibility for Employees
1060.160 Solicitation of Students and Pupils for Commercial Driver Training Instruction
1060.170 Hearings
1060.180 Teen Accreditation
1060.190 Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License, Teen Accreditation, CDL Accreditation, and Instructor's License
1060.200 Commercial Driver's License and/or Endorsement and/or Accreditation
1060.210 Driver Training School Responsibility for Employees (Recodified)
1060.220 Solicitation of Students and Pupils for Commercial Driver Training Instruction (Recodified)
1060.230 Hearings (Recodified)
1060.240 Teen Accreditation (Recodified)
1060.250 Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License and Instructor's License (Recodified)
1060.260 Commercial Driver's License and/or Endorsement and/or Restriction Accreditation (Recodified)
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Section 1060.20 Requirements for School Licenses

a) The Department shall not issue a driver training school license to any person unless:

1) The applicant has at least one motor vehicle owned or leased in the name of the driver training school or school owner indicated on the license, and registered by the Secretary of State Vehicle Services Department, that which has been safety inspected and insurance certified as required in subsection (c) hereina for use by the school for driver training purposes and driving instruction;

2) The applicant has at least one person who is employed by or associated with the school, and who is licensed or qualified to be licensed by the Department as a driver training instructor for that school.

3) The physical facilities meet the requirements of this Part.

4) The applicant is of good moral character as required pursuant to Section 6-402(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code.
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[625 ILCS 5/6-402(a)]. In making a determination of good moral character, the Department is not limited to, but shall consider the following:

A) If the owner has been convicted of a felony:

i) The relationship of any crime of which the person has been convicted to the ability to operate a driver training school; or

ii) The opinions of the community members concerning the owner; or

iii) The length of time that has elapsed since the owner's last criminal conviction.

B) If the owner has been indicted, formally charged or otherwise charged with a felony:

i) If the owner whose commercial driver training school license has been cancelled under this Part is adjudicated "guilty" by the court systems, the cancellation previously entered on his/her record in accordance with Section 1060.190(b) of this Part shall stand. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the Illinois Vehicle Code.

ii) If the owner whose commercial driver training school license has been cancelled under this Part is adjudicated "not guilty" by the court systems, the cancellation previously entered on the license in accordance with Section 1060.190(b) of this Part shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the Illinois Vehicle Code.

iii) If the owner whose commercial driver training school license has been cancelled under this Part is granted a
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disposition of "court supervision" by the court systems, the cancellation previously entered on the license in accordance with Section 1060.190(b) of this Part shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the Illinois Vehicle Code.

C) An individual whose commercial driver training school license has been cancelled pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.

b) Only one driver training school license shall be issued to any individual, group, association, partnership or corporation, and the Department shall deny the application of any driver training school if any of the applicants are unqualified or are already licensed or have made application for another driver training school license.

c) The applicant shall not be a current salaried or contractual employee of the Secretary of State as mandated by the guidelines of the Secretary of State's Office policy manual which states that an employee shall not advocate or promote specific professional or commercial services to the public in matters under the jurisdiction of the Office of the Secretary of State.

d) No accreditation program shall remain in operation if properly qualified personnel are not available or if other changes occur which would reduce its qualifications. Exception: in the event of fire, flood or other catastrophe, the school may temporarily continue to operate with facilities which are not up to standards only for the duration of the courses which have been started, if the Director of the Department consents for them to do so. A Secretary of State employee shall determine that no health or safety hazard exists in violation of any local, State or federal ordinance, before the Director of the Department shall give his/her consent. No new course can be started until facilities meet the minimum requirements for licensing.

e) No driver training school shall operate in the State of Illinois unless it provides and files with the Department a continuous surety bond in the principal sum of $20,000, underwritten by a company authorized to do business in the State of Illinois, for the protection of the contractual rights of students as provided in Section 6-402(e) of the Illinois Driver Licensing Law of the Illinois Vehicle


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Code. All bonds filed pursuant to this provision shall be in substantially the following form:

Know All Persons by These Presents, That We, ____________________________________________

hereinafter referred to as Principal and ____________________________________________,

corporation organized and existing to do business in the State of Illinois, for the use and benefit of all persons who may be damaged by breach of this bond, as Obligees, in the penal sum of Twenty Thousand Dollars ($20,000), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our executors, administrators, successors and assigns, firmly by these presents. The Condition Of This Obligation Is such, That whereas, the principal has made application for a license or permit to the State of Illinois for the purpose of exercising the vocation of a Driver Training School. Now Therefore, if the said Principal shall faithfully comply with the Illinois Vehicle Code, as amended, and all rules and regulations which have been or may hereafter be in force concerning the said License or Permit, and shall save and keep harmless the Obligees from all loss or damage which may be sustained as a result of the issuance of said license or permit to the said Principal, this obligation shall be void; otherwise, to remain in full force and effect. The Bond Will Expire but may be continued by renewal certificate signed by Principal and Surety. The Surety may at any time terminate its liability by giving 30 days written notice to the Commercial Driver Training Section of the Department, 650 Roppolo Drive, Elk Grove Village, Illinois 60007, and the Surety shall not be liable for any default after such 30 day notice period, except for defaults occurring prior thereto.

Signed, Sealed and Dated this _______ day of ________________, 20__.  
Principal  ____________________________________________
Surety  ____________________________________________
By  ____________________________________________  
      Attorney-in-fact

f) Upon receipt of a properly executed application for a driver training school license, or driver training instructor's license, the Department shall investigate the qualifications of the applicant, and authorized representatives shall inspect the school property and equipment to determine whether the application should be
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granted or denied.

g) An owner or manager shall not engage in fraudulent activity as defined in Section 1060.5 of this Part.

h) An owner or employee of a commercial driver training school shall not have been declared to have engaged in fraudulent activity within the 5 years prior to making application.

i) Licenses shall be issued by the Department.

j) An owner shall not have unauthorized possession of application forms or questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations.

k) An owner shall not knowingly use unlicensed instructors for the purpose of classroom or behind the wheel instruction.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1060.120   Requirements to Obtain and Retain a Driver Training Instructor's License

a) The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training instructor's license:

1) To any person who has not held a valid driver's license for any 2 year period preceding the date of application for an instructor's license, or to any person intending to instruct in L and/or M classification who has not held the representative classification for 3 consecutive years immediately prior to the date of application;

2) To any person who has been convicted of 3 or more offenses against traffic regulations governing the movement of traffic within the 2 year period immediately preceding the date of application for an instructor's license;

3) To any person who has had 2 or more convictions of a violation that caused an auto accident within the 2 year period immediately preceding the date of application for an instructor's license;
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4) To any person who has been convicted of driving under the influence of alcohol and/or other drugs, pursuant to Section 11-501 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501], leaving the scene of a fatal accident, pursuant to Section 11-401 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-401], reckless homicide, pursuant to Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3], reckless driving, pursuant to Section 11-503 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-503], or any sex or drug related offense within 10 years prior to date of application;

5) To any person who has failed to pass the written, vision, or road test required by the Department for applicants for a driver training instructor's license;

6) To any person who is physically unable to safely operate a motor vehicle or to safely instruct or train others in the operation of a motor vehicle as determined by a licensed physician pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)]. An application/medical examination form provided by the Secretary of State shall be completed by the applicant and physician. The physician's medical examination form shall contain the applicant's ability to safely operate a motor vehicle. The form shall also contain an indication of the person's eyesight, hearing, mental alertness, reflexes, and whether the person has normal use of his/her limbs and feet. The physician must also provide his/her address and the date and place of the examination. Those persons who are solely classroom instructors shall comply with subsection (d) of this Section;

7) To any person who fails to properly and fully complete an application for such license or otherwise indicates that he/she is unqualified to receive a driver training instructor's license;

8) To any person who is not employed or associated with a driver training school licensed by the Department as required pursuant to Section 6-417 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-417];

9) To any person who is currently a salaried or contractual employee of the Secretary of State as mandated by the guidelines of the Secretary of State's
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Office Policy Manual that states that an employee shall not advocate or promote specific professional or commercial services to the public in matters under the jurisdiction of the Office of the Secretary of State;

10) To any person who fails to supply a complete set of fingerprints to the Department as required pursuant to Section 6-411(b) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(b)];

11) To any person who is not at least 21 years of age and a resident of the State of Illinois;

12) To any person who has failed to comply with the provisions of this Part pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)];

13) To any person who is not of good moral character as required pursuant to Section 6-411(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(a)]. In making a determination of good moral character, the Department is not limited to, but shall consider the following:

A) If the instructor has been convicted of a felony:
   i) The relationship of any crime of which the person has been convicted to the ability to operate a driver training school; or
   ii) The opinions of the community members concerning the owner; or
   iii) The length of time that has elapsed since the owner's last criminal conviction.

B) If the instructor has been indicted, formally charged or otherwise charged with a felony:
   i) If the instructor whose commercial driver training school instructor license has been cancelled under this Part is adjudicated "guilty" by the court systems, the cancellation previously entered on his/her record in accordance with
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Section 1060.190(b) of this Part shall stand. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part or the Illinois Vehicle Code.

ii) If the instructor whose commercial driver training school instructor license has been cancelled under this Part is adjudicated "not guilty" by the court systems, the cancellation previously entered on the license in accordance with Section 1060.190(b) of this Part shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part, or the Illinois Vehicle Code.

iii) If the instructor whose commercial driver training school instructor license has been cancelled under this Part is granted a disposition of "court supervision" by the court systems, the cancellation previously entered on the license in accordance with Section 1060.190(b) of this Part shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part, or the Illinois Vehicle Code.

C) An individual whose commercial driver training school instructor license has been cancelled pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code, Illinois Administrative Code 1001.

14) To any person whose suspension under Section 11-501.1 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501.1] has terminated within 10 years prior to date of application;

15) To any person who has not completed a 30 hour course or an equivalent college or university course approved by the Director of the Department.

A) Any person possessing a current and valid commercial driver training instructor's license, or who is renewing a commercial
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driver training license issued by the Secretary of State's Office, shall be exempt from this requirement.

B) A driver training school whose instructor provides training to individuals under the age of 18 years is exempt from this requirement and must complete the mandatory 48 hour course as required in Section 1060.180 of this Part.

16) To any person currently licensed by the Secretary of State as a Third Party Certification Program Safety Officer.

b) If an applicant indicates that he/she has been convicted of a felony, the applicant shall submit a signed release allowing the Department to obtain any information regarding the applicant's arrest and conviction, thereby enabling the Department to determine the fitness of an applicant to be licensed as an instructor.

c) No driver training instructor shall provide behind-the-wheel instruction in a vehicle that is classified higher than the classification of the instructor's driver's license. An instructor may hold two classifications; one classification from Classes A, B, C and D, and one classification from Classes L and M. An instructor holding a Class A commercial driver's license may teach students to drive all Class A, B, C, and D vehicles. An instructor holding a Class B commercial driver's license may teach students to drive all Class B, C, and D vehicles. An instructor holding a Class C commercial driver's license may teach students to drive all Class C and D vehicles. However, an instructor holding a non-commercial driver's license may only teach students who do not require a commercial driver's license. An instructor holding a Class M license may teach students to drive all Class L and M vehicles.

d) Any person who is physically unable to safely operate a motor vehicle but meets all other requirements to be a driver training instructor shall be able to teach only the classroom portion of the driver training course upon receipt of a doctor's statement indicating the person is physically able to teach in the classroom. The person shall also pass the vision test, as provided in 92 Ill. Adm. Code 1030.70, the written test, as provided in 92 Ill. Adm. Code 1030.80, the highway safety sign test, and submit all applicable fees as set out in Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] before being issued an instructor's license for classroom instruction only.

e) All instructors who have ceased to be employed or associated with the designated
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school on their license must submit a new complete instructor's license application and application fee before being licensed to instruct at another school or in the same school after such cessation.

f) If a driver training instructor license is not renewed within one year after the previous year's expiration date, the applicant shall be required to take examinations pursuant to Section 1060.130 of this Part.

g) An instructor shall not engage in fraudulent activity as defined in Section 1060.5 of this Part.

h) During the course of instruction in either classroom or behind-the-wheel, an instructor shall not engage in activity unrelated to normal driving instruction that puts the student in danger.

i) An instructor shall not have unauthorized possession of application forms or questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations.

(Source: Amended at 30 Ill. Reg. ______, effective __________)

Section 1060.150 Driver Training School Responsibility for Employees

a) No driver training school shall employ or otherwise retain any individual to give classroom instruction or behind-the-wheel instruction unless the individual has a valid, current driver training instructor's license for that school issued by the Secretary of State and meets the qualifications provided in Section 1060.120 of this Part.

b) Qualified and recognized experts in the fields of driver training, traffic regulation, or motor vehicle operation or maintenance may give occasional classroom lectures without having a valid current driver training instructor's license, provided the driver training school which secures the services of any such expert notifies the Office of the Secretary of State, Driver Training School Section, in advance, indicating the name, address and qualifications of the expert and the proposed lecture dates.

c) Any individual employed by, or associated with, any driver training school, and all acts performed by an instructor, shall be presumed acts within the scope of employment unless the school can provide competent evidence to the contrary.
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d) If a licensed instructor is temporarily suspended, laid off or discharged by a driver training school, the school shall immediately notify the Secretary of State, on forms furnished by the Secretary of State, listing the name, address and license number of the instructor, termination date, and the reason for his/her termination. In all cases where an employee ceased working for the commercial driving school, whether it be a temporary lay-off or any other termination of his/her association with the school, the instructor must surrender his/her license to the Secretary of State.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 1060.200 Commercial Driver's License and/or Endorsement and/or Accreditation

a) Accreditation of the Program – Each commercial driver training school that desires to offer instruction to those individuals who wish to obtain a CDL and/or endorsement and/or restriction must be accredited by the Secretary of State through the Department of Driver Services before such instruction can be offered or advertised.

1) Upon receipt of proper application for accreditation, the Secretary of State shall investigate the program and verify the information contained in the application. A Secretary of State employee shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Secretary of State employee shall verify that the school meets the standards for CDL accreditation set forth in Sections 1060.190(b) through (f) of this Section in addition to all other applicable Sections within this Part. These standards shall be furnished to the school by the Secretary of State before the visit if the school requests them. If all qualifications and standards are met, the school shall be accredited to offer instruction on how to operate a vehicle with CDL and/or endorsement and/or restriction classification.

2) The accreditation of each school is renewable upon the expiration date of the school license, provided all qualifications and standards are met and provided the school has been in compliance with all rules.

3) Only qualified teaching personnel who already possess a CDL and/or endorsement and/or restriction classification may teach the drive portion of instruction.
b) Required facilities – All CDL and or endorsement and/or restriction accredited schools must provide all classroom and vehicle facilities and equipment as prescribed in Article IV of the Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. IV] and Section 1060.50 of this Part. Those who desire to provide instruction to persons who wish to obtain a CDL and/or endorsement and/or restriction classified license must additionally provide a vehicle training area, owned or leased by the school, with sufficient space to properly accommodate the number of vehicles the school has in operation and appropriate off-street maneuvers.

1) Required course of instruction:

A) CDL accredited driving schools must administer driving instruction that corresponds to a curriculum that will be provided to the school by the Secretary of State. Each CDL accredited driving school must provide the minimum of 160 hours of instruction in not less than a 4 week period to each student as indicated in the curriculum.

B) The following curriculum must be offered to each first time CDL student in a minimum of 4 weeks. Each student must receive 160 hours of CDL instruction allocated as follows:

i) Classroom. 40 hours of classroom instruction; this includes, but is not limited to, preparation for the Secretary of State's written examinations and all chapters of this curriculum.

ii) Range. 16 hours of training yard behind-the-wheel instruction. This requires one on one instruction with a properly licensed CDL instructor and vehicle on an approved training lot.

iii) Over the Road. 16 hours of behind-the-wheel instruction on public streets and highways. This requires one on one instruction with a properly licensed CDL instructor and vehicle.

iv) Observation. 10 hours of observation experience composed
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of observation of the practice range and over-the-road training.

v) Remedial Training. 78 hours of additional classroom training, observation, and practice range/over-the-road training based on each CDL student's specific needs.

The training schedule outlined above must follow the Illinois Occupational Skill Standards, Entry-Level Truck Driver Manual endorsed for Illinois by the Illinois Occupational Skill Standards and Credentialing Counsel. This Manual is available from the Secretary of State Driver Facility, 650 Roppolo Drive, Elk Grove Village, IL 60007.

C) Instructional materials shall be available and shall include at least one of the following: a 16 mm sound projector and screen, video equipment with films processed on video tape, a film or films.

D) A professional library containing an assortment of reference and textbooks, pamphlets, and other publications, including but not limited to the CDL Study Guide, which are available for the use of students and teachers.

E) A brush-up course of instruction may be offered to individuals who currently hold or have held a CDL issued under the requirements of 49 CFR 383 or its equivalent. The school must maintain records that verify students qualify for a brush-up course. This course may be offered on an hourly basis. No brush-up course may be offered to any individual who has never held a CDL or its equivalent.

F) Classroom instruction – CDL and/or endorsement and/or restriction classification instruction.

i) Each classroom course must have a definite starting date and completion date. A listing of students enrolled in each course shall be sent to the Secretary of State, within 3 days after the third day of classroom instruction, on forms provided by the Secretary of State.

ii) Classroom instruction shall include subject matter relating
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to the rules of the road as contained in the CDL Study Guide, safe driving practices, pedestrian safety, defensive driving techniques, behavioral characteristics of drivers, federal regulations relating to the Department of Transportation and CDL standards (49 CFR 383), vehicle insurance, the use of safety devices, and the effects of alcohol and drugs on driving.

iii) Practice driving instruction must comply with the curriculum provided by the Office of the Secretary of State.

iv) Audio-visual materials shall be used as a supplement to the teacher's presentation, but not as a replacement. Reference materials are to be available to the students and their use assured by assignments. All assignments are to be made in advance of due dates and shall include outside reading as well as preparation for testing.

v) A regular schedule of classroom testing shall be followed. Student progress is to be periodically evaluated. Criteria for passing or failing the course shall be evident to the student, and successful completion clearly defined.

vi) Each student shall be informed, prior to the time instruction begins, of the amount of any and all fees or charges made for enrollment or registration, tuition, use of equipment, or materials provided by the CDL and/or endorsement and/or restriction accredited driver training program.

vii) Instruction of each student in the class shall begin on the date and location designated by advertisement and continue throughout the designed period, unless the course is cancelled and the student is refunded any fees already paid.

G) Laboratory Instruction – For persons taking instruction for CDL and/or endorsement and/or restriction classification.

i) Behind-the-wheel instruction shall not begin until such time as the student is enrolled in a classroom program of CDL and/or endorsement and/or restriction classification.
driver training and obtains the required knowledge for the safe operation of a vehicle in traffic as provided in 49 CFR 383.110-121.

ii) Each student must have in his/her possession when engaged in vehicle operation a valid and properly classified instruction permit issued by the Secretary of State, unless previously licensed in a classification representative of the vehicle he/she intends to drive.

iii) Practice driving instruction shall include but not be limited to pre-trip inspection, actual experience in starting, stopping, shifting, turning, backing, docking, parking, steering, and emergency situation procedures.

iv) CDL skills testing for "A" classification must be given in a representative power unit with a multi-range transmission with no fewer than 9 forward gears and a representative trailer at least 48 feet long with a tandem axle.

2) Student ratio per course

A) The total number of students enrolled in each CDL accredited course in any 30 day period shall not exceed 5 students per each currently licensed instructor.

B) The total number of students enrolled in each CDL accredited course in any 30 day period shall not exceed 6 students for each currently registered CDL vehicle.

c) Classroom teacher qualifications

1) Each CDL and/or endorsement and/or restriction accredited driver training school must have at least one classroom instructor employed by the school, who meets the standards of Section 6-411 of the Illinois Vehicle Code [625 ILCS 5/6-411].

2) Required classroom teacher qualifications:

A) A driver training instructor teaching the classroom portion of a
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CDL and/or endorsement and/or restriction accredited course must comply with Sections 1060.120 and 1060.130 of this Part.

B) The instructor must possess good physical and mental health as determined by a physician. An application/physical examination form shall be provided by the Secretary of State which shall be completed by the instructor and a physician.

C) A classroom instructor must pass an objective type instructor written examination based upon the Illinois Vehicle Code, commercial school rules and regulations, and the Commercial Motor Vehicle Safety Act of 1986 (49 USC 2704). The written examination shall consist of 125 questions (90 multiple choice and 35 true/false) and the instructor must correctly answer 106 questions to pass.

d) CDL and/or endorsement and/or restriction behind-the-wheel teacher qualifications

1) Each CDL and/or endorsement and/or restriction accredited driver training school must have at least one behind-the-wheel instructor employed by the school, who meets the standards of Section 6-411 of the Illinois Vehicle Code [625 ILCS 5/6-411].

2) Required behind-the-wheel teacher qualifications:

A) A driver training instructor teaching the behind-the-wheel portion of a CDL and/or endorsement and/or restriction accredited course must comply with the provisions of Sections 1060.120 and 1060.130 of this Part and be licensed in a classification representative of the vehicle in which they intend to teach for at least 3 consecutive years immediately prior to application (a 1 month lapse in renewal will not negate the 3 consecutive years requirement).

B) The instructor must possess good physical and mental health as determined by a physician. An application/physical examination form shall be provided by the Secretary of State, which shall be completed by the instructor and a physician.
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C) The instructor shall give instruction only in the classification and/or endorsement and/or restriction in which he/she is licensed.

D) A behind-the-wheel instructor must pass an objective type instructor written examination based upon the Illinois Vehicle Code, commercial school rules and regulations, and the Commercial Motor Vehicle Safety Act of 1986 (49 USC 2704) as provided for in subsection (c)(1)(C) of this Section. In addition, a behind-the-wheel instructor must pass a practical test regarding his/her ability to drive a vehicle of CDL and/or endorsement and/or restriction classification (92 Ill. Adm. Code 1030.85).

e) Student Instruction Records

1) Records shall be maintained by schools that document daily attendance, lesson time, and periodic evaluation of each student. Also recorded shall be the dates of classroom instruction, behind-the-wheel instruction and observation time. Students are to be identified by their social security numbers as well as by name, address, and other personal information. A driver license number also must be entered on the student record. Such records are to be on file in the office of the management for a period of 3 years.

2) The driver school with a CDL and/or endorsement and/or restriction accreditation must meet all requirements of Section 1060.60 of this Part.

3) The school and each student must maintain separate but identical logs of the student's behind-the-wheel instruction and observation time. The logs must include the dates of instruction, type of instruction, student/instructor signatures and odometer readings of the vehicles used for instruction.

4) A Secretary of State form shall be used for submitting names of those students who have satisfactorily fulfilled the CDL accreditation course. The form shall be signed by an authorized official of the school.

f) The Secretary of State shall suspend or revoke, cancel or deny the license and/or accreditation of any driver training school or driver training instructor if the school or instructor fails to comply with the provisions of this Part or 49 CFR 383.
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(Source: Amended at 30 Ill. Reg. _____, effective _____________)
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1) **Heading of the Part:** Lobbyist Registration and Reports

2) **Code Citation:** 2 Ill. Adm. Code 560

3) **Section Numbers:**
   - 560.100 Amendment
   - 560.206 New
   - 560.220 Amendment
   - 560.300 Amendment
   - 560.305 Amendment
   - 560.310 Amendment
   - 560.370 Amendment
   - 560.371 Amendment
   - 560.375 Amendment
   - 560.385 Amendment
   - 560.390 Amendment
   - 560.402 Amendment
   - 560.405 Amendment
   - 560.410 Amendment
   - 560.420 Amendment

4) **Statutory Authority:** Implementing and authorized by the Lobbyist Registration Act [25 ILCS 170]

5) **A Complete Description of the Subjects and Issues Involved:** This rulemaking will amend the current rules related to Lobbyist Registration and Reporting to reflect the changes required by the passing of HB 3412 and SB 1903 of the 93rd General Assembly.

6) **Will this rulemaking replace an emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this rulemaking contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objectives:** The proposed amendments do not require expenditures by units of local government.
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11) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Texts of the proposed amendments are posted on Secretary of State’s website, [www.sos.state.il.us/departments/index/home](http://www.sos.state.il.us/departments/index/home) as part of the *Illinois Register*.

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

Secretary of State  
Nathan Maddox, Assistant General Counsel  
298 Howlett Building  
Springfield IL  62701  
217-785-3094

12) **Initial Regulatory Flexibility Analysis:**

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

B) **Reporting, bookkeeping or other procedures required for compliance:** None

C) **Types of Professional skills necessary for compliance:** None

13) **Regulatory Agenda on which this rulemaking was summarized:** This rulemaking was not included on either of the two most recent regulatory agendas because: the need for this rulemaking was not anticipated at the time the agendas were prepared.

The full text of the Proposed Amendments begins on the next page:
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TITLE 2: GOVERNMENTAL ORGANIZATION
CHAPTER III: SECRETARY OF STATE

PART 560
LOBBYIST REGISTRATION AND REPORTS

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AUTHORITY: Implementing and authorized by the Lobbyist Registration Act [25 ILCS 170].


SUBPART A: DEFINITIONS

Section 560.100 Definitions

The following definitions shall apply to this Part:

"Act" means the Lobbyist Registration Act [25 ILCS 170].

"Administrative action" means the execution or rejection of any rule, regulation, legislative rule, standard, fee, rate, contractual arrangement, purchasing agreement or other delegated legislative or quasi-legislative action to be taken or withheld by any executive agency, department, board or commission of the State. (Section 2 of the Act) It shall not include any correspondence or direct lobbying communication to an official providing a response to an official's request.

"Allocation" means the proration of the expenditure made for lobbying an official when the expenditure is made for more than one official, but fewer than 25 officials.

"Authorized Agent" means the person designated by the registered entity to be responsible to the Secretary of State for the accurate submission of lobbyist registration statements and expenditure reports required under this Part. The
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authorized agent need not register unless he or she is a lobbyist, as defined in this Section.

"Client" means an individual, firm, partnership, committee, association, corporation or any other organization on whose behalf a lobbyist influences officials with respect to executive, administrative and legislative action.

"Compensation" means any money, thing of value or financial benefits received or to be received in return for services rendered or to be rendered, for lobbying, as defined herein. Monies paid to officials by the State as remuneration for performance or reimbursement of expenses in connection with their constitutional and statutory duties as officials shall not constitute compensation. (Section 2 of the Act)

"Complete Report" means a statement, or report to be filed with the Secretary of State Index Department in apparent and substantial conformity with the requirements of this Part that shall contain the signature of the authorized agent, the completion of all applicable sections of the statement or report, and the attachment of all appropriate schedules.

"Direct Lobbying Communication" means any activity concerning the direct contact of officials in person or by means of correspondence, telephone or other electronic medium for the purpose of influencing executive, legislative or administrative action. Any correspondence or contact of a routine nature with an official's office, or by a citizen lawfully petitioning a public official pursuant to Section 9 of the Act, shall not be considered direct lobbying communication, unless the communication is made by a hired lobbyist or is in conjunction with a reportable expenditure.

"Due Diligence" means when a lobbyist or authorized agent for any registered entity shows that best efforts have been used to obtain, maintain and submit the information required by the Act. With regard to filing complete reports, the authorized agent will not be deemed to have exercised due diligence unless he or she has access to the expense records of the entity's lobbyists, and has made at least one written request to obtain such information from the lobbyist which informs the lobbyist that the reporting of such information to the authorized agent is required by law or regulation. This definition should not be construed as a requirement that the authorized agent review the lobbyist's expense records if the lobbyist certifies their accuracy to the authorized agent.
"Employer" means the individual, firm, partnership, committee, association, corporation or any other organization or group of persons by whom a lobbyist is employed, and not the name of the lobbyist's supervisor.

"Executive action" means the proposal, drafting, development, consideration, amendment, adoption, approval, promulgation, issuance, modification, rejection or postponement by a State entity of a rule, regulation, order, decision, determination, contractual arrangement, purchasing agreement or other quasi-legislative or quasi-judicial action or proceeding. (Section 2 of the Act) It shall not include any correspondence or communication to an official providing a response to an official's request.

"Expenditure" means a payment, distribution, loan, advance, deposit or gift of money or anything of value, and includes a contract, promise or agreement, whether or not legally enforceable, to make an expenditure, for the ultimate purpose of influencing executive, legislative or administrative action, other than compensation as defined herein. (Section 2 of the Act) For the purposes of Subpart C, "expenditure" refers to a reportable expenditure made on behalf of an official in one of the four categories described in Section 6 of the Act and Section 560.310 of this Part.

"File", "Filed" and "Filing" means the submission of a complete report, as defined in this Section, to the Secretary of State Index Department by the close of business on the prescribed filing date. Registration statements and expenditure reports, other than those filed electronically, shall be filed at either 111 East Monroe Street, Springfield, Illinois 62756, or at 17 N. State, Chicago, Illinois 60602, between the hours of 8:00 a.m. and 4:30 p.m., Monday through Friday, excluding official State holidays. Forms may be sent by mail with a postmark date no later than the filing deadline. If the filing deadline falls on a weekend, the deadline will be extended to the next business day. The Index Department shall notify any registered entity that has failed to submit a complete report and pay proper fees as required by Sections 560.220 and 560.390. Registration statements and expenditure reports filed electronically shall be deemed to have been filed at the address required in this Part. An entity that fails to file a complete entity registration statement or expenditure report and pay proper fees shall not be considered a registered lobbying entity by the Secretary of State.

"Goodwill" means, for reporting purposes, any expenditure made on behalf of officials which has no direct relation to a specific executive, legislative or administrative action regardless of whether the lobbyist making the expenditure is
reimbursed by his or her employing registered entity or client. Goodwill should be reported as the subject matter where no specific action is discussed.

"Grass Roots Lobbying Communication" means:

correspondence by a representative (a lobbyist or a non-lobbyist) of a registered entity to the general public, or any segment thereof, encouraging correspondence to an official's office in support of, or opposition to, an executive, legislative or administrative action;

correspondence by a member of the general public, or any segment thereof, to an official's office in support of, or opposition to, an executive, legislative or administrative action when such correspondence is a result of a communication described above in this definition. A reportable expenditure made for or on behalf of an official by a member of the general public as a result of a grass roots lobbying communication shall constitute lobbying activity requiring that individual to register as a lobbyist unless that person reports the expenditure to the registered entity pursuant to Section 560.325.

"Grass Roots Lobbying Event" means:

any organized activity sponsored by a registered entity that is intended to influence the actions of officials by inviting or transporting participants (e.g., members, employees, constituents or the general public) to a specific site on the grounds of, or in the proximity of, public offices or other meeting places where officials are expected to be accessible for grass roots lobbying; or

any event to which officials are invited that is sponsored by a non-lobbyist member or employee of a registered entity, e.g., an on-site inspection of, or reception at, the member's or employee's place of business, or a social gathering at any location. Reportable expenditures incurred as a result of the event shall be reported to the registered entity pursuant to Section 560.325.

"Honorarium" means a payment of money to a member of the General Assembly for an appearance or speech, excluding any actual and necessary travel expenses incurred by the member (and one relative) to the extent that those expenses are paid by any other person. [5 ILCS 420/2-110]
"Influencing" means any communication, action, or reportable expenditure as prescribed in Subpart C of this Part or other means used to promote, support, affect, modify, oppose or delay any executive, legislative or administrative action or to promote goodwill with officials, as defined in Section 2(c) of the Act herein. (Section 2 of the Act)

"Legislative action" means the development, drafting, introduction, consideration, modification, adoption, rejection, review, enactment or passage or defeat of any bill, amendment, resolution, report, nomination, administrative rule, or other matter by either house of the General Assembly or a committee thereof, or by a legislator. Legislative action also means the action of the Governor in approving or vetoing any bill or portion thereof, and the action of the Governor or any agency in the development of a proposal for introduction in the legislature. (Section 2 of the Act) It shall not include any correspondence or communication to an official providing a response to an official's request.

"Lobbying" means any communication with an official of the executive or legislative branch of State government as defined in the Act herein for the ultimate purpose of influencing executive, legislative or administrative action. (Section 2 of the Act) Lobbying shall not be construed to infringe in any way the right of a citizen to lawfully petition any public official by any means of communication. The following are hereby excluded from the definition of "lobbying":

Any grass roots lobbying communication as defined in this Section herein;

Any communication by a candidate or political committee, as defined in Article 9 of the Election Code [10 ILCS 5/9], in relation to the candidate's campaign, or other communications by a political party committee registered with the Illinois State Board of Elections or Federal Election Commission;

Any communication by a political committee registered with the Illinois State Board of Elections or Federal Election Commission in connection with a question of public policy referendum to be presented to the electors; and

Any professional or technical assistance or ministerial function (a function in which nothing is left to discretion) as a normal course of business (see
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Section 560.210(c), (d), and (n) of this Part).

"Lobbyist" means any person who is employed by a registered entity who undertakes direct lobbying communication with an official as defined in this Section for the ultimate purpose of influencing executive, legislative or administrative action.

"Official" means:

the Governor, Lieutenant Governor, Secretary of State, Attorney General, State Treasurer and State Comptroller and their Chiefs of Staff;

Cabinet members of any elected constitutional officer, including Directors, Assistant Directors and Chief Legal Counsel or General Counsel; and other position titles of comparable ranking that are deemed by their employing Constitutional Officer to be an official under this Part; and

Members of the General Assembly. (Section 2 of the Act)

"Official" shall not be construed to include those individuals possessing power of attorney on behalf of an official.

"Person" means any individual, firm, partnership, committee, association, corporation or any other organization or group of persons. (Section 2 of the Act)

"Picture" means an original, or photocopied, or electronically submitted photograph of a lobbyist to be affixed to the lobbyist's registration schedule attachment. Electronically submitted photographs must be in a form compatible with the filing methods prescribed by the Secretary of State. When submitting a picture electronically, a registrant may, in lieu of submitting a picture on an annual basis, authorize the Secretary of State to use any photo identification available in any database maintained by the Secretary of State for other purposes.

"Professional Services and Technical Skills" shall be limited to advice and analysis directly applying any professional or technical discipline (see Section 560.210(c) and (d) of this Part). Being a professional or technical person does not in itself exempt a person from registering if that person undertakes a direct lobbying communication or makes a reportable expenditure.
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"Registered Entity" means the firm, partnership, committee, association, corporation or any other organization or group of persons who has filed, as defined in this Section, a lobbyist registration statement with the Secretary of State Index Department as prescribed in Section 560.200(b). A self-employed individual who is not officially organized as a corporation or firm is considered such for purposes of this definition.

"Responsible Party" means a person directly associated with the registered lobbying entity, such as an owner, officer or employee, who generally is not the authorized agent, as defined in this Part. Sole proprietorships and other lobbying entities that do not have more than one employee shall designate the authorized agent and the responsible party. The responsible party will be an individual to whom the Index Department will direct questions about the status of the authorized agent, and who may be notified of registration and reporting notices, deficiencies and delinquencies. The responsible party need not register unless he or she is a lobbyist, as defined in the Act.

"Vendor" means any person who sells or leases commodities, equipment, or real estate to the State of Illinois.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

SUBPART B: LOBBYIST REGISTRATION

Section 560.206 Designation and Duties of Responsible Party

a) Every registered entity shall designate a responsible party on its registration statement who shall be available to provide information about the registered entity and identification of the authorized agent. Any person who is an owner, officer or permanent employee of the entity may serve as the entity's responsible party.

b) The responsible party shall be the contact person for the registered entity for the Secretary of State Index Department for business that is not included in the duties of the authorized agent. Notices from the Index Department that will be mailed to the responsible party include, but are not limited to, registration and expenditure notices and notice of noncompliance. Inquiries to determine the status of the authorized agent will be made to the responsible party.

c) No registered entity shall have a vacancy in the position of responsible party.
Registered entities that do not have more than one employee shall designate the authorized agent as the responsible party.

(Source: Added at 30 Ill. Reg. _____, effective ____________)

Section 560.220  Registration Requirements

a) Every person required to register under Section 560.200 shall register each and every year, or before any such service is performed that requires the person to register, but in any event not later than 2 business days after being employed or retained, and on or before each January 31 and July 31 thereafter. No person shall engage in lobbying or employ any person for the purpose of lobbying who is not registered with the Office of the Secretary of State except on condition that the person register and the person does in fact register within 2 business days after being employed or retained for lobbying service. Every registered entity shall designate a person as a responsible party and as an authorized agent (see Sections 560.100, 560.205 and 560.206) who shall be responsible for reporting under this Part.

b) The authorized agent shall file an Entity Registration Statement and an Exclusive Lobbyist Information Statement for all persons who lobby exclusively for the entity even if lobbying is a small percentage of that person's job duties. The authorized agent shall use official forms or copies thereof for the submission of registration statements (see Section 560.405).

c) Upon the beginning of each calendar year, entities required to register under Section 560.200 shall register by January 31 for that year if its lobbyist activities are continuing from the previous year. By December 15 of each year, the Secretary of State Index Department will send to all current authorized agents reminder notices of the January 31 deadline and by June 15 of each year, reminder notices of the semiannual registration deadline of July 31. Any entity who has not re-registered by January 31 is deemed not to be engaged in lobbying activities for that calendar year, and will not be sent further notices from the Secretary of State Index Department.

d) Registration statements shall be filed in accordance with the definition of "filing" (see Section 560.100) and shall contain the following information with respect to each person or entity employing or retaining the person required to register:
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1) The registrant's name, permanent address, e-mail address, if any, fax number, if any, business telephone number, and temporary address, if the registrant has a temporary address while lobbying.

2) If the registrant is an organization or business entity, the information required under subsection (d)(1) for each person associated with the registrant who will be lobbying, regardless of whether lobbying is a significant part of his or her duties.

3) The name and address of the person or persons employing or retaining the registrant to perform such services or on whose behalf the registrant appears.

4) A brief description of the executive, legislative, or administrative action in reference to which such service is to be rendered.

5) Each executive and legislative branch agency the registrant expects to lobby during the registration period.

6) The nature of the client's business, by indicating all of the following categories that apply:
   A) banking and financial services.
   B) manufacturing.
   C) education.
   D) environment.
   E) healthcare.
   F) insurance.
   G) community interests.
   H) labor.
   I) public relations or advertising.
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J) *marketing or sales,*

K) *hospitality,*

L) *engineering,*

M) *information or technology products or services,*

N) *social services,*

O) *public utilities,*

P) *racing or wagering,*

Q) *real estate or construction,*

R) *telecommunications,*

S) *trade or professional association,*

T) *travel or tourism,*

U) *transportation, and*

V) *other (setting forth the nature of that other business).* (Section 5 of the Act)

e) The registrant must file an amendment to the statement within 14 calendar days to report any substantial change or addition to the information previously filed, except that a registrant must file an amendment to the statement to disclose a new agreement to retain the registrant for lobbying services before any service is performed that requires the person to register, but in any event not later than two business days after entering into the retainer agreement.

fe) All registration statements shall include an annual, nonrefundable, non-transferable registration fee, assessed as follows, in the manner prescribed by the Secretary of State:

1) An entity's registration shall include a $350 registration fee for the
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entity. However, a self-employed independent contract lobbyist who does not lobby under an assumed business name and who has no employees engaged in lobbying activities may submit a single annual fee of $350 and need not pay an entity fee.

2) An entity's registration shall include a $350 single, annual, nonrefundable, nontransferable registration fee for each person registering as a lobbyist on an Exclusive Lobbyist Information Statement. The entity shall submit payment in a manner prescribed by the Secretary of State should submit one check or money order for the total amount owed. For example, an entity registering 5 lobbyists should submit one check for $300, rather than 6 checks for $50.

3) Entities required to register under the Act that are qualified under section 501(c)(3) of the Internal Revenue Code shall remit a single, annual and nonrefundable $150 registration fee. Registrants under this Section must provide current proof of section 501(c)(3) status with their registration statement.

4) An entity that is qualified under section 501(c)(3) shall include a $150 single, annual, nonrefundable registration fee for each person registering as a lobbyist on an Exclusive Lobbyist Information Statement.

g) Each individual required to register under this Act shall submit, on an annual basis, a picture of the registrant (see Section 560.100) in a manner prescribed by the Secretary of State.

h) The Secretary of State Index Department will send an acknowledgment to each authorized agent indicating the date of receipt for all statements delivered by mail or in person. Acknowledgment will be sent only if the statement meets the definition of "filed" in Section 560.100.

ig) Persons solely engaged in grass roots lobbying as an employee of a registered entity or a participant in a grass roots lobbying event who make a reportable expenditure are required to register unless the expenditure is reported to the registered entity pursuant to Section 560.326.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

SUBPART C: REPORTING REQUIREMENTS
Section 560.300 Persons Required to File Expenditure Reports

a) Except as otherwise provided in this Section, every person required to register as prescribed in Section 560.200 shall report, verified under oath pursuant to Section 1-109 of the Code of Civil Procedure, to the Secretary of State all expenditures for lobbying made or incurred by the lobbyist on his behalf or the behalf of his employer (Section 6 of the Act). For the purpose of this Subpart, "expenditures" shall refer to reportable expenditures made on behalf of officials in the four categories described in Section 6 of the Act and Section 560.310.

b) In the case where an individual is solely employed by another person to perform job related functions, any part of which includes lobbying, the employer shall be responsible for reporting all lobbying expenditures incurred on the employer's behalf as shall be identified by the lobbyist to the employer preceding such report (Section 6 of the Act). The authorized agent for each registered entity shall file one expenditure report that includes all expenditures made by persons who lobby exclusively for that entity, and reimbursed expenditures made by persons who do not lobby exclusively for that entity. Lobbyists shall submit their expenditure information to the authorized agent for their registered entity, and shall not file separate expenditure reports.

c) Persons and entities that do not lobby exclusively for one registered entity shall report all expenditures which were not reimbursed by employers (i.e., clients), including expenditures to establish goodwill with officials which were not on behalf of a client.

d) Participants in grass roots lobbying events who make reportable expenditures shall file reports as prescribed by Section 560.325.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 560.305 Time, Place and Manner for Filing Expenditure Reports

a) A semi-annual report under this Section shall be filed by July 31, for expenditures from the previous January 1 through the later of June 30 or the final day of the regular General Assembly session, and an annual report by January 31, for expenditures from the entire previous calendar year January 1-December 31 (Section 6 of the Act). Registrants shall use official forms for the submission of expenditure reports (see Section 510.405).
b) Expenditure Reports shall be filed in accordance with the definition of "filing" (see Section 560.100). Reports may also be faxed to the Index Department at 217/524-0930.

c) The Secretary of State Index Department will mail to authorized agents an acknowledgment of filing indicating the date of receipt for all reports delivered by mail or in person. An acknowledgment will be sent only if the report is verified sworn under oath (i.e., notarized,) and meets the definition of "filed" in Section 560.100.

d) Within 30 days after a reporting deadline, the Secretary of State Index Department shall notify authorized agents of their failure to file a report.

e) If the regular General Assembly session adjourns later than June 30, the filing period for the semi-annual report may be extended by notice from the Secretary of State Index Department to all Authorized Agents of registered entities.

(Source: Amended at 30 Ill. Reg. _______, effective ____________)

Section 560.310 Categorizing Expenditures

a) Expenditures attributable to lobbying officials shall be listed and reported according to the following categories:

1) travel and lodging on behalf of others;

2) meals, beverages and other entertainment;

3) gifts;

4) honoraria. (Section 6 of the Act)

AGENCY NOTE: Public Act 89-405 added Section 2-110 of the Governmental Ethics Act [5 ILCS 420/2-110] to prohibit members of the General Assembly from accepting any honorarium. This amendment to the Governmental Ethics Act [5 ILCS 420/2-110] applies only to members of the General Assembly and contains no similar prohibition with respect to the acceptance of honoraria by other officials.
b) The report shall itemize each individual expenditure or transaction over $100 and shall include the name of the official on whose behalf the expenditure was made, the name of the client on whose behalf the expenditure was made, the total amount of the expenditure, the date on which the expenditure occurred and the subject matter of the lobbying activity, if any (Section 6 of the Act). If there is no subject matter pertaining to the lobbying activity in connection with an expenditure, the term "goodwill" should be reported as the subject matter. Allocation is permitted for determining the itemization threshold (see Section 560.315).

c) The report shall include:

1) the name of each State government entity lobbied;

2) whether the lobbying involved executive, legislative, or administrative action, or a combination;

3) the names of the persons who performed the lobbyist services; and

4) a brief description of the legislative, executive, or administrative action involved. (Section 6 of the Act)

de) Individual expenditures required to be reported as described herein which are equal to or less than $100 in value need not be itemized but are required to be categorized and reported by officials in an aggregate total in the manner prescribed by the Expenditure Report Non-Itemized Schedule (Section 6 of the Act). Allocation is permitted for determining the itemization threshold (see Section 560.315).

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 560.370 Returned Gifts and Honoraria/Reimbursement by Official

Gifts and honoraria returned or reimbursed to the registrant within 30 thirty (30) days after of the date of receipt shall not need to be reported. A gift or honorarium returned or reimbursed to the registrant within 10 days after the official receives a copy of a report pursuant to Section 6.5 of the Act shall not be included in the final report unless the registrant informed the official, contemporaneously with the receipt of the gift or honorarium, that the gift or honorarium is a reportable expenditure pursuant to the Act. (Section 6 of the Act) Additionally, any reportable expenditure for which the official reimburses the lobbyist or registered entity within the
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A registrant's reports listing gifts or honoraria which have been returned, or other expenditures which have been reimbursed, shall be amended pursuant to Section 560.380, or in lieu of amending the report, the authorized agent may submit a letter of explanation. The amendment shall be filed no later than 30 days from the authorized agent's receipt of the notice of nonacceptance by the official.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 560.371 Lobbyist Notifications to Officials

Pursuant to Sections 6 and 6.5 of the Act, lobbyists shall send two notifications to each official on whose behalf an expenditure was incurred during the reporting period.

a) At least 25 days prior to the filing deadline for the report (January 6 for the annual report and July 6 for the semiannual report), lobbyists shall notify each official for whom an expenditure will be reported of the total amount of each expenditure, the date on which each expenditure was incurred, and, if applicable, the subject matter of the lobbying activity. Lobbyists may either provide an official with a copy of the report, or a separate notification pertaining to the expenditures of that official only.

b) Within 30 days after a filing deadline (March 2 for the annual report and August 30 for the semiannual report), lobbyists shall again notify each official for whom an expenditure was reported of the total amount of the expenditure, the date on which the expenditure was incurred, and, if applicable, the subject matter of the lobbying activity.

c) Lobbyists shall not send the Secretary of State a copy of the notifications to officials.

d) Filing deadlines for expenditure reports shall not be extended due to the failure to receive a response from an official prior to the filing deadline. If a lobbyist receives a response after having filed an expenditure report, the lobbyist must promptly file the response as an appendix to the previously filed report.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 560.375 Reports in the Absence of Reportable Expenditures

Registered entities that made no reportable expenditures during a reporting period shall file
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Expenditure Summary Reports stating that no expenditures were incurred, and a Lobbying Activity Detail Report (Section 6 of the Act). Such reports shall be filed in accordance with Sections 560.100 and 560.305.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 560.385 Termination of Lobbying Activities

a) To terminate the registration of an entity, the authorized agent shall file with the Secretary of State Index Department either:

1) A written notification of the termination of lobbying activities and a final expenditure report covering the period of time since the filing of its last report to the date of termination, as determined by the entity. Such notice and report shall be final and relieve said registrant of further reporting under this Part; (Section 6 of the Act); or

2) A registered entity may terminate its lobbying status by permitting the registration to expire on December 31, and not re-registering for the next calendar year. A registered entity that does not renew its registration is still required to file an annual expenditure report pursuant to Section 560.305.

b) To terminate an individual lobbyist from a registered entity, the lobbyist shall notify the Secretary of State within 30 days, as required by Section 6 of the Act, or notify the authorized agent in sufficient time for the authorized agent to notify the Secretary of State within 30 days after the termination that the lobbyist no longer lobbies for that entity. In either case, the lobbyist must provide the authorized agent with copies of expenditure records for the next reporting period. The authorized agent shall include any reportable expenditures incurred by that lobbyist prior to termination in the entity’s next report.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 560.390 Failure to File Registration Statements and Expenditure Reports

Failure to file a registration statement or expenditure report within the time designated, or the reporting of incomplete information, may constitute a violation of this Part. Within ten (10) days after a filing deadline, the Secretary of State Index Department shall notify the authorized agent for any registered entity that is deemed required to file, but has failed to do
so. (Section 7 of the Act)

a) A registered entity that is required to file a registration statement or expenditure report, and who has not filed by the deadlines prescribed in this Part, is subject to the following late filing fees:

1) Filings received within fifteen (15) days after a filing deadline shall be accompanied by a $50 late filing fee;

2) A registered entity that fails to file within 15 days shall be subject to a penalty of $100, which shall be in addition to the $50 late filing fee specified in subsection (a)(1) above;

3) A registered entity that registers within 30 days after a deadline for filing expenditure reports may file such report within 30 days after the deadline without a late filing fee or penalty. Such entity is subject to the fee schedule above for filing statements and reports later than the 30 day extension.

b) A lobbying entity that fails to register or file expenditure reports and/or fails to pay late penalties or fees is not in compliance with the Act. Entities may be prevented from registering in future registration periods if filing and monetary delinquencies are not satisfied.

c) For good cause shown, the Director of the Index Department may extend the time for compliance for an additional thirty (30) days after the date of the filing deadline. No further extensions of time shall be given. Examples of such extenuating circumstances include, but are not limited to, the following:

1) inadvertent data erasure or computer malfunction;

2) hospitalization of the authorized agent;

3) loss of original receipts resulting from fire, flood, or other act of nature. Lobbyists must provide replacement expenditure information to the authorized agent for compilation of the entity's report.

d) A registered entity will be liable for the late filing fee and penalty if it does not receive notifications from the Secretary of State's Office due to the entity's failure to inform the Index Department of a change of address or authorized agent.
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Copies of all records shall be maintained by the Index Department for inspection by the Attorney General or appropriate State's Attorney in the course of his or her activities under Section 11 of the Act.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

SUBPART D: PUBLIC DISCLOSURE

Section 560.402 Location and Business Hours

The offices of the Secretary of State Index Department are located at 111 East Monroe Street, Springfield, Illinois 62756, and at 17 N. State Street, Chicago, Illinois 60602, and shall be open Monday through Friday, from 8:00 a.m. to 4:30 p.m., except on State legal holidays. For the purposes of this Part, all related activities and filings shall be performed at the Springfield office or on the Secretary of State website.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 560.405 Official Forms

Registered entities are required to use only the official forms, photostatic copies of official forms, or electronic forms and schedules approved by the Secretary of State Index Department when filing lobbyist registration statements or expenditure reports.

a) Copies of official forms may be obtained from the Index Department.

b) Alternative methods of reporting are prohibited unless prior written approval has been received from the Director of the Index Department.

c) Prior written approval will be given based on the compatibility of alternative methods with the Index Department's public disclosure procedures.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 560.410 List of Officials

The Secretary of State Index Department shall maintain and make available to registrants a list of position titles deemed by their employing Constitutional Officers to be officials under this Part. The Constitutional Officers may provide this list to the Index Department on an annual basis or
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as amendments are required. The Secretary of State Index Department shall maintain an updated list of officials on the Secretary of State website. Copies of the list will be mailed to authorized agents upon request. All authorized agents if any amendments are made, or upon request.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)

Section 560.420 Fees

Expenditure reports and lists of registrants shall be made available to the public at the following fees:

a) Paper copies of the list of registrants shall be available free of charge. This list is available on computer disk at no charge to any party that provides a compatible computer disk for $10.

b) Copies of statements or expenditure reports shall be available for $.50 per page. The authorized agent for a registered entity may obtain one free copy of that entity's Expenditure Summary Report per reporting period. All other statements or reports are available for $.50 per page.

c) There is no charge to inspect materials filed at the Secretary of State Index Department, 111 East Monroe Street, Springfield, Illinois 62756.

d) Certification that an entity or individual is or is not registered pursuant to the Lobbyist Registration Act shall be available for $2.00.

(Source: Amended at 30 Ill. Reg. ______, effective ____________)
NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** College Savings Pool

2) **Code Citation:** 23 Ill. Adm. Code 2500

3) **Section Number:** 2500.30  
   **Proposed Action:** Amendment

4) **Statutory Authority:** Implementing and authorized by Section 16.5 of the State Treasurer Act [15 ILCS 505/16.5].

5) **A Complete Description of the Subjects and Issues Involved:** This amendment removes the minimum initial contribution amount associated with the application process into the College Savings Pool in order to open up participation to more applicants. Removing the minimum initial contribution level will make the Pool available to more middle and lower income families.

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

7) **Does this rulemaking contain an automatic repeal date?** No

8) **Does this proposed rulemaking contain incorporations by reference?** No

9) **Are there any other proposed amendments pending on this Part?** No

10) **Statement of Statewide Policy Objectives (if applicable):** This rulemaking does not create or expand a State mandate.

11) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register.* All requests and comments should be submitted in writing to:

    Daniel Yabut  
    Legal Division  
    The Honorable Judy Baar Topinka  
    Office of the Illinois State Treasurer  
    100 W. Randolph, Suite 15-600  
    Chicago, IL 60601

    (312) 814-8950
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If because of a physical disability you are unable to put comments into writing, you may make them orally to the person listed above.

12) Initial Regulatory Flexibility Analysis:

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

B) Reporting, bookkeeping, or other procedures required for compliance: None

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: This rulemaking was not anticipated by the Treasurer’s Office when the two most recent regulatory agendas were published.

The full text of the Proposed Amendment begins on the next page:
Section 2500.10 Purpose

Section 2500.20 Definition of Terms

Section 2500.30 Participation Requirements

Section 2500.40 Deposits at Participating Financial Institutions

Section 2500.50 Investment Policy

Section 2500.60 Record Keeping

Section 2500.70 Withdrawals

Section 2500.80 Administrative Expenses

Section 2500.90 Account Limits

Section 2500.100 Debt

Section 2500.110 Program Documents

Section 2500.120 Private Contractors

Section 2500.130 Amendment of Rules

AUTHORITY: Implementing and authorized by Section 16.5 of the State Treasurer Act [15 ILCS 505/16.5].


Section 2500.30 Participation Requirements

a) Participants on behalf of designated beneficiaries shall make contributions to the pool. Any person residing in the United States at the time the account is processed may be a participant. Any person may be a designated beneficiary. Contributions may be made only in cash and not in property. Cash contributions may be made by check, money order or similar methods. Cash contributions may not be made by credit card.

b) New accounts in the pool shall be processed through participating financial
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institutions. A participating financial institution may charge a processing fee that does not exceed $30, until the year 2001, to a participant to open an account in the pool. Participating financial institutions shall be responsible for collecting the processing fee directly from an applicant. On January 2, 2001 and on January 2 of every year thereafter, the Treasurer shall adjust the maximum processing fee based on the Consumer Price Index as published by the United States Department of Labor, Bureau of Labor Statistics pursuant to 26 USC 2 for the immediately preceding calendar year. Participating financial institutions shall be notified by the Treasurer or its agent of such adjustment.

c) The Treasurer shall create applications for participation in the pool to be completed by the applicant and the participating financial institution. The applicant and the participating financial institution shall be responsible for providing all of the information requested by the Treasurer. The Treasurer shall keep all information received from applicants confidential and may only share the information with third parties to the extent required to operate the pool. Participating financial institutions shall be required to provide information regarding the participating financial institution on the application to enable the Treasurer to open an account for the applicant and verify that the Account was processed through a participating financial institution. Applications that have the relevant section completed by the participating financial institution shall be deemed to be processed through the participating financial institution. Completed applications must be sent to a mailing address specified in the application form.

d) Applications shall include an initial contribution to the pool of an amount that is at least $25 in the form of a check or money order payable to the pool. Applications that are incomplete and applications that fail to meet the guidelines established by the Treasurer in an effort to comply with Section 529 of the Internal Revenue Code shall be rejected.

e) Subsequent contributions to the pool shall be in an amount of at least $15 and may be made by the participant directly to the pool. Subsequent contributions may be made electronically or in the form of a check or money order, payable to the pool.

f) The minimum initial contribution and minimum subsequent contribution limits are waived for contributions made to the pool through an employer-offered payroll deduction program.

(Source: Amended at 30 Ill. Reg. ______, effective ____________ )
CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED REPEALER

1) **Heading of the Part:** Capital Development Board Energy Code

2) **Code Citation:** 71 Ill. Adm. Code 600

3) **Section Numbers:**
   - 600.100 Repeal
   - 600.110 Repeal
   - 600.120 Repeal
   - 600.130 Repeal
   - 600.140 Repeal
   - 600.150 Repeal
   - 600.160 Repeal

4) **Statutory Authority:** 20 ILCS 3105

5) **Effective date of repealer:** April 8, 2006

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 repealer, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal published in Illinois Register:** April 8, 2005; 29 Ill. Reg. 4760

10) **Has JCAR issued a Statement of Objection to this repealer?** No

11) **Differences between proposal and final version:** None

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No agreements were necessary.

13) **Will this repealer replace any emergency repealer currently in effect?** No. A companion emergency repealer expired on September 14, 2005.

14) **Are there any amendments pending on this Part?** No
15) **Summary and purpose of repealer:** CDB is repealing the Capital Development Board Energy Code because a new Part 600 titled Illinois Energy Conservation Code was adopted in the October 7, 2005 *Illinois Register*, effective April 8, 2006. This revision and expansion in the Code is prompted by the recent enactment of the Energy Efficient Commercial Building Act [20 ILCS 3125], which extends CDB's application of the Code to private commercial facilities, as well as State-funded facilities.

16) **Information and questions regarding this adopted repealer shall be directed to:**

    Jerry Crabtree  
    Capital Development Board  
    Rules Coordinator  
    300 Stratton Office Building  
    Springfield IL  62706  

    jcrabtre@cdb.state.il.us  
    217/557-7500
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1) **Heading of the Part:** Detection of Deception Examiners Act

2) **Code Citation:** 68 Ill. Adm. Code 1230

3) **Section Numbers:**
   - 1230.20 Amendment
   - 1230.30 Amendment
   - 1230.40 Amendment
   - 1230.50 Amendment
   - 1230.60 Amendment
   - 1230.70 Amendment
   - 1230.80 Amendment
   - 1230.90 Amendment
   - 1230.100 Amendment
   - 1230.110 Amendment
   - 1230.120 Amendment
   - 1230.130 Amendment
   - 1230.140 Amendment
   - 1230.150 Amendment
   - 1230.151 New Section
   - 1230.155 Amendment
   - 1230.160 Amendment

4) **Statutory Authority:** Detection of Deception Examiners Act [225 ILCS 430].

5) **Effective date of amendments:** October 13, 2005

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal published in Illinois Register:** April 29, 2005; 29 Ill. Reg. 5818

10) **Has JCAR issued a Statement of Objections to these amendments?** No

11) **Differences between proposal and final version:** Language was added into Section 1230.70 to indicate subject areas to be covered by the exam, and the passing score was
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restored to 75. Additional non-substantive changes were made to the entire Part by changing references from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.

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 amendments currently in effect? No

14) Are there any amendments pending on this Part? No

15) Summary and purpose of amendments: This rulemaking, in response to an audit finding, provides for restoring a license as a detection of deception examiner that has been lapsed or inactive for over 5 years. The licensure examination language is also being amended to reflect the revised examination. Additional non-substantive changes were made to the entire Part by changing references from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.

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

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813
Fax: 217/557-4451

The full text of the Adopted Amendment begins on the next page:
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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1230
DETECTION OF DECEPTION EXAMINERS ACT

Section
1230.10 Statutory Authority (Repealed)
1230.20 Definitions
1230.30 Six Month Study of Detection of Deception
1230.40 Instructors Qualifications and Approval
1230.50 Application for Registered Training
1230.60 Application for Licensure Examination
1230.70 Licensure Examination
1230.80 Impermissible Advertising
1230.90 Pre-Test Interview
1230.100 Protection of the Rights of the Subject
1230.110 Impermissible Activities of an Examiner
1230.120 Disclosure of Examination Results
1230.130 Required Records
1230.140 Endorsement
1230.150 Renewals
1230.151 Restoration
1230.155 Fees
1230.160 Granting Variances

AUTHORITY: Implementing Section 22 of the Detection of Deception Examiners Act [225 ILCS 430] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

Section 1230.20 Definitions

As used in these Rules, unless the context requires otherwise:

a) "Examination" means a detection of deception examination, which generally consists of a pre-test interview, question formulation, two or more tests, and, if appropriate, an interrogation.

b) "Subject" means the person who undergoes an examination.

c) "Client" means the person who engages the services of an examiner for the purpose of administering an examination to a subject.

d) "Specific issue mock examination" means an examination in which the situation is fictitious and designed to simulate a real life criminal act.

e) "Real life examination" means an examination that uses an actual crime that has been committed.

f) "Trainee" means a person registered for the training required by Section 11(D) of the Act.

g) "Trainer" means a person approved under Section 1230.40(a) to teach the areas in the training required by Section 1230.30(a).

h) "Specialized Instructor" means a person approved under Section 1230.40(b) to teach one of the areas in the training required by Section 1230.30(b).

i) "Test" is that period of time during which a subject's physiological responses are being measured as he or she is answering test questions.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.30 Six Month Study of Detection of Deception

To obtain the 6 months of training required by Section 11(D) of the Act, a trainee shall be required to complete the following minimum coursework under the supervision of instructors approved under Section 1230.40:

a) The following coursework shall be obtained under the supervision of a trainer
trainers as defined in Section 1230.20 of this Part.

1) Fact Taking – Case History Studies – 5 hours
2) General Theory – 10 hours
3) Instrumentation – 10 hours
4) Physical Settings for Examinations – 5 hours
5) Question Formulation – 25 hours
6) Pre-test Interviews – 25 hours
7) Behavior Symptom Analysis – 15 hours
8) Stimulation and Calming Techniques – 10 hours
9) Types of Test and Test Procedures – 25 hours
10) Chart Interpretation – 25 hours
11) Completion and Analysis of Required Reports – 10 hours
12) History of Polygraph – 10 hours
13) Ethics – 5 hours
14) Interrogation – 25 hours
15) Practical Experience – 30 specific examinations (at least 15 shall be real life examinations and the other 15 may be specific issue mock examinations).

b) The following courses shall be obtained under a specialized instructor as defined in Section 1230.20(f):

1) Physiological Aspects – 25 hours
2) Psychological Aspects – 15 hours
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3) Legal Aspects – 15 hours

c) The practical experience required under subsection (a)(15), above, must be earned
in the following manner:

1) Before a trainee is allowed to conduct any real life examinations, he/she
must have satisfactorily completed at least 100 hours of formalized
instruction.

2) The trainee must be personally supervised by a trainer while he/she
conducts the 30 specific examinations. Supervision means the trainer
must be at the location where the test is being administered to assist the
trainee in:

A) Evaluating the facts;

B) Formulating the questions;

C) Conducting the examination;

D) Interpreting the polygraph charts; and

E) Making the final analysis of the examination results.

3) The trainee must conduct the real life examinations and the specific issue
mock examinations under the personal supervision of a trainer.

A) Specific issue mock examinations must investigate whether a
person performed a specific act and do not include pre-
employment screening examinations.

B) The specific real life cases must reflect a blend of investigative
issues. This testing must reflect a balance of at least 5 different
types of investigative issues (such as burglary, theft, robbery) and
include at least 1 examination involving as the subject either a
victim, witness or informant.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)
Section 1230.40  Instructors Qualifications and Approval

a)  Trainer Qualifications.  A person shall be approved to teach the courses listed in Section 1230.30(a) who has the following qualifications:

1)  Is a detection of deception examiner licensed in Illinois or in another state with substantially equivalent requirements;

2)  Has a license in good standing;

3)  Has a minimum of 3 years of experience as a licensed detection of deception examiner; and

4)  Currently administers examinations on a regular basis.

b)  Specialized Instructors Qualifications.  A person shall be approved as a specialized instructor:

1)  To teach Psychological Aspects, if he or she has a bachelor's degree from an accredited college or university with at least 20 semester hours in psychology courses;

2)  To teach Physiological Aspects, if he or she has a bachelor's degree from an accredited college or university with at least 20 semester hours in life science courses, including one course in human physiology;

3)  To teach Legal Aspects, if he or she has a law degree from an accredited law school.

c)  Application for Approval

1)  An applicant for approval as a trainer or specialized instructor shall submit an application and a general course outline to the Department of Financial and Professional Regulation-Division of Professional Regulation (Division).  The course outline shall include a list of the books to be used, the number of hours to be devoted to each subject, a brief description of the content of the instruction in each subject, and a course syllabus outlining the expected progression of the course.

2)  Trainer applicants not licensed in Illinois must also submit proof of
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licensure and substantially equivalent qualifications.

3) Specialized instructor applicants shall also submit certified transcripts from the college or university attended indicating that the appropriate number of hours have been earned and/or the appropriate degree granted.

4) The applicant may be required to appear before the Director of the Department of Financial and Professional Regulation-Division of Professional Regulation (Director) or his or her designee for an interview if the Director has any questions relating to the applicant's qualifications or the sufficiency of the course outline.

5) Approval granted under this Section is good for a period of five years and may be renewed only upon a showing that the applicant meets the qualifications then required of a trainer or specialized instructor.

d) Withdrawal of Approval

1) The Director may withdraw, suspend or place on probation the approval of a trainer or specialized instructor when it is found, after a hearing before the Division, that the trainer or specialized instructor has violated any provision of Section 14 of the Act in his or her actions as a trainer or specialized instructor.

2) In the case of an Illinois licensed trainer, any hearing for suspension or revocation of the trainer's license shall also serve as a hearing on his or her approval as a trainer.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.50 Application for Registered Training

a) To establish that a prospective trainee "is a person of good moral character", each trainee must satisfactorily undergo an examination administered by the trainer from whom he or she intends to receive his training. The results and records of this examination shall be made available to the Division upon request.

b) An applicant for registered training shall file an application, together with certified transcripts from an accredited college or university indicating that a
bachelor's degree has been granted, and a recent photograph.

c) An applicant for registered training may not begin his training until the trainee receives written notice of approval.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.60 Application for Licensure Examination

An applicant for licensure shall submit an application at least 30 days prior to an examination date. The application shall include a certified transcript of registered training hours the applicant has completed, a recent photograph not larger than 2½ by 2½ inches, and the required fee required by Section 1230.155.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.70 Licensure Examination

a) Licensure examination content will be based on the knowledge, skills and abilities required to perform effectively and legally as a detection of deception examiner. The licensure examination shall include, but not be limited to, the following subject areas:

Laws, Regulations and Standards of Practice
Psychology
Physiology and Anatomy
Investigative Techniques
History and Instrumentation
Question Formulation
Chart Interpretation
Practical Chart-Reading

b) The passing grade on the examination shall be a score of 75.

a) The licensure examination shall consist of the following subject areas:

1) Written Examination

Psychology—Law
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Physiology

Interrogation

History and Instrumentation

Chart Interpretation

Question Formulation

2) Demonstrative Practical Examination on Chart Interpretation

b) The passing grade on the written examination is an average of 75. The passing grade on the practical examination is 75.

e) An applicant who fails the first examination is required, on the second and third examinations, to retake only those portions of the written examination in which he did not receive a grade of at least 75.

d) On the fourth and each subsequent examination, the applicant is required to retake the entire licensure examination.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.80 Impermissible Advertising

a) An examiner shall not advertise in any manner with a view of deceiving the public, or in any way that will tend to deceive or defraud the public.

b) An examiner shall not publish, directly or indirectly, or circulate any fraudulent, false or misleading statements as to the skill or method of practice of any person or examiner.

c) An examiner shall not claim superiority over other detection of deception examiners as to his or her skill or method of practice.

d) An examiner shall not identify any subject by any means in any of his advertisements.
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e) An examiner Examiner shall not give public demonstrations of detection of deception for the purpose of securing patronage.

f) An examiner Examiner shall not advertise free examinations as an inducement to secure patronage.

g) An examiner Examiner shall not employ "cappers" or "steerers" to obtain patronage.

h) An examiner Examiner shall not divide fees or agree to split or divide the fees received for detection of deception services with any person for bringing or referring a client.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.90 Pre-Test Interview

An examiner Examiner shall not administer a test in any case without first conducting a pre-test interview with the prospective subject in accordance with the following minimum requirements:

a) The examiner Examiner shall inform the prospective subject of each issue to be determined in the test and reported upon by the examiner Examiner.

b) The questions to be asked at the test shall be formulated and reduced to writing and shall be read to the prospective subject. The His answers shall be recorded in writing on the same document thereon.

c) The examiner Examiner shall not initiate an accusatory interrogation prior to the test for the purpose of eliciting a confession or admission against interest from the prospective subject.

d) The examiner Examiner shall inform the prospective subject that taking the test must be a voluntary act, and the examiner Examiner shall obtain the subject's consent to undergo the test.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.100 Protection of the Rights of the Subject

In order to protect the rights of the subject, the following minimum procedures must be
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performed:

a) Notice to Subject. Each prospective subject shall be required to sign a notification, prior to the beginning of an examination, containing the following information:

1) The prohibitions contained in Section 14.1 of the Act; and

2) The subject has the right to request a copy of the results of his or her examination under Section 3 of the Act.

3) The name of the examiner, the firm name and the address.

b) All instruments used in an examination must be kept accurate by being calibrated on a regular basis, as specified in the manufacturer's instructions. The Division Department has the right to inspect these machines at any time during regular business hours, without notice.

c) When an examination is being administered, no third party shall be present in the examination room without the subject's knowledge and prior written consent as to the identity and the reason for the presence of such person.

d) An examination in progress may be observed or listened to by examiners or trainees from outside the examination room, but no other person may do so without the subject's knowledge and prior written consent. The statement of consent shall include as to the identity of any such person permitted to observe or listen, the means used for observing or listening, and the reasons for observing or listening therefor.

e) Immediately upon request of the subject, an examiner shall terminate an examination.

f) A test shall not continue for more than 4 minutes while the arm pressure cuff is being utilized, nor more than 5 minutes while the wrist cuff is being utilized.

g) During the examination the examiner shall utilize both relevant issue questions and questions to be used for comparison purposes.

h) An examiner, when administering an examination, shall not attempt to determine truth or deception on matters or issues not discussed with the subject at
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the pre-test interview or not reasonably related to the matters or issues previously discussed with the subject.

i) An examiner shall not initiate an accusatory interrogation for the purpose of eliciting a confession or admission against interest from the subject until after he has conducted two tests on the issues submitted for determination.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.110  Impermissible Activities of an Examiner

a) An examiner shall not knowingly administer an examination on behalf of an illegal business, criminal enterprise or scheme of criminal misconduct in which either the client or subject are employed or otherwise engaged.

b) An examiner shall not administer an examination in any case where there is reason to believe that the client, as a result of the examination or in connection with the examination, intends to perform a criminal act.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.120  Disclosure of Examination Results

a) An examiner shall prepare a written report of each examination he or she administers. The report shall contain at least the following information:

1) Identity of the subject;

2) Identity of the client; and

3) For:

A) Pre-employment examinations, the results of the examination; or

B) All other examinations:

   i) A statement of the facts upon which he/she conducted both the pre-test interview with the subject and the examination
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itself.

ii) A list of the questions asked on the tests that were relevant to the issues upon which the subject agreed to be examined.

| iii) His or her conclusion as to truth or deception of the subject's answer to each of the questions listed in the report.

b) An examiner shall not include in the report any conclusion as to the truth or deception of the subject with regard to any matters not submitted by the client for determination.

c) An examiner shall not report his or her professional conclusion as to truth or deception on a relevant issue without having asked the question relating to that issue at least once in each of 2 separate tests.

d) If a defense attorney has asked that an examination of his or her client be conducted and later asks that the examiner not issue a written report, an examiner shall not be required to prepare a written report. When the examination is being utilized as part of that attorney's work product, it falls under protected attorney/client privilege. The request must be documented and kept in the file pursuant to Section 1230.130.

e) When retained privately, an examiner shall not be required to prepare a written report when asked not to do so by the client. The request must be noted and kept in the file pursuant to Section 1230.130.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.130 Required Records

An examiner shall, in the case of every examination administered by him/her, maintain a record for at least 5 years that shall contain at least the following:

a) All material upon which he/she conducted the pre-test interview.

b) The questions asked of the subject at the pre-test interview and his/her answers.

c) The examination questions, as formulated at the pre-test interview, and the subject's answers.
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d) The exact questions asked of the subject at any time during the examination and the subject's answers thereto.

e) All recordings of the polygraph instrument made during the tests adequately identified as to the order in which the recordings were obtained, the point at which every question was asked and the answer thereto, the identification of each question and any notations indicating changes of the subject's behavior and environmental influence that might affect the polygraph's recordings.

f) All written consents and acknowledgments of the subject as required by this Part these Rules.

g) A copy of all examination reports prepared by an examiner.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.140  Endorsement

a) A person licensed in another state or territory desiring to obtain licensure by endorsement shall submit an application to the Division that Department which shall include a certification of registration form completed by the licensing board of the state of original licensure, and the required fee.

b) The Division Department shall evaluate the application to determine if the requirements in the state of original licensure are substantially equivalent to those in Illinois. Within a reasonable time, the Division Department shall either grant licensure by endorsement or inform the applicant of the reasons for denial.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.150  Renewals

a) Every certificate of registration issued under the Act shall expire on May 31 of each odd numbered year. The holder of a certificate of registration may renew the such certificate during the month preceding the expiration date thereof by paying the required fee required by Section 1230.155.

b) It is the responsibility of each registrant to notify the Division Department of any change of address. Failure to receive a renewal form from the Division
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Department shall not constitute an excuse for failure to pay the renewal fee.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.151 Restoration

A person seeking restoration of a license that has expired or been placed on inactive status for less than 5 years shall have the license restored upon payment of the fee required by Section 1230.155, except that the fee is waived, under Section 13 of the Act, for applicants who can provide an affidavit attesting to military service during which the license expired, if application is made within 2 years after discharge.

(Source: Added at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.155 Fees

The following fees shall be paid to the Division Department and are not refundable:

a) Application Fees. The fee for application for a license as a detection of deception examiner is $100. In addition, applicants for an examination shall be required to pay, either to the Division 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 Department or the designated testing service, shall result in the forfeiture of the examination fee.

b) Renewal Fees. The fee for the renewal of a license shall be calculated at the rate of $125 per year.

c) General Fees.

1) The fee for the restoration of a license other than from inactive status is $20 plus payment of all lapsed renewal fees, not to exceed $500.

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 Department records when no duplicate license is
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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 authorized by the Division Department 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 the certificate.

6) The fee for a roster of persons licensed as detection of deception examiners in this State shall be the actual cost of producing the roster.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)

Section 1230.160 Granting Variances

The Director may grant variances from this Part these rules in individual cases where he or she finds that:

a) The provision from which the variance is granted is not statutorily mandated;

b) No party will be injured by the granting of the variance; and

c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

(Source: Amended at 29 Ill. Reg. 16416, effective October 13, 2005)
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1) **Heading of the Part:** Illinois Public Accounting Act (Professional Conduct)

2) **Code Citation:** 68 Ill. Adm. Code 1430

3) **Section Numbers:**
   - 1430.500 Amendment
   - 1430.800 Amendment
   - 1430.1030 New Section
   - 1430.3010 Amendment
   - 1430.6010 Amendment

4) **Statutory Authority:** Illinois Public Accounting Act [225 ILCS 450].

5) **Effective date of amendments:** October 13, 2005

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Notice of Proposal published in Illinois Register:** January 28, 2005; 29 Ill. Reg. 1480

10) **Has JCAR issued a Statement of Objection to these amendments?** No

11) **Differences between proposal and final version:** No substantive changes. Non-substantive changes were made to the entire Part by changing references from "Department" to "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.

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 amendments currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and purpose of amendments:** Public Act 93-683 added Section 30.4 to the Public Accounting Act concerning prohibited practice, pertaining to services provided by
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accounting firms and regulating the provision of certain non-audit activities to certain audit clients. This Part is being amended by adding Section 1430.1030 in an effort to promote clear standards and consistency in the enforcement of Section 30.4. Non-substantive changes have also been made to the entire Part by changing references from "Department" "Division" to reflect the consolidation of agencies into the Department of Financial and Professional Regulation and the creation of the Division of Professional Regulation.

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

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813
Fax: 217/557-4451

The full text of the Adopted Amendments begins on the next page:
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NOTICE OF ADOPTED AMENDMENTS

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

PART 1430
PUBLIC ACCOUNTING ACT (PROFESSIONAL CONDUCT)

SUBPART A: GENERAL INFORMATION

Section
1430.300 Preamble
1430.500 Definitions
1430.800 Applicability of Rules

SUBPART B: INDEPENDENCE, INTEGRITY AND OBJECTIVITY

1430.1010 Independence
1430.1020 Integrity and Objectivity
1430.1030 Provision of Non-Audit Services

SUBPART C: COMPETENCE AND TECHNICAL STANDARDS

1430.2010 Competence
1430.2020 Auditing Standards
1430.2030 Accounting Principles
1430.2040 Forecasts

SUBPART D: RESPONSIBILITIES TO CLIENTS

1430.3010 Confidential Client Information
1430.3020 Contingent Fees

SUBPART E: RESPONSIBILITIES TO COLLEAGUES

1430.4010 Relationships Between Accountants

SUBPART F: OTHER RESPONSIBILITIES AND PRACTICES

1430.5010 Acts Discreditable
1430.5030 Commissions and Referral Fees
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1430.5040 Incompatible Occupations
1430.5050 Form of Organization and Name

SUBPART G: GENERAL PROVISIONS

1430.6010 Rules and Regulations
1430.6020 Suspension or Modification of Rules
1430.6030 Construction of Rules

1430. APPENDIX A Generally Accepted Auditing Standards
1430. APPENDIX B Resolution of Council Regarding Accounting Principles

AUTHORITY: Implementing Section 19 of the Illinois Public Accounting Act [225 ILCS 450/19] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].


SUBPART A: GENERAL INFORMATION

Section 1430.500 Definitions

The following definitions of terminology are applicable wherever such terminology is used in these Rules of Professional Conduct.

a) Accounting Principles Board – a former body of the Institute designated by Council to establish generally accepted accounting principles to be used in the presentation of financial statements.

b) Accounting Research Bulletins – Pronouncements of generally accepted accounting principles by the Institute prior to the establishment of the Accounting Principles Board.

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d) Client – The person or entity that retains a registered public accountant or his firm, engaged in the practice of public accounting, for the performance of professional services.

e) Council – The Council (or successor body) of the Institute.

f) CPA – An individual who has received from the University of Illinois a certificate of his or her qualifications as an expert public accountant as provided in the Act.

g) Department – The Illinois Department of Financial and Professional Regulation.

h) Director – The Director of the Department of Financial and Professional Regulation-Division of Professional Regulation.

Division – The Department of Financial and Professional Regulation-Division of Professional Regulation.

i) Enterprise – A person or entity, whether organized for profit or not, for which a CPA or PA provides services.

j) FASB – Financial Accounting Standards Board of the Financial Accounting Foundation (and any successor body or organization).

Financial Statements

1) Statements and footnotes related to those statements, thereto that purport to show a financial position that relates to a point in time, or changes in financial position that relate to a period of time, and statements that use a cash or other incomplete basis of accounting. Balance sheets, statements of income, statements of retained earnings, statements of changes in financial position and statements of changes in owners' equity are financial statements.

2) Incidental financial data included in management advisory services reports to support recommendations to a client, and tax returns and supporting schedules, do not, for this purpose, constitute financial statements; and the statement, affidavit or signature of preparers required on tax returns neither constitutes an opinion on financial statements nor requires a disclaimer of such opinion.
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l) Firm – A proprietorship, partnership or professional corporation or association engaged in the practice of public accounting, including individual partners or shareholders thereof.

m) Institute – The American Institute of Certified Public Accountants (or successor organization).

n) Interpretations of Rules of Professional Conduct – Guidelines as to the scope and application of this Part the Rules of Professional Conduct.

o) Opinions of the Accounting Principles Board – Pronouncements of generally accepted accounting principles by the Accounting Principles Board.

p) PA – Individuals previously heretofore registered as public accountants under this Act.

q) Practice of Public Accounting – Holding out to be a CPA or PA and at the same time performing for a client one or more types of services rendered by public accountants.

r) Professional Services – One or more types of services performed in the practice of public accounting.

s) Registered Public Accountant – A registered public accountant under the Illinois Public Accounting Act.

t) Registration Committee – Committee of public accountants appointed by the SecretaryDirector of the Department pursuant to Section 14(b)(2) of the Act.

u) Society – The Illinois CPA Society (or successor organization).

(Source: Amended at 29 Ill. Reg. 16433, effective October 13, 2005)

Section 1430.800 Applicability of Rules

a) The Registration Committee derives its powers to promulgate this PartRules of Professional Conduct from Section 19 of the Act, and its exercise of thatsuch power is subject to the terms of the Actthereof. Furthermore, under the provisions of Section 20 of the Act, the DivisionDepartment may refuse to register, refuse to
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issue a biennial registration card to, or may suspend or cancel the registration as a public accountant of any person, partnership or corporation upon proof of violation of this Part a Rule of Professional Conduct in effect under Section 19 of the Act.

b) Application of rules

1) This Part applies The Rules of Professional Conduct which follow apply to all services performed in the practice of public accounting, including tax and management advisory services, except:

A) where the wording of this Part the rule indicates otherwise; and

B) that a registered public accountant who is practicing outside the United States will not be subject to discipline for departing from any of the rules of this Part stated herein so long as his or her conduct is in accord with the rules of the organized accounting profession in the country in which he or she is practicing and is not in violation of any provisions of the Act or of this Part any Rule or Regulation promulgated thereunder.

2) However, where a registered public accountant's name is associated with financial statements in such a manner as to imply that he or she is acting as an independent public accountant and under circumstances that would entitle the reader to assume that United States practices were followed, he or she must comply with the requirements of Rules 202 and 203 (68 Ill. Adm. Code Sections 1430.2020 and 1430.2030).

c) A registered public accountant may be held responsible for compliance with this Part the Rules of Professional Conduct by all persons associated with him or her in the practice of public accounting who are either under his or her supervision or are his or her partners or shareholders in the practice.

d) A registered public accountant engaged in the practice of public accounting must observe all the requirements of this Part Rules of Professional Conduct. A registered public accountant not engaged in the practice of public accounting must observe only Sections Rules 102 and 501 (68 Ill. Adm. Code 1430.1020 and 1430.5010) since the rest of this Part relates all other Rules of Professional Conduct relate solely to the practice of public accounting.
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e) A registered public accountant shall not permit others to carry out on his or her behalf, either with or without compensation, acts that, if carried out by the registered public accountant, would place him or her in violation of this Part, the Rules of Professional Conduct.

f) Interpretations of this Part, the Rules of Professional Conduct, may be adopted by approval of the Director, upon recommendation of the Registration Committee, in order to provide guidelines as to the scope and application of this Part, the Rules of Professional Conduct. If such interpretations are adopted, they may be included in a separate document.

(Source: Amended at 29 Ill. Reg. 16433, effective October 13, 2005)

SUBPART B: INDEPENDENCE, INTEGRITY AND OBJECTIVITY

Section 1430.1030 Provision of Non-Audit Services

a) The following definitions of terminology are applicable wherever the terminology is used in this Section.

1) "Affiliate" means a business organization that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with a company.

2) "Annual Revenues" means revenues as reflected on a company's audited financial statements for the applicable fiscal year.

3) "Company" means a company, excluding a not-for-profit organization, that:

   A) has its principal place of business located in the State of Illinois;

   B) is not required to file periodic information, documents, and reports pursuant to the Securities Exchange Act of 1934; and

   C) during its previous fiscal year, had annual revenues exceeding $50,000,000 or employed more than 500 employees in the State of Illinois.
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4) "Permitted non-audit services" means non-audit services other than regulated non-audit services.

5) "Regulated non-audit services" means those non-audit services enumerated in paragraphs (1) through (9) of subsection (g) of Section 10A of the Securities Exchange Act of 1934 (15 USC 78j-1(g)(1) through (9), as amended. In the implementation of this Section and in the enforcement of 225 ILCS 450/30.4, the following will guide the Department in its determination of the scope of such non-audit services and the extent to which non-audit services constitute regulated non-audit services:

A) the qualifications set forth in Sections 2(a)(2), 201 and 202 of the Sarbanes-Oxley Act of 2002 (15 USC 7201);

B) the regulations adopted by the Federal Securities and Exchange Commission and the Public Company Accounting Oversight Board to implement paragraphs (1) through (9) of subsection (g) of Section 10A of the Securities Exchange Act of 1934, as amended, and to implement Sections 2(a), 201 and 202 of the Sarbanes-Oxley Act of 2002 (15 USC 7201); and

C) judicial and administrative interpretations of the statutes and regulations listed in subsections (a)(5)(A) and (B).

b) Any licensed public accountant, licensed certified public accountant, or public accounting firm that practices public accounting in this State and provides regulated non-audit services to a company while contemporaneously providing audit services shall:

1) present a written notice of the contemporaneous provision of audit services and regulated non-audit services to the company prior to the commencement of the contemporaneous provision of the regulated non-audit services; and

2) receive a signed acknowledgement, from the president or chief executive officer of the company to which the contemporaneous audit services and regulated non-audit services are to be provided, that the company is aware of and agrees to the contemporaneous provision of the audit services and regulated non-audit services.
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c) The annual revenues and number of employees of a company’s affiliates shall not be considered when determining whether Section 30.4 of the Act applies to that company. Section 30.4 of the Act shall not apply to a company that is a subsidiary of a business organization that is required to file periodic information, documents, and reports pursuant to the Securities Exchange Act of 1934.

d) An acknowledgement signed pursuant to subsection (b)(2) shall allow the licensed public accountant, licensed certified public accountant, or public accounting firm to provide any regulated non-audit services contemporaneously with audit services for a one-year period from the date of the acknowledgement. An acknowledgment that is executed prior to November 1, 2005 shall be retroactive to July 2, 2004.

e) A licensed public accountant, licensed certified public accountant, or public accounting firm may not provide regulated non-audit services to a company contemporaneously with audit services if the licensed public accountant, certified public accountant, or public accounting firm has engaged in criminal activity or willful or wanton negligence directly relating to the contemporaneous provision of auditing services and regulated non-audit services to that company.

f) If, pursuant to subsection (e), a licensed public accountant, licensed certified public accountant, or public accounting firm is prohibited from providing regulated non-audit services to a company contemporaneously with audit services, the prohibition shall apply on a prospective basis only and shall not apply to regulated non-audit services provided prior to the conduct that resulted in the prohibition.

g) Where the conduct of an individual accountant employed by a public accounting firm results in a prohibition under subsection (e), the public accounting firm is prohibited from providing regulated non-audit services to a company contemporaneously with audit services only if a firm would be liable under Illinois law for the wrongful conduct of the individual accountant.

h) No notice and acknowledgement, as provided in subsection (b), is required prior to the provision of permitted non-audit services by a licensed public accountant, licensed certified public accountant, or public accounting firm to a company.

i) A violation of this Section shall subject a licensed public accountant, licensed certified public accountant, or public accounting firm to the provisions of Section 20.01 of the Act.
j) **Nothing in this Section shall be construed to authorize or permit the provision of any services by a licensed public accountant, licensed certified public accountant, or public accounting firm that would result in a lack of independence under applicable ethics standards of the accounting profession.**

(Source: Added at 29 Ill. Reg. 16433, effective October 13, 2005)

**SUBPART D: RESPONSIBILITIES TO CLIENTS**

**Section 1430.3010 Confidential Client Information**

a) A registered public accountant shall not disclose any confidential client information without the specific consent of the client.

b) This Section shall not be construed:

1) to relieve a registered public accountant of his or her professional obligations under Sections 1430.2020 and 1430.2030 of this Part,

2) to affect in any way his/her obligation to comply with a validly issued and enforceable subpoena or summons or to prohibit a registered public accountant's compliance with applicable laws and government regulations,

3) to prohibit review of a registered public accountant's professional practice under Institute, Society or Registration Committee authorization or

4) to preclude a registered public accountant from initiating a complaint with, or responding to any inquiry made by, the Director, the Division Department, the Registration Committee, the ethics division or Trial Board of the Institute or a duly constituted investigative or disciplinary body of the Society.

c) However, members of the Institute or Society involved in a review or investigation under the provisions of subsections (b)(3) and (4) above must be registered public accountants in Illinois or possess a similar qualification in another jurisdiction.

d) Members of the ethics division and Trial Board of the Institute and the
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Professional Conduct Committee and Trial Board of the Society (and successor bodies or organizations), and professional practice reviewers under Institute and Society authorization, shall not use to their own advantage or disclose any member's confidential client information that comes to their attention in carrying out those activities. This prohibition shall not restrict members' exchange of information in connection with the investigative or disciplinary proceedings described in subsection (b)(4) above or the professional practice reviews described in subsection (b)(3) above.

(Source: Amended at 29 Ill. Reg. 16433, effective October 13, 2005)

SUBPART G: GENERAL PROVISIONS

Section 1430.6010 Rules and Regulations

Each registered public accountant shall comply with this Part all of the Rules and Regulations adopted by the Department as required provided by Section 26 of the Act on his part to be performed and any violation by the registered public accountant of this Part any such Rules and Regulations shall constitute a violation of this Part, the Rules of Professional Conduct.

(Source: Amended at 29 Ill. Reg. 16433, effective October 13, 2005)
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NOTICE OF ADOPTED AMENDMENTS

1) **Heading of the Part**: Real Estate Appraiser Licensing

2) **Code Citation**: 68 Ill. Adm. Code 1455

3) **Section Numbers**: | **Adopted Action**:  
1455.10 | Amendment  
1455.100 | Amendment  
1455.110 | Amendment  
1455.120 | Amendment  
1455.130 | Amendment  
1455.140 | Amendment  
1455.150 | Amendment  
1455.160 | Amendment  
1455.170 | Amendment  
1455.180 | Amendment  
1455.190 | Amendment  
1455.200 | Amendment  
1455.210 | Amendment  
1455.220 | Amendment  
1455.230 | Amendment  
1455.240 | Amendment  
1455.250 | Amendment  
1455.260 | Amendment  
1455.270 | Amendment  
1455.280 | Amendment  
1455.290 | Amendment  
1455.300 | Amendment  
1455.310 | Amendment  
1455.320 | Amendment  
1455.330 | Amendment  
1455.340 | Amendment  
1455.350 | Amendment  
1455.360 | Amendment  
1455.370 | Amendment  
1455.380 | Amendment  
1455.390 | Amendment  
1455.400 | Amendment  
1455.410 | Amendment  
1455.420 | Amendment  
1455.430 | Amendment
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1455.440 Amendment
1455.450 Amendment
1455.460 Amendment
1455.470 Amendment
1455.480 Amendment
1455.490 Amendment
1455.APPENDIX A Amendment
1455.APPENDIX B Amendment

4) Statutory Authority: Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458]

5) Effective date of amendments: October 13, 2005

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) Date Notice of Proposal Published in Illinois Register: June 3, 2005; 29 Ill. Reg. 8067 and June 24, 2005; 29 Ill. Reg. 8687

10) Has JCAR issued a Statement of Objection to these amendments? No

11) Differences between proposal and final version: This is a combined rulemaking consolidating 2 separate rulemakings; however, there were no substantive changes.

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 amendments currently in effect? No

14) Are there any amendments pending on this Part? No

Summary and purpose of amendments: This rulemaking replaces the adoption of the 2002 Uniform Standards of Appraisal Practice (USPAP) in Section 1455.240 with the 2005 USPAP and reduces the fee for a Temporary Practice Permit in Section 1455.320 from $200 to $150. Additional non-substantive changes were made to the entire Part by changing references from "Department" to "Division" to reflect the consolidation of
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agencies into the Department of Financial and Professional Regulation, the creation of the Division of Professional Regulation, and the transfer of real estate regulation back to Professional Regulation.

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

Department of Financial and Professional Regulation
Attention: Barb Smith
320 West Washington, 3rd Floor
Springfield, Illinois 62786

217/785-0813
Fax: 217/557-4451

The full text of the Adopted Amendments begins on the next page:
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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

OFFICE OF BANKS AND REAL ESTATE

SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1455

REAL ESTATE APPRAISER LICENSING

SUBPART A: DEFINITIONS

Section
1455.10 Definitions

SUBPART B: LICENSING REQUIREMENTS

Section
1455.100 Application for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License; Application for an Associate Real Estate Appraiser License; Application by Non-Resident for Licensure by Reciprocity

1455.110 Application for Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Appraiser License; Late Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Appraiser License; Expiration Date

1455.120 Conversion of a State Licensed Real Estate Appraiser License to an Associate Real Estate Appraiser License; Late Conversion; No Issuance of State Licensed Real Estate Appraiser License

1455.130 Application for Temporary Practice Permit; Term of Permit; Scope of Practice; Regulatory Responsibility; Notice

1455.140 Issuance of Certificate to Real Estate Appraisers; Temporary Practice Permits

SUBPART C: EDUCATION REQUIREMENTS

Section
1455.150 Pre-License Education Requirements; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Appraiser; Non-Resident Pre-License Education

1455.160 Continuing Education Requirements for State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, Associate Real
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Estate Appraiser, and State Licensed Real Estate Appraiser; Non-Resident Continuing Education Approval

SUBPART D: EXPERIENCE REQUIREMENTS

Section
1455.170 Experience Requirements for a State Certified General Real Estate Appraiser License
1455.180 Experience Requirements for a State Certified Residential Real Estate Appraiser License
1455.190 Verification of Experience Credit
1455.200 Acceptable Appraisal Experience Credit

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

Section
1455.210 Notification of Name Change
1455.220 Assumed Name
1455.230 Address Change; Street Address
1455.240 Uniform Standards of Professional Appraisal Practice (USPAP)

SUBPART F: ENFORCEMENT PROVISIONS

Section
1455.250 Grounds for Discipline
1455.260 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan
1455.270 Additional Education; Reporting Requirements
1455.280 Administrative Warning Letter
1455.290 Cooperation Required with the Division of Real Estate
1455.300 Felony Convictions; Discipline of Other Professional License; Notification
1455.310 Unprofessional Conduct

SUBPART G: ADMINISTRATIVE PROVISIONS

Section
1455.320 Fees
1455.330 Granting of Variances
1455.340 Duties of the Secretary Director
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SUBPART H: EDUCATION PROVIDER AND COURSE PROVISIONS

Section
1455.350 Education Provider Application; Requirements
1455.360 Pre-License Education Course Requirements of Education Providers
1455.370 Pre-License Course Curriculum; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Appraiser
1455.380 Examples of Acceptable Pre-License Education Courses
1455.390 Continuing Education Course Requirements of Education Providers
1455.400 Curriculum for Continuing Education Courses; Continuing Education Credit for Participation Other Than as a Student
1455.410 Distance Education
1455.420 Expiration Date and Renewal for Education Providers and Pre-License and Continuing Education Courses
1455.430 Continuing Education Reporting
1455.440 Transcript or Certificate of Completion

SUBPART I: TRANSITION PROVISIONS

Section
1455.460 Education Providers, Pre-License and Continuing Education Courses – Transition Provisions

SUBPART J: HEARINGS

Section
1455.470 Applicability
1455.480 Administrative Law Judges
1455.490 Disqualification of an Administrative Law Judge

1455.APPENDIX A Caption for a Case Filed by the Division Agency
1455.APPENDIX B Caption for a Case Filed by the Petitioner

AUTHORITY: Implementing and authorized by the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

SOURCE: Emergency rules adopted at 16 Ill. Reg. 16196, effective September 30, 1992, for a maximum of 150 days; rules adopted at 17 Ill. Reg. 1589, effective January 26, 1993; emergency amendment at 17 Ill. Reg. 6668, effective April 19, 1993, for a maximum of 150 days; amended
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SUBPART A: DEFINITIONS

Section 1455.10 Definitions

Unless otherwise clarified by this Part, definitions set forth in the Act also apply for the purposes of this Part.

"Act" means the Real Estate Appraiser Licensing Act of 2002 [225 ILCS 458].

"Board" or "AQB" means the Appraiser Qualification Board.

"Classroom hour" or "hour" as it pertains to the education requirements means classroom attendance for a minimum of 50 minutes of lecture or its equivalent through a distance learning program approved by the Division OBRE.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Professional Regulation-Real Estate Appraisal.
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Administration Division.

"Division" means the Department of Financial and Professional Regulation-Division of Professional Regulation.

"Experience/work log" means the form described in Section 1455.190 that verifies an appraiser's experience and work history.

"License" means a certificate of authority, permit or registration issued by the DivisionOBRE.

"Licensee" means a person who has been issued a license under the Act or this Part.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

"USPAP" the Uniform Standards of Professional Appraisal Practice promulgated by the Appraisal Standards Board pursuant Title XI of the Federal Financial Institutions Reform, Recovery and Enforcement Act of 1989 (12 USC 3331 et seq.) and incorporated by reference in Section 1455.240.

(Source: Amended at 29 Ill. Reg. ______, effective ______________)

SUBPART B: LICENSING REQUIREMENTS

Section 1455.100 Application for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License; Application for an Associate Real Estate Appraiser License; Application by Non-Resident for Licensure by Reciprocity

a) Each applicant for a State Certified General Real Estate Appraiser License and a State Certified Residential Real Estate Appraiser License shall submit to the DivisionOBRE:

1) An application, provided by the DivisionOBRE and signed by the applicant, on which all questions have been answered;

2) The fee as provided by Section 1455.320 this Part;
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3) Proof of successful completion of the pre-license education requirements as provided by Section 1455.150 of this Part;

4) A score report/application that provides proof of successful completion of the pre-license experience requirements as provided by Subpart D; and

5) Proof of successful completion of the examination authorized by the Division and endorsed by the Appraiser Qualification Board (AQB).

b) Each applicant for an Associate Real Estate Appraiser License shall submit to the Division:

1) An application, provided by the Division and signed by the applicant, on which questions have been answered;

2) The fee as provided by Section 1455.320;

3) Proof of successful completion of the pre-license education requirements as provided by Subpart C; and

4) A score report/application that provides proof of successful completion of the examination authorized by the Division and administered by Applied Measurement Professionals, Inc. that may be contacted at 8310 Nieman Road, Lenexa KS 66214 or at its website at www.goamp.com.

c) Each non-resident applicant for a real estate appraiser license issued pursuant to Section 5-30 of the Act from a jurisdiction with which the Division has a valid reciprocal agreement shall submit to the Division:

1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;

2) The fee as provided by Section 1455.320;

3) A certification of good standing from the jurisdiction of the applicant's place of residence or by a search by the Division of the Appraisal Subcommittee's (ASC) National Registry history that may be obtained from the ASC at 2000 K Street, NW, Suite 310, Washington, DC 20006 or at its website at www.asc.gov; and
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4) Consent to jurisdiction pursuant to Section 5-30(b) of the Act.
For the purposes of this subsection (c), the Division OBRE shall issue a license reflecting the rank for which the non-resident is qualified (Certified General Real Estate Appraiser, Certified Residential Real Estate Appraiser or Associate Real Estate Appraiser), as determined by, the requirements for licensure in the jurisdiction that licensed the non-resident applicant compared to the requirements of the Act and this Part.

(Source: Amended at 29 Ill. Reg. 16445, effective October 14, 2005)

Section 1455.110 Application for Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Appraiser License; Late Renewal of State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Appraiser License; Expiration Date

a) Each applicant for renewal of a State Certified General Real Estate Appraiser License, State Certified Residential Real Estate Appraiser License, and Associate Real Estate Appraiser License shall submit to the Division OBRE:

1) An application, provided by the Division OBRE and signed by the applicant, on which all questions have been answered;

2) The fee as provided by Section 1455.320; and

3) Proof of successful completion of the continuing education requirements as provided by Subpart C.

b) Any person who fails to submit a renewal application and renew his or her license by the expiration date of the license may renew his or her license for a period of 2 years following the expiration date of his or her license by submitting to the Division OBRE:

1) An application, provided by the Division OBRE and signed by the applicant, on which all questions have been answered;

2) The fee and late penalty as provided by Section 1455.320; and

3) Proof of successful completion of the continuing education requirements
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as provided by Subpart C.

c) For the purposes of this Section, all licenses shall expire on September 30 of odd numbered years.

d) Any person who fails to submit a renewal application pursuant to this Section within 2 years after the expiration date shall not be eligible to renew his or her license, and must meet the requirements of a new applicant as required by the Act and this Part.

(Source: Amended at 29 Ill. Reg. 16455, effective October 13, 2005)

Section 1455.120 Conversion of a State Licensed Real Estate Appraiser License to an Associate Real Estate Appraiser License; Late Conversion; No Issuance of State Licensed Real Estate Appraiser License

a) Any person who holds a valid State Real Estate Appraiser License, issued pursuant to a predecessor Act, may convert the license to an Associate Real Estate Appraiser License by submitting to the Division of Real Estate (OBRE), prior to September 30, 2003:

1) A conversion application, provided by the Division of Real Estate (OBRE) and signed by the applicant, on which all questions have been answered;

2) The fee as provided by Section 1455.320; and

3) Proof of successful completion of the continuing education requirements as provided by Subpart C.

b) Any person who fails to submit a conversion application by September 30, 2003 may convert the license for a period of 2 years following the expiration date of his or her license by submitting to the Division of Real Estate (OBRE):

1) A conversion application, provided by the Division of Real Estate (OBRE) and signed by the applicant, on which all questions have been answered;

2) The fee and late fee as provided by Section 1455.320; and

3) Proof of successful completion of the continuing education requirements as provided by Subpart C.
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c) Pursuant to the Act, no initial State Licensed Real Estate Appraiser License shall be issued after June 30, 2002, and no State Licensed Real Estate Appraiser License issued pursuant to a predecessor Act shall be renewed after September 30, 2003.

d) Any person who fails to submit a conversion application pursuant to this Section within 2 years after the expiration date shall not be eligible to convert his or her license, and shall meet the requirements of a new applicant as required by the Act and this Part.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.130 Application for Temporary Practice Permit; Term of Permit; Scope of Practice; Regulatory Responsibility; Notice

a) Each non-resident applicant for a temporary practice permit issued pursuant to Section 5-50 of the Act shall submit to the Division:

1) An application, provided by the Division and signed by the applicant, on which all questions have been answered;

2) A certification of good standing from the jurisdiction of the applicant's place of residence or by a search by the Division of the ASC National Registry; and

3) The fee as provided by Section 1455.320.

b) The term for a temporary practice permit shall be 6 months from the date of issuance and may be extended for a period of an additional 6 months by request in writing to the Division.

c) Any person issued a temporary practice permit shall be limited to one or more specific appraisal assignments. For the purposes of this Section, the term "assignments" shall mean one or more real estate appraisals and written appraisal reports that are covered by a contract to provide an appraisal.

d) Any person issued a temporary practice permit shall be subject to the provisions of the Act and this Part, and the Division shall take regulatory responsibility for any person violating any provisions of the Act and this Part.
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while the person is practicing in the State of Illinois.

e) If the Division OBRE takes any disciplinary action against an appraiser practicing in the State of Illinois under a temporary practice permit, it shall notify the jurisdiction of the appraiser's place of residence.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.140  Issuance of Certificate to Real Estate Appraisers; Temporary Practice Permits

a) The Division OBRE shall issue a certificate of licensure and a pocket card to all real estate appraisers approved for licensure under the Act and this Part. The certificate shall include the name, license number, address and rank of the real estate appraiser and the date of expiration.

b) The Division OBRE shall issue a certificate for a temporary practice permit to all real estate appraisers approved to practice on a temporary permit. The certificate shall include the name, temporary practice permit number and address of the real estate appraiser and the expiration date of the temporary practice permit.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

SUBPART C: EDUCATION REQUIREMENTS

Section 1455.150  Pre-License Education Requirements; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Appraiser; Non-Resident Pre-License Education

a) Any person who makes application for a State Certified General Real Estate Appraiser License shall be required, as a pre-requisite to examination, to successfully complete 180 classroom hours of pre-license instruction in subjects related to real estate appraisal, as outlined by Subpart H of this Part, and may include the 120 classroom hours completed by a State Certified Residential Real Estate Appraiser licensed under the Act or the 75 classroom hours completed by an Associate Real Estate Appraiser licensed under the Act or by a State Licensed Real Estate Appraiser licensed under a previous Act, and shall include 15 hours of instruction relative to USPAP that is approved by the AQB and taught by an AQB certified instructor. All pre-license education requirements shall only be accepted from education providers and courses approved by the Division OBRE.
b) Any person who makes application for a State Certified Residential Real Estate Appraiser License shall be required, as a pre-requisite to examination, to successfully complete 120 classroom hours of pre-license instruction in subjects related to real estate appraisal, as outlined by Subpart H of this Part, and may include the 75 classroom hours completed by an Associate Real Estate Appraiser licensed under the Act or by a State Licensed Real Estate Appraiser licensed under a previous Act, and shall include 15 hours of instruction relative to USPAP that is approved by the AQB and taught by an AQB certified instructor. All pre-license education requirements shall only be accepted from education providers and courses approved by the Division OBRE.

c) Any person who makes application for an Associate Real Estate Appraiser License shall be required, as a pre-requisite to examination, to successfully complete 75 classroom hours of pre-license instruction in subjects related to real estate appraisal, as outlined by Subpart H of this Part, and shall include 15 hours of instruction relative to USPAP that is approved by the AQB and taught by an AQB certified instructor. All pre-license education requirements shall only be accepted from education providers and courses approved by the Division OBRE.

d) The Division OBRE may accept evidence of successful completion of pre-license education credit from another jurisdiction, if that jurisdiction's requirements are substantially the same as the State of Illinois' and meet the minimum licensing requirements of the AQB. A real estate appraiser who wishes to obtain credit for pre-license education courses not licensed by the Division OBRE shall submit to the Division OBRE:

1) An application provided by the Division OBRE requesting approval for pre-license education credit, signed by the applicant, on which all questions are answered;

2) A certificate of successful completion provided by the education provider, a certification by the jurisdiction of the appraiser's place of residence of successful completion of the requested pre-license education credit, or any other evidence to be considered by the Division OBRE; and

3) The fee as provided in Section 1455.320.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)
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Section 1455.160  Continuing Education Requirements for State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, Associate Real Estate Appraiser, and State Licensed Real Estate Appraiser; Non-Resident Continuing Education Approval

a) CE Credit

1) A State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, or Associate Real Estate Appraiser who makes application to renew his or her real estate appraiser license shall successfully complete the equivalent of 14 hours of approved continuing education per year preceding the renewal, e.g., a total of 28 hours of approved continuing education for a 2 year renewal. Continuing education may be obtained anytime during the pre-renewal period.

2) If a real estate appraiser was issued an initial license for less than one year prior to the expiration of the license, then no continuing education is required for that renewal. If a real estate appraiser has held a license for more than one year prior to the expiration, but less than two years, then 14 hours of approved continuing education is required. A State Licensed Real Estate Appraiser who makes application to convert his or her license to an Associate Real Estate Appraiser License pursuant to the Act and this Part shall be required to successfully complete the equivalent of 14 hours of approved continuing education per year preceding the conversion, e.g., a total of 28 hours of approved continuing education for the 2 years prior to conversion.

3) A real estate appraiser must complete a minimum of 7 hours of continuing education in coursework relative to USPAP that is approved by the AQB and taught by an AQB certified instructor during each pre-renewal period prior to renewing or converting his or her real estate appraiser license, unless the real estate appraiser was issued his or her initial license for a period of less than one year prior to the expiration date. Continuing education credit will only be accepted from education providers and courses approved by the Division OBRE.

b) CE Credit from Another Jurisdiction

1) The Division OBRE may accept evidence of successful completion of continuing education credit from another jurisdiction if that jurisdiction's
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requirements are substantially the same as the State of Illinois' and meet the recommendations of the AQB, and if the credit was earned during the appropriate pre-renewal period. A real estate appraiser who wishes to obtain credit for continuing education courses not licensed by the Division OBRE shall submit to the Division OBRE:

A1) An application provided by the Division OBRE requesting approval for continuing education credit, signed by the applicant, on which all questions are answered;

B2) A certificate of successful completion provided by the education provider or a certification by the jurisdiction of the appraiser's place of residence of successful completion of the requested continuing education credit; and

C3) The fee as provided in Section 1455.320.

2) No more than 14 hours of distance learning may be used to meet the continuing education requirements during any pre-renewal period. The 7 hour USPAP course required during each pre-renewal period may not be obtained through a distance learning course or program.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

SUBPART D: EXPERIENCE REQUIREMENTS

Section 1455.170 Experience Requirements for a State Certified General Real Estate Appraiser License

Any person who makes application for a State Certified General Real Estate Appraiser License shall be required, as a pre-requisite to examination, to provide evidence of obtaining 3,000 hours of appraisal experience during no fewer than 30 months, of which 1,500 hours shall be in non-residential appraisal work, and shall submit such evidence to the Division OBRE as required by Section 1455.190.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.180 Experience Requirements for a State Certified Residential Real Estate Appraiser License
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Any person who makes application for a State Certified Residential Real Estate Appraiser License shall be required, as a pre-requisite to examination, to provide evidence of obtaining 2,500 hours of appraisal experience during no fewer than 24 months and shall submit such evidence to the Division as required by Section 1455.190.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.190 Verification of Experience Credit

All applicants shall verify experience credit on forms provided by the Division. Those forms shall include information on the type of property, e.g., residential or non-residential, date of report, address of appraised property, description of work performed and number of work hours. The Division may audit such verification and, if requested, the applicant must provide experience documentation in the form of reports or file memoranda and should support the experience claimed. The Division, at its discretion, will determine the validity of all appraisal experience credit in conformity with criteria recommended by the AQB.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.200 Acceptable Appraisal Experience Credit

a) Acceptable appraisal experience shall include, but is not limited to, fee and staff appraisal, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, real estate consulting, highest and best use analysis, and feasibility analysis/study. All appraisal experience shall conform to USPAP and shall meet the requirements of criteria required by the AQB.

b) Appraisal education may not be substituted for appraisal experience. A client is not necessary for an appraisal to qualify for appraisal experience. An hour of appraisal experience is defined as verifiable time spent in performing tasks in accordance with acceptable appraisal experience as identified by criteria required by the AQB criteria. There is no time limit during which experience must be obtained.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

SUBPART E: BUSINESS PRACTICES; STANDARDS AND SCOPE OF PRACTICE

Section 1455.210 Notification of Name Change
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It is the responsibility of each licensee issued a license under this Act to notify the Division OBRE, within 15 days after any change of name. For example, if the licensee has had a name change either by court order or due to a change in marital status, the licensee shall notify the Division OBRE of the name change, together with a certified copy of the marriage certificate or portions of the court order relating to the name change, and indicate under which name the license shall be issued.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.220 Assumed Name

If a licensee operates under any name other than that appearing on his or her license, he or she shall submit to the Division OBRE a certified copy of his or her registration under the Assumed Business Name Act [805 ILCS 405] at the time of application or within 30 days after the registration.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.230 Address Change; Street Address

It is the responsibility of the licensee to notify the Division OBRE in writing of a change of address within 15 days after the change. A licensee may use a Post Office Box number, e.g., P.O. Box 1001, as a mailing address, but must additionally notify the Division OBRE of a street address of the licensee's residence or business location.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.240 Uniform Standards of Professional Appraisal Practice (USPAP)

a) Pursuant to Section 10-10 of the Act, the 2005 Uniform Standards of Appraisal Practice (USPAP), effective January 1, 2005, by the Appraisal Standards Board (ASB) of the Appraisal Foundation (The Appraisal Foundation, 1029 Vermont Avenue, NW, Suite 900, Washington, D.C. 20005), are hereby incorporated by reference with no later amendments or editions.

b) All real estate appraisers licensed under the Act shall practice in accordance with USPAP except where the standards are contrary to Illinois law or public policy (USPAP, Jurisdictional Exception).

c) All investigators, auditors and examiners employed or retained by the Division
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OBRE are exempt from the requirements of USPAP Standard 3 while performing an investigation, audit or examination. If the Division OBRE files a formal complaint, a USPAP Standard 3 review shall be utilized by the Division OBRE, except the Division OBRE may limit the scope of Standard 3 to exclude valuation.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

SUBPART F: ENFORCEMENT PROVISIONS

Section 1455.250 Grounds for Discipline

Pursuant to Section 15-10(a) of the Act, failure to comply with any of the following shall be considered a violation and may be subject to discipline as provided for in the Act and this Part:

a) In developing a real property appraisal, an appraiser shall analyze any prior sales of the property that occurred within three years if such information is readily available to the appraiser in the normal course of business. In developing a real property appraisal of one to four units of residential property, an appraiser shall analyze any prior listings of the property that occurred within three years if such information is readily available to the appraiser in the normal course of business.

b) Work File

1) An appraiser shall prepare a work file for each appraisal, appraisal review, or appraisal consulting assignment. The work file shall include the name of the client and identity, by name or type, of any other intended users, true copies (as transmitted to the client) of any written reports, documented on any type of media; summaries of any oral reports or testimony, or a transcript of the testimony, including the appraiser's signed and dated certification; and all other data information and documentation necessary to comply with this Part and all other applicable Sections of the Act and provisions of USPAP.

2) A work file shall be in existence prior to and contemporaneous with the issuance of a written or oral report. A written summary of an oral report shall be added to the work file within a reasonable time after the issuance of the oral report. A work file shall be made available to the Division OBRE within 30 days after request.
c) An appraiser shall perform assignments with impartiality, objectivity, and independence, and without accommodation of personal interests.

d) When preparing a real property appraisal or appraisal assignment, an appraiser shall not act as an advocate for any party.

e) **Comparable Properties**

1) For the purposes of compliance with USPAP Standard Rule 1-4(a), comparable properties are those properties that are generally similar to the subject property being appraised and may include the following characteristics: building size, architectural style, functional utility, building materials, construction quality, age and condition of improvements, site size, location, view, economic market conditions, and conditions of sale. An appropriate comparable need not necessarily comply with all of the preceding characteristics. However, whenever a comparable is utilized that deviates substantially from the subject property being appraised, the deviation shall be explained in the appraisal report and/or the appropriate adjustment made.

2) Additionally, properties used as comparables, whenever possible, should be competitive with the subject property and ideally located in the same economic market area or neighborhood. If sufficient data on the sales of local comparables are unavailable, transactions involving properties in other comparable, but not directly competitive, neighborhoods or locations may be utilized in the sales comparison analysis.

f) **Letter of Transmittal**

1) An appraiser who signs any part of the appraisal report, including letter of transmittal, must also sign the certification. An appraiser who signs any part of the appraisal report, including letter of transmittal, accepts full responsibility for the contents of the appraisal report and any violations of the Act, this Part or USPAP contained within the appraisal report.

2) For the purposes of this subsection (f)(a)(6), a letter of transmittal is any letter, cover page, memorandum or similar document that accompanies the appraisal report when it is transmitted to the client.

g) A rebuttable presumption of dishonesty shall arise whenever an appraiser, while
performing an appraisal of one to four units of residential property, commits one or more of the following acts or omissions and fails to provide a credible explanation upon request:

1) Reports a sale of a comparable when no such sale occurred;
2) Reports a sale of a comparable that cannot be independently verified;
3) Reports a verification source when no such verification exists;
4) Mislabels or omits to label the location of the subject or comparable sales on a location map, if used, when the proper labeling would have raised a legitimate question as to the appropriateness of the comparable sale;
5) Mislabels or omits to label the address and/or city of the subject or a comparable sale when the proper labeling would have raised a legitimate question as to the appropriateness of the comparable sale;
6) Significantly misreports or omits to report the appropriate unit of comparison of the subject and/or a comparable property when the proper reporting would have raised a legitimate question as to the appropriateness of the comparable data;
7) Utilizes, as comparable sales, properties located outside the economic market area when suitable comparable sales were available within the economic market area; or
8) Any significant deviation from USPAP standards, the Act or this Part, when viewed in the totality of the circumstances, raises a legitimate question as to the overall credibility of the appraisal.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.260 Suspension or Denial for Failure to Pay Taxes, Child Support or any Illinois-Guaranteed Student Loan

a) If the Division, when receives certification that a licensee is in violation of Section 15-40, 15-45 or 15-50 of the Act, the Division shall notify the licensee, by certified or registered mail, return receipt requested, or other signature restricted delivery, that the licensee may be refused renewal of the
license at its expiration date, unless the licensee provides to the Division OBRE certification that the licensee has eliminated the arrearage or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.

b) If the Division OBRE receives certification that an applicant is in violation of Section 15-40, 15-45 or 15-50 of the Act, the Division OBRE shall notify the applicant, by certified or registered mail, return receipt requested, or other signature restricted delivery, of its intent to deny the applicant a license under the Act, unless the applicant provides to the Division OBRE proof that the applicant has eliminated the arrearage or has arranged for payment of the obligations in a manner satisfactory to the appropriate administering agency.

c) For the purposes of this Section, "certification" shall mean:

1) a verified statement by the appropriate administering agency of the delinquency, failure to file or failure to pay; or

2) a finding by an administrative body, after notice to the licensee or applicant of evidentiary proceedings, or a court of competent jurisdiction that the licensee or applicant is delinquent in child support or is liable to pay a certain amount for Illinois taxes or is delinquent or has defaulted on an Illinois-guaranteed student loan obligation.

d) A licensee or applicant may participate in a hearing, but the hearing shall only be the purpose of proving that the petitioner is not the person for which such failure to pay or arrearage information was received; that the petitioner has executed a formal, written payment plan with the appropriate administering agency, signed by both parties; or that the petitioner has satisfied the outstanding debt. Collateral attack of the certification is not permitted.

e) A license will be eligible for reinstatement, renewal or issuance upon a showing that the certified failure to file, failure to pay delinquency or default has been satisfied, and by completing the appropriate application and paying any fees provided in this Part.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.270  Additional Education; Reporting Requirements
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The Division OBRE may require a licensee, pursuant to a compliance agreement or order:

a) To complete additional continuing education or pre-license education coursework; and

b) To provide any reports, records or other documents pertaining to appraisal activity that the Division OBRE may deem necessary to maintain standards of professional conduct, the competency of a licensee, and the protection of the public.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.280 Administrative Warning Letter

The Division OBRE may issue an administrative warning letter with or without a compliance agreement that may include a fee pursuant to Section 1455.320(h)(10). A compliance agreement may include conditions in order to maintain the standards of professional conduct, the competency of a licensee, and the protection of the public. Administrative warning letters with or without a compliance agreement are not considered to be discipline and are not subject to the Freedom of Information Act [5 ILCS 140].

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.290 Cooperation Required with the Division OBRE

Pursuant to Section 15-10(a)(17) of the Act, all licensees are required to fully cooperate with any audit, investigation, interrogatory, examination or request for information regarding any aspect of the licensee's appraisal practice or application for licensure. Full cooperation includes, but is not necessarily limited to providing to the Division OBRE:

a) A complete copy of a signed appraisal as it was transmitted to the client, including file memoranda, work files, supporting and/or verification documentation that are required to be maintained by the Act;

b) Continuing education certificates or experience/work log that are required to be maintained by the Act or this Part; or

c) A complete answer to any written interrogatory or request for clarification submitted to a licensee or applicant.
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(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.300  Felony Convictions; Discipline of Other Professional License; Notification

a) A licensee who holds a valid license issued under the Act shall notify the Division OBRE in writing within 30 days after the date of conviction for any crime described in Section 15-10(a)(4) of the Act. In addition to the notice, the licensee shall provide to the Division OBRE all court records, including but not limited to indictments, information, plea agreements, pre-trial sentencing motions, investigations and orders, as well as judgment and sentencing orders, or other information as required by the Division OBRE to determine fitness for licensure.

b) A licensee who holds a valid license issued under the Act who has had another professional license disciplined as described in Section 15-10(a)(9) of the Act shall notify the Division OBRE in writing within 30 days after any adverse temporary or final order. In addition to the notice, the licensee shall provide all adverse orders, whether by consent or otherwise, plea agreements, motions or pleadings in which a licensee has made a written statement or admission of culpability in the violation of a professional regulation or standard, or other information as required by the Division OBRE to determine fitness for licensure.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.310  Unprofessional Conduct

Dishonorable, unethical or unprofessional conduct includes, but is not limited to, the commission of any one of the following:

a) Aiding or assisting another in the violation of the Act or this Part;

b) Failing to satisfy a material term of a consent to administrative supervision order or consent order; or

c) Aiding, assisting or facilitating another in using or appropriating to use or appropriate credentials or a license for the purpose of preparing an appraisal report.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)
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SUBPART G: ADMINISTRATIVE PROVISIONS

Section 1455.320  Fees

a) Initial application fee for appraiser license.
   1) The application fee for an initial license as a State Certified General Real
      Estate Appraiser, a State Certified Residential Real Estate Appraiser, and
      an Associate Real Estate Appraiser shall be $225.
   2) In addition to the initial fee for an initial applicant as a State Certified
      General Real Estate Appraiser and a State Certified Residential Real
      Estate Appraiser prescribed in subsection (a)(1), each applicant shall pay
      $75, which shall include the National Registry fee.

b) Renewal application fee for appraiser license.
   1) The application fee to renew a license as a State Certified General Real
      Estate Appraiser, a State Certified Residential Real Estate Appraiser or a
      State Licensed Real Estate Appraiser shall be calculated at $250 per year,
      which shall include the National Registry fees.
   2) The application to renew an Associate Real Estate Appraiser License shall
      be calculated at $150 per year.
   3) The application fee to renew a license that has expired, as a State Certified
      General Real Estate Appraiser, a State Certified Residential Real Estate
      Appraiser, an Associate Real Estate Appraiser, or a State Licensed Real
      Estate Appraiser, shall be the sum of all lapsed renewal fees plus a $50
      late fee.

c) Application fee to convert a license.
   1) The application fee to convert a license as a State Licensed Real Estate
      Appraiser issued pursuant to a predecessor Act to a license as an Associate
      Real Estate Appraiser shall be $250.
   2) The application fee to convert a license that has expired as a State
      Licensed Real Estate Appraiser issued pursuant to a predecessor Act to a
      license as an Associate Real Estate Appraiser shall be $250, plus a $50
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Late fee.

d) Application fee for temporary practice permit.
The application fee for a temporary practice permit pursuant to the Act and this Part shall be $150. There shall be no additional fee required for an extension granted pursuant to the Act and this Part for a temporary practice permit.

e) Initial application fee for a license as an education provider, a pre-license course, and a continuing education course.

1) The application fee for a license as an education provider shall be $1050, plus course application fees.

2) The application fee for a license for a pre-license course shall be $150.

3) The application fee for a license for a continuing education course shall be $100.

f) Application fee to renew a license as an education provider, a pre-license course, and a continuing education course.

1) The application fee to renew a license as an education provider shall be calculated at $550 per year.

2) The application fee to renew a license that has expired as an education provider shall be the sum of all lapsed renewal fees plus a $50 late fee.

3) The application fee to renew a license as a pre-license course shall be calculated at $100 per year.

4) The application fee to renew a license that has expired as a pre-license course shall be the sum of all lapsed renewal fees plus a $50 late fee.

5) The application fee to renew a license as a continuing education course shall be calculated at $75 per year.

6) The application fee to renew a license that has expired as a continuing education course shall be the sum of all lapsed renewal fees plus a $50 late fee.
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G) For the purposes of determining if a license has expired under this Section, Department of Financial and Professional Regulation-Division of Professional Regulation (Division)OIBRE shall consider the license expired if the postmark on the renewal application is a date later than the expiration date or, if delivered other than by mail, the license shall be considered expired if the renewal application is received by the DivisionOIBRE on a date later than the expiration date.

H) General.

1) All fees paid pursuant to the Act and this Part are non-refundable.

2) The fee for the issuance of a duplicate license certificate or pocket card, for the issuance of a replacement license certificate or pocket card that has been lost or destroyed, or for the issuance of a license certificate or pocket card with a name or address change, other than during the renewal period, shall be $25.

3) The fee for a certification of a licensee's record for any purpose shall be $25.

4) The fee for a decorative wall license showing registration shall be the cost of producing the license.

5) The fee for a roster of persons licensed under the Act shall be the cost of producing the roster.

6) Applicants for an examination as a State Certified Real Estate Appraiser, a State Certified Residential Real Estate Appraiser, or an Associate Real Estate Appraiser shall be required to pay a fee covering the cost of providing the examination. If a designated testing service is utilized for the examination, the fee shall be paid directly to the designated testing service. 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, shall result in the forfeiture of the examination fee.

7) The fee for requesting a waiver of any education requirement provided by the Act and this Part shall be $50.
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8) The fee for a copy of the transcript of any proceeding under the Act shall be the cost to produce the copy.

9) The fee for certifying any record, e.g., a copy of a disciplinary order or application, shall be $1 per page.

10) The DivisionOBRE may charge an administrative fee not to exceed $2,000, as a part of a compliance agreement issued with an administrative warning letter pursuant to Section 1455.320 of this Part.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.330 Granting of Variances

The Secretary Commissioner of the Office of Banks and Real Estate may grant variances from this Part in individual cases when he or she finds:

a) The provision from which the variance is granted is not statutorily mandated;

b) The granting of the variance would not be contrary to the public welfare; and

c) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.340 Duties of the Secretary Director

a) The Secretary Commissioner may delegate authority to the Director. The delegation may include, but is not limited to:

1) Determine the course of an investigation based upon his or her knowledge, training and experience;

2) Determine whether a complaint be closed without an investigation, given the allegations, or evidence of a violation of the Act or this Part;

3) Close a complaint without any action;

4) Issue an administrative warning letter or cease and desist letter, or request
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that an attorney issue such letters;

5) Enter into compliance agreements;

6) Refer a complaint for prosecution; or

7) Act upon a request for a variance from this Part.

b) The authority, once delegated, shall continue until such time as it is amended or withdrawn.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

SUBPART H: EDUCATION PROVIDER AND COURSE PROVISIONS

Section 1455.350 Education Provider Application; Requirements

a) In accordance with Section 20-5 of the Act, any person or entity seeking approval to provide pre-license and/or continuing education courses shall submit an application on forms provided by the Division along with the appropriate fee required by Section 1455.320.

b) The program of pre-license and/or continuing education for a licensed education provider shall:

1) Be approved by the provider's governing and/or supervising body;

2) Utilize qualified instructors to instruct such courses as, but not limited to:

A) pre-license education courses for a State Certified General Real Estate Appraiser (the instructor shall be a State Certified General Real Estate Appraiser or its equivalent from another jurisdiction, or a full time faculty member of a college or university);

B) pre-license courses for a State Certified Residential Real Estate Appraiser or an Associate Real Estate Appraiser (the instructor shall be a State Certified General Real Estate Appraiser, a State Certified Residential Real Estate Appraiser or its equivalent from another jurisdiction, or a full time faculty member of a college or university);
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C) continuing education courses (the instructor should have the appropriate education and experience in appraisal or the subject matter being taught); or

D) all instructors teaching USPAP courses shall be AQB certified instructors; and

3) Offer courses that are approved and licensed by the DivisionOBRE, and conform to the standards established in this Subpart.

c) Facilities.

1) An education provider must provide an office for the maintenance of all records, office equipment and office space necessary for customer service.

2) The premises, equipment and facilities of the education provider shall comply with applicable community, state or federal fire codes, building codes, and health and safety standards.

3) The education provider is subject to inspection prior to approval or at any time thereafter by authorized representatives of the DivisionOBRE. Inspections shall be conducted during regular business hours, with at least 48 hours advance notice.

4) No education provider shall maintain an office, or conduct education courses, in a private residence.

5) An education provider shall only conduct education courses in locations that are conducive to learning.

d) Administration.

1) No licensed education provider shall advertise that it is endorsed, recommended, or accredited by the DivisionOBRE. The education provider may indicate that it is licensed by, and the course of study has been approved and licensed by, the DivisionOBRE.

2) Each education provider shall provide a prospective student prior to enrollment with information specifying the course of study to be offered,
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the tuition, the provider's policy regarding refunds, any additional fee for supplies, materials or books, and other matters that are material to the relationship between the provider and the student.

3) Each education provider shall maintain for each student a record including the course of study undertaken, dates of attendance, and a transcript of courses satisfactorily completed. All records shall be maintained by the education provider for a period of 5 years and shall be made available to the student or to the Division upon request during regular business hours. An education provider may charge a student the cost of reproducing copies of a transcript.

4) Each education provider shall upon request by the Division, provide evidence of financial resources available to equip and maintain its program, as documented by, e.g., a current balance sheet or an income statement.

5) Any out-of-state education providers shall reimburse the Division for all reasonable expenses incurred by the Division while inspecting their facilities.

6) Each education provider shall notify the Division of all proposed changes in ownership of the education provider at least 30 days prior to the change in ownership.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.360  Pre-License Education Course Requirements of Education Providers

a) For the purposes of this Section, a course shall be defined as a course of instruction that meets the curriculum requirements of this Subpart for each license category and that is at least 15 hours in length.

b) Each course shall meet the appropriate course curriculum prescribed in Section 1455.400 of this Subpart.

c) Each course shall include an examination of a minimum of 25 questions for each 15 hours of instruction, e.g., a 15 hour course would require a 25 question examination, a 30 hour course would require a 50 question examination. The questions shall be either multiple choice or true/false or a combination. Open
book examinations shall not be accepted. No student shall be deemed to have successfully completed the course unless he or she has scored a minimum of 70% on the course examination.

d) The Division OBRE shall only grant approval for courses that are a part of an overall pre-license education program for each license category; e.g., an education provider must have a 75 hour pre-license program approved for an Associate Real Estate Appraiser, a 120 hour pre-license program approved for a State Certified Residential Real Estate Appraiser, and an education provider must have a 180 hour pre-license education program approved for a State Certified General Real Estate Appraiser.

e) Each education provider who seeks approval of a course shall submit to the Division OBRE an application on forms provided by the Division OBRE, which shall include, but is not limited to, an outline and course description for each course, materials to be used in instruction, an examination with answer key, and the appropriate fee pursuant to Section 1455.320.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.370 Pre-License Course Curriculum; State Certified General Real Estate Appraiser; State Certified Residential Real Estate Appraiser; Associate Real Estate Appraiser

a) Pre-license education course work to obtain a license as a State Certified General Real Estate Appraiser shall consist of 180 classroom hours of instruction, which may include the 75 hour requirement for a State Licensed Real Estate Appraiser License issued pursuant to a previous Act, the 75 hour requirement for an Associate Real Estate Appraiser License, or the 120 hour requirement for a State Certified Residential Real Estate Appraiser License. The content for pre-license instruction courses shall not be repetitive and shall represent a progression of instruction in which the appraiser's knowledge is increased in topics including, but not limited to, the following:

1) influences on real estate value:

2) physical and environmental;

   A) economic;
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B) governmental and legal; and

C) social.

3) legal considerations in appraisal:

A) real estate vs. real property;

B) real property vs. personal property;

C) limitations on real estate ownership;

D) legal rights and interests;

E) forms of property ownership;

F) legal descriptions; and

G) transfer of title.

4) types of value:

A) market value or value in exchange;

B) price;

C) cost;

D) investment value;

E) value in use;

F) assessed value;

G) insurable value; and

H) going concern value.

5) economic principles:
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A) anticipation;
B) balance;
C) change;
D) competition;
E) conformity;
F) contribution;
G) increasing and decreasing returns;
H) opportunity cost;
I) substitution;
J) supply and demand; and
K) surplus productivity.

6) real estate markets and analysis:

A) characteristics of real estate markets;
B) absorption analysis;
C) role of money and capital markets; and
D) real estate financing.

7) valuation process:

A) definition of the problem;
B) collection and analysis of data;
C) analysis of highest and best use;
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D) application and limitations of each approach to value;
E) approach to value;
F) reconciliation and final value estimate; and
G) the appraisal report.

8) property description:
A) site description;
B) improvement description; and
C) basic construction and design.

9) highest and best use analysis:
A) four tests;
B) vacant site or as if vacant;
C) as improved; and
D) interim use.

10) appraisal math and statistical concepts:
A) compound interest concepts; and
B) statistical concepts used in appraisal.

11) sales comparison approach:
A) research and selection of comparables;
B) elements of comparison;
C) adjustment process; and
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D) application of sales comparison approach.

12) site value:
   A) sales comparison;
   B) land residual;
   C) allocation;
   D) extraction;
   E) ground rent capitalization;
   F) subdivision analysis; and
   G) plottage and assemblage.

13) cost approach:
   A) steps in cost approach; and
   B) application of the cost approach.

14) income approach:
   A) estimation of income and expenses;
   B) operating statement ratios;
   C) direct capitalization;
   D) cash flow estimates (before tax);
   E) measures of cash flow;
   F) discounted cash flow analysis (DCF); and
   G) six functions of a dollar.
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15) valuation of partial interests:
   A) life estate;
   B) undivided interest in commonly held property;
   C) easements;
   D) timeshares;
   E) cooperatives;
   F) leased fee estate; and
   G) leasehold estate.

16) appraisal standards and ethics.

17) narrative report writing.

18) other topics approved by the Division and recommended by the AQB.

b) Pre-license education course work to obtain a license as a State Certified Residential Real Estate Appraiser shall consist of 120 classroom hours of instruction, which may include the 75 hour requirement for a State Licensed Real Estate Appraiser issued pursuant to a previous Act or the 75 hour requirement for an Associate Real Estate Appraiser License. The content for pre-license instruction courses shall not be repetitive and shall represent a progression of instruction in which the appraiser's knowledge is increased in topics including, but not limited to, the following:

1) influences on real estate value:
   A) physical and environmental;
   B) economic;
   C) governmental and legal; and
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D) social.

2) legal considerations in appraisal:
   A) real estate vs. real property;
   B) real property vs. personal property;
   C) limitations on real estate ownership;
   D) legal rights and interests;
   E) forms of property ownership;
   F) legal descriptions; and
   G) transfer of title.

3) types of value:
   A) market value or value in exchange;
   B) price;
   C) cost;
   D) investment value;
   E) value in use;
   F) assessed value;
   G) insurable value; and
   H) going concern value

4) economic principles:
   A) anticipation;
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B) balance;
C) change;
D) competition;
E) conformity;
F) contribution;
G) increasing and decreasing returns;
H) opportunity cost;
I) substitution;
J) supply and demand; and
K) surplus productivity.

5) real estate markets and analysis:
   A) characteristics of real estate markets;
   B) absorption analysis;
   C) role of money and capital markets; and
   D) real estate financing.

6) valuation process:
   A) definition of the problem;
   B) collection of analysis of data;
   C) analysis of highest and best use;
   D) application and limitations of each approach to value;
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E) reconciliation of final value estimate; and
F) the appraisal report.

7) property description:
   A) site inspection;
   B) improvement description; and
   C) basic construction and design.

8) highest and best use analysis:
   A) four tests;
   B) vacant site or as if vacant;
   C) as improved; and
   D) interim use.

9) appraisal math and statistical concepts:
   A) compound interest concepts; and
   B) statistical concepts used in appraisal.

10) sales comparison approach:
    A) research and selection of comparables;
    B) elements of comparison;
    C) adjustment process; and
    D) application of sales comparison approach.

11) site value:
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A) sales comparison;
B) land residual;
C) allocation;
D) extraction; and
E) plottage and assemblage.

12) cost approach:
A) steps in cost approach; and
B) application of the cost approach.

13) income approach:
A) estimation of income and expenses;
B) operating statement ratios;
C) direct capitalization; and
D) gross rent multiplier analysis.

14) valuation of partial interests:
A) interests created by a lease;
B) lease provisions;
C) valuation considerations; and
D) other partial interests.

15) appraisal standards and ethics.

16) narrative report writing.
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17) other topics approved by the Division OBRE and recommended by the AQB.

c) Pre-license education course work to obtain a license as an Associate Real Estate Appraiser shall consist of 75 classroom hours of instruction and the content of instruction shall include instruction in, but not limited to, the following topics:

1) influences on real estate value;

2) legal considerations in appraisal;

3) types of value;

4) economic principles;

5) real estate markets and analysis;

6) valuation process;

7) property description;

8) highest and best use analysis;

9) appraisal statistical concepts;

10) sales comparison approach;

11) site value;

12) cost approach;

13) income approach;

14) valuation of partial interests;

15) appraisal standards and ethics; and

16) other topics approved by the Division OBRE.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)
Section 1455.380  Examples of Acceptable Pre-License Education Courses

a)  Examples of an acceptable Associate Real Estate Appraiser pre-license program and courses include:

1)  Basic real estate appraisal principles, 30 hours.

   A)  Real property concepts and characteristics
       i)  Basic real property concepts
       ii)  Real property characteristics
       iii)  Legal description

   B)  Legal consideration
       i)  Forms of ownership
       ii)  Public and private controls
       iii)  Real estate contract
       iv)  Lease

   C)  Influences on real estate values
       i)  Governmental
       ii)  Economic
       iii)  Social
       iv)  Environmental, geographic and physical

   D)  Types of value
       i)  Market value
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ii) Other value types

E) Economic principles
   i) Classic economic principles
   ii) Application and illustration of economic principles

F) Overview of real estate markets and analysis
   i) Market fundamentals, characteristics and definitions
   ii) Supply side analysis
   iii) Demand analysis
   iv) Use of market analysis

2) Basic appraisal procedures, 30 hours.

A) Valuation procedures
   i) Defining the problem
   ii) Collecting and selecting data
   iii) Analyzing data
       Sales comparison approach
       Valuation and cost approach
       Income approach
   iv) Reconciling and final value opinion
   v) Writing and communicating the appraisal report

B) Property description
   i) Geographic characteristics of the land/site
   ii) Geologic characteristics of the land/site
iii) Neighborhood characteristics of the land/site
iv) Highest and best use considerations of the land/site
v) Improvements

3) Uniform Standards of Professional Appraisal Practice (USPAP) that is approved by the AQB and taught by an AQB certified instructor, 15 hours.

Introduction and general provisions

A) Standard 1
B) Standard 2
C) Standards 3 through 10
D) Statements and advisory opinions

b) Examples of an acceptable State Certified Residential Real Estate Appraiser pre-license program and courses include:

1) The instruction and courses described in subsection (a) of this Section, 75 hours.

2) Appraisal approaches, 30 hours.

A) Comparison approach
   i) Value principles
   ii) Procedure
   iii) Identification and measurement of adjustments
   iv) Reconciliation
   v) Case studies

B) Valuation and cost approach
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i) Site valuation
   Methods
   Land value considerations
   Case studies

ii) Cost approach
    Concepts and definitions
    Replacement/reproduction cost
    Accrued depreciation
    Estimating accrued depreciation
    Case studies

C) Income approach
   i) Overview
   ii) Estimating stabilized net operating income
   iii) Direct capitalization
   iv) Discounted cash flow
   v) Partial interests
   vi) Case studies

3) Appraisal statistics, valuation cores, finance, USPAP update and report writing, 15 hours.
   A) Appraisal statistics
   B) Valuation cores
   C) Real estate finance
   D) USPAP updates
   E) Appraisal report writing
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i) Writing and reasoning skills

ii) Writing problems

iii) Report writing and USPAP compliance

iv) Case studies

c) Examples of an acceptable State Certified General Real Estate Appraiser pre-license program and courses include:

1) The instruction and courses described in subsection (b) of this Section, 120 hours.

2) Market analysis and highest and best use, 15 hours.

   A) Real estate markets and analysis

      i) Market fundamentals, characteristics and definitions

      ii) Supply side analysis

      iii) Demand analysis

      iv) Use of market analysis

   B) Highest and best use

      i) Test constraints

      ii) Application of highest and best use

      iii) Special considerations

      iv) Market analysis

      v) Case studies

3) Appraisal income approach, 15 hours.
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A) Overview
B) Lease analysis
C) Estimating potential gross income
D) Vacancy and collection loss
E) Estimating operating expenses and reserves
F) Reconstructed income and expense statement
G) Stabilized net operating income estimate
H) Direct capitalization
I) Discounted cash flow
J) Yield capitalization
K) Partial interests
L) Case studies

4) Report writing, 15 hours.
   A) Writing and reasoning skills
   B) Common writing problems
   C) Report options and USPAP compliance
   D) Case studies

5) Elective course, 15 hours.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.390 Continuing Education Course Requirements of Education Providers
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a) A continuing education course shall be at least 2 hours in length and shall meet the course curriculum prescribed in Section 1455.440 of this Subpart.

b) Each education provider who seeks approval of a continuing education course shall submit to the Division an application that shall include, but not limited to, an outline and description of the course and the number of hours sought and the appropriate fee pursuant to Section 1455.320.

c) An education provider who also offers pre-license education courses may submit pre-license courses for continuing education courses by submitting an application pursuant to subsection (b) of this Section. Only those pre-license courses that have been approved and licensed by the Division as continuing education courses shall be approved for continuing education credit.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.400 Curriculum for Continuing Education Courses; Continuing Education Credit for Participation Other Than as a Student

a) Continuing education courses for a State Certified General Real Estate Appraiser, State Certified Residential Real Estate Appraiser, Associate Real Estate Appraiser, or State Licensed Real Estate Appraiser shall include a minimum of 7 hours of coursework relative to USPAP that is approved by the AQB and taught by an AQB certified instructor during the pre-renewal period prior to renewal or conversion of a license; shall increase his or her skill, knowledge and competency in real estate appraisal; and shall cover other real estate related appraisal topics, such as, but not limited to:

1) Ad valorem taxation;
2) Arbitration;
3) Business courses related to practice of real estate appraisal;
4) Development cost estimating;
5) Ethics and standards of professional practice;
6) Land use planning, zoning, taxation;
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7) Management, leasing, brokerage, timesharing;

8) Property development;

9) Real estate appraisal;

10) Real estate law;

11) Real estate litigation;

12) Real estate financing and investment;

13) Real estate appraisal related computer applications;

14) Real estate securities and syndication; and

15) Real property exchange.

b) Continuing education credit may also be granted by the Division for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities that are determined by the Division to be equivalent to obtaining continuing education. A real estate appraiser who wishes to obtain continuing education credit for these activities shall submit to the Division:

1) An application to request continuing education credit for participation other than as a student signed by the applicant and on which all questions are answered; and

2) The fee provided by Section 1455.320.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.410 Distance Education

a) For pre-license education or continuing education, distance education is defined as any educational process based on the geographical separation of instructor and student, e.g., CD ROM, on-line learning, correspondence courses, video conferencing, etc.
b) Distance education courses may be approved and licensed by the Division OBRE if:
   1) the course is given by a licensed education provider;
   2) the education provider is approved and licensed by the Division OBRE;
   3) the distance education course meets the requirements for pre-license education and continuing education as provided in the Act and this Part and criteria established by the AQB;
   4) the education provider provides a means for a student to contact an instructor to answer questions.

c) If the course given is for continuing education credit, the education provider shall be required to submit to the Division OBRE, with the course application, an examination of at least 25 questions with answer key, and the student shall be required to score a minimum of 70% on the examination.

d) The education provider will be required to submit a policy indicating the manner in which distance education course examinations are to be taken. Examinations shall be proctored by a representative of the education provider. The policy must be approved by the Division OBRE.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.420 Expiration Date and Renewal for Education Providers and Pre-License and Continuing Education Courses

a) All education provider and pre-license and continuing education course licenses shall expire on December 31 of even numbered years.

b) Every education provider who wishes to renew his, her or its license and pre-license and continuing education course licenses shall submit to the Division OBRE:

   1) an application, provided by the Division OBRE, in which all questions have been answered;
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2) any course materials requested by the Division OBRE during the renewal application process; and

3) the fees as required by Section 1455.320.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.430 Continuing Education Reporting

a) Each licensed education provider, pursuant to Section 20-5(e) of the Act, that is approved to offer approved continuing education courses shall submit to the Division OBRE, on or before the 15th of each month, a report of those licensees successfully completing the continuing education courses offered by the provider during the preceding calendar month.

b) The monthly reports shall include, but not limited to, the following information for each licensee:

1) the licensee's name, address, social security number, and license number;

2) the education provider's name and license number;

3) the continuing education course name and license number; and

4) other information as required by the Division OBRE.

c) If an education provider during the preceding calendar month gave no continuing education courses, the provider shall report, on forms provided by the Division OBRE, that no courses were given.

d) The monthly reports shall be submitted in a computer readable format provided and specified by the Division OBRE.

e) There will be no processing fee for a monthly report submitted in the computer readable format provided and specified by the Division OBRE. Each monthly report submitted on paper or in a format other than a computer readable format provided and specified by the Division OBRE shall be accompanied by a processing fee of $.50 per licensee, per course, listed on the report, payable by check to the Division OBRE.
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f) A monthly report received by the Division OBRE with a postmark after the day it is due (the 15th day of the month) shall be accompanied by an administrative late fee of $200 in addition to the fees set forth in subsection (a)(4).

g) If an education provider fails to file monthly reports or a statement that no courses were offered, or fails to pay the required fees for three consecutive months, the courses offered by that school may be disqualified pursuant to the procedures set forth in the Act and this Part until all delinquent reports, processing fees, and administrative fees as set forth in this Section have been submitted to and are received by the Division OBRE. The Division OBRE shall send notice to the school of an informal conference before the Real Estate Appraisal Board and of pending disqualification pursuant to the Act and this Part, by certified or registered mail, return receipt requested, or by other signature restricted delivery service.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.440 Transcript or Certificate of Completion

Within 21 days after completion of the course, each licensed education provider shall provide to each student who successfully completes an approved pre-license or continuing education course a certified transcript or certificate of completion within 21 days after the completion of the course. The certified transcript or certificate of completion shall include, but is not limited to, the following information:

a) the student's name, address, social security number, and license number (if applicable);

b) the name and license number of the education provider;

c) the name and license number of the course; and

d) the approved hours completed.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

SUBPART I: TRANSITION PROVISIONS

Section 1455.450 Appraiser Applicants – Transition Provisions
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a) An applicant for a State Certified General Real Estate Appraiser or a State Certified Residential Appraiser License may be allowed to sit for examination by providing evidence of successful completion of the pre-requisite hours of pre-license education from courses previously approved and licensed by the Division OBRE, which license expired on or prior to December 31, 2002. Any course work taken after January 1, 2003 shall meet the requirements established by, and be approved and licensed under, the Real Estate Appraiser Licensing Act of 2002 and this Part.

b) An applicant for an Associate Real Estate Appraiser License may be allowed to sit for examination by providing evidence of successful completion of the pre-requisite 75 hours of pre-license education from courses previously approved and licensed for a State Licensed Real Estate Appraiser, which license expired on or prior to December 31, 2002. Any course work taken after January 1, 2003 shall meet the requirements established by, and be approved and licensed under, the Real Estate Appraiser Licensing Act of 2002 and this Part.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.460 Education Providers, Pre-License and Continuing Education Courses – Transition Provisions

a) All education providers and pre-license and continuing education courses approved and licensed with an expiration date of December 31, 2002 shall be accepted to meet the requirements of the Real Estate Appraiser Licensing Act of 2002 and this Part at the discretion of the Division OBRE until December 31, 2002, e.g., a pre-license course previously approved and licensed by the Division OBRE to meet the requirements to sit for a State Licensed Real Estate Appraiser examination may be used to allow an applicant to sit for an Associate Real Estate Appraiser License.

b) Any initial application for license as an education provider or pre-license or continuing education course submitted after July 1, 2002 shall meet the requirements of the Real Estate Appraiser Licensing Act of 2002 and this Part.

c) Any approved and licensed education provider with a license expiration date of December 31, 2002 may renew his, her or its license, but must meet the requirements of the Real Estate Appraiser Licensing Act of 2002 and this Part.

d) Any existing approved and licensed pre-license or continuing education course
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with an expiration date of December 31, 2002 or later shall only be approved to be renewed if the course meets the requirements of the Real Estate Appraiser Licensing Act of 2002 and this Part.

e) Any education provider who must modify or amend a pre-license or continuing education course approved under a previous Act to meet the requirements of the Real Estate Appraiser Licensing Act of 2002 and this Part shall submit the course as if it were an initial course application.

f) The Division OBRE shall waive the renewal fees for a period of two years for existing approved and licensed pre-license or continuing education courses with an expiration date of December 31, 2002 or later and renewed pursuant to subsection (d) of this Section.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

SUBPART J: HEARINGS

Section 1455.470 Applicability

a) This Subpart shall govern contested cases as defined in Sections 1-30, 1-35 and 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/1-30, 1-35 and 10-65].

b) This Subpart shall apply to all hearings conducted under the jurisdiction of the Division Office of Banks and Real Estate, Division of (Real Estate Appraisal Administration) (hereinafter, the Agency) and the Secretary Commissioner of the Agency. Except as otherwise provided in this Subpart, hearings shall be conducted in accordance with 68 Ill. Adm. Code 1110.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.480 Administrative Law Judges

In any contested case, the Secretary Commissioner shall employ an attorney, licensed to practice law in Illinois, to serve as an Administrative Law Judge (ALJ). The ALJ has the authority to conduct a hearing, take all necessary action to avoid delay, maintain order, and insure the development of a clear and complete record. The ALJ shall have all powers necessary to conduct a hearing, including the power to:
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a) Administer oaths and affirmations;

b) Regulate the course of hearings, set the time and place for continued hearings, fix time for filing of documents, provide for the taking of testimony by deposition if necessary, and generally conduct the proceeding according to generally recognized administrative law;

c) Examine witnesses and direct witnesses to testify, limit the number of times any witness may testify, limit repetitious or cumulative testimony, and set reasonable limits on the amount of time each witness may testify;

d) Rule upon offers of proof and receive relevant evidence;

e) Direct parties to appear and confer for the settlement or simplification of issues, and otherwise conduct prehearing conferences;

f) Dispose of procedural requests or similar matters;

g) Continue the hearing from time to time when necessary;

h) Prepare for the Real Estate Appraisal Board written Findings of Fact, Conclusions of Law and Recommended Action for submission to the Assistant Commissioner.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)

Section 1455.490 Disqualification of an Administrative Law Judge

a) Any interested party to a proceeding may, following notice and an opportunity to object, move to disqualify the assigned Administrative Law Judge on the basis of bias or conflict of interest. An adverse ruling rendered against the party or its representative in any previous matters shall not, in and of itself, constitute sufficient grounds for disqualification under this Section. The Secretary Commissioner shall determine this issue as part of the record of the case. When an ALJ is disqualified, or it becomes impractical for him/her to continue, another presiding officer may be assigned unless it is further shown that substantial bias will result from the assignment.

b) No motion for disqualification shall be permitted after any substantive ruling has been made on the case by the ALJ, unless it pertains to a conflict of interest not
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previously disclosed.

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)
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Section 1455. APPENDIX A   Caption for a Case Filed by the Agency

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION-
DIVISION OF PROFESSIONAL REGULATION OFFICE OF BANKS AND REAL ESTATE
REAL ESTATE APPRAISAL ADMINISTRATION DIVISION

of the State of Illinois,

Complainant

v

(NAME OF RESPONDENT)
(License Number),

Respondent.

COMPLAINT

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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Section 1455.APPENDIX B  Caption for a Case Filed by the Petitioner

STATE OF ILLINOIS
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION-
DIVISION OF PROFESSIONAL REGULATION OFFICE OF BANKS AND REAL ESTATE
REAL ESTATE APPRAISAL ADMINISTRATION DIVISION

In RE the Petition for Restoration of )
) No.
) )
(NAME OF PETITIONER) )
(License Number), )
) )
PETITIONER )

PETITION FOR HEARING

(Source: Amended at 29 Ill. Reg. 16445, effective October 13, 2005)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Service Planning and Provision

2) **Code Citation:** 89 Ill. Adm. Code 684

3) **Section Number:** 684.100  
   **Adopted Action:** Amendment

4) **Statutory Authority:** Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]

5) **Effective date of amendment:** October 17, 2005

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does these amendments contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Notices of proposal published in the Illinois Register:** November 11, 2004; 28 Ill. Reg. 14747

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between proposal and final version:** No changes were made between the proposed version and the final version.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this amendment replace any emergency rulemaking currently in effect?** No

14) **Are there any amendments pending on this Part?** Yes

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<tr>
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<tbody>
<tr>
<td>684.70</td>
<td>Amendment</td>
<td>11/19/04 (28 Ill. Reg. 14924)</td>
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<tr>
<td>684.75</td>
<td>Amendment</td>
<td>11/19/04 (28 Ill. Reg. 14924)</td>
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</table>
15) **Summary and purpose of amendment:** This rulemaking is being proposed to revise language to clarify that illegal activity must directly and adversely affect the Home Service Program in order for a customer’s service to be terminated.

16) **Information and questions regarding this adopted amendment 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, Illinois  62762  
   217/785-9772

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

The full text of the Adopted Amendment begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENT

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
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].


Section 684.100  Denial or Termination of HSP Services

HSP services shall be denied or terminated and case closure initiated at any time the customer:

a) moves from the State of Illinois or cannot be located or contacted;

b) is determined to have a projected service cost above that of the projected cost of institutionalization, with the exceptions found at 89 Ill. Adm. Code 682.500(a),
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682.520, and 684.70(c);

c) refuses services or further services;

d) dies;

e) is institutionalized and not expected to be released for a period to exceed 60 calendar days;

f) has been referred to another agency for the same or similar services and no longer requires or is eligible for HSP services;

g) fails to conduct himself/herself in an appropriate manner (e.g., physical, sexual or repeated verbal abuse by a customer against a DHS employee, provider or agent providing services through HSP; knowingly provides false information; or performs illegal activity that would directly and adversely affect the HSP, illegal activity, physical or sexual abuse, or threat thereof, or repeated verbal abuse by a customer against a DHS employee, agent or a provider providing services through HSP);

h) is not, or is no longer, at risk of institutionalization due to improvement of his/her condition;

i) fails to meet other eligibility criteria as found at 89 Ill. Adm. Code 682 as a result of an initial determination of eligibility or redetermination of eligibility;

j) fails to cooperate (e.g., refuses to complete and sign necessary forms, fails to keep appointments, fails to maintain adequate providers); or

k) cannot have a safe and adequate service plan developed for him/her as a result of the original determination of eligibility or redetermination of eligibility.

(Source: Amended at 29 Ill. Reg. 16508, effective October 17, 2005)
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1) **Heading of the Part:** Provider Requirements, Type Services, and Rates of Payment

2) **Code Citation:** 89 Ill. Adm. Code 686

3) **Section Number:** Adopted Action: 686.40 Amendment

4) **Statutory Authority:** Implementing Section 3 of the Disabled Persons Rehabilitation Act [20 ILCS 2405/3]

5) **Effective date of amendment:** October 17, 2005

6) **Does this rulemaking contain an automatic repeal date?** No

7) **Does this rulemaking contain incorporations by reference?** No

8) **A copy of the adopted amendment, including any material incorporated, is on file in the agency’s principal office and is available for public inspection.**

9) **Notice of Proposal published in the Illinois Register:** 2/04/05; 29 Ill. Reg. 1703

10) **Has JCAR issued a Statement of Objection to this rulemaking?** No

11) **Differences between proposal and final version:**

"SUPBART A: PERSONAL ASSISTANTS" was added before Section 686.40.

In Section 686.40(c), DHS/DRS was changed to DHS-DRS. In the 2nd to last sentence a "," was added after "occurs". In the last sentence, "Respite" was changed to lower case.

12) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** Yes

13) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and purpose of amendment:** This rulemaking adds language that a Personal Assistant (PA) will not be reimbursed for services that are over 16 hours in a 24-hour period. Counselors may grant exceptions for this in an emergency situation, which is
DEPARTMENT OF HUMAN SERVICES

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outlined in the rule, but the hours may not exceed the annual service cost maximum (SCM). This 16-hour limitation does not apply to PAs providing Respite services.

16) Information and questions regarding this adopted amendment 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, Illinois 62762

   217/785-9772

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

The full text of the Adopted Amendment begins on the next page:
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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 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 Which 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 Which Must Be Provided by Homemaker Agencies
686.220 Compliance Review of Homemaker Agencies
686.230 Appeal of Compliance Review for Homemaker Agencies
686.240 Payment for Homemaker Services
686.250 Financial Reporting of Homemaker Services
686.260 Unallowable Costs for Homemaker Service
686.270 Minimum Direct Service Worker Costs for Homemaker Services
686.280 Cost Categories for Homemaker Services

SUBPART D: ELECTRONIC HOME RESPONSE SERVICES
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Section 686.300 Electronic Home Response Services (EHRS) Provider Requirements
Section 686.310 Services Which Must Be Provided by EHRS Providers
Section 686.320 Minimum Specifications for EHRS Equipment
Section 686.330 Compliance Review of EHRS Providers
Section 686.340 Appeal of Compliance Review for EHRS Providers
Section 686.350 Rate of Payment for EHRS Services

SUBPART E: MAINTENANCE HOME HEALTH SERVICE

Section 686.400 Maintenance Home Health Provider Requirements
Section 686.410 Rate of Payment for Maintenance Home Health Services

SUBPART F: HOME DELIVERED MEALS

Section 686.500 Home Delivered Meals Provider Requirements
Section 686.510 Rate of Payment for Home Delivered Meals

SUBPART G: ENVIRONMENTAL MODIFICATION

Section 686.600 Environmental Modification Provider Requirements
Section 686.610 Cost of Environmental Modification
Section 686.620 Permanency of Environmental Modification
Section 686.630 Reason for Denial of Environmental Modification
Section 686.640 Verification of Environmental Modification

SUBPART H: ASSISTIVE EQUIPMENT

Section 686.700 Assistive Equipment Provider Requirements
Section 686.710 Provision of Assistive Equipment
Section 686.720 Verification of Receipt of Assistive Equipment

SUBPART I: RESPITE CARE

Section 686.800 Respite Care Provider Requirements
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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 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
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Section 686.1400 Supported Employment Service Provider Requirements
Section 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].


SUBPART A: PERSONAL ASSISTANTS

Section 686.40 Payment for PA Services

a) PAs shall be paid at the hourly rate set by law, but never less than the current federal minimum wage.

b) PAs shall be paid twice each month for services rendered. The first payment shall be for any services rendered by the PA, pursuant to the customer's Service Plan, from the first day of the month through the fifteenth day of the month. The second payment shall be for any services rendered by the PA, pursuant to the customer's Service Plan, from the sixteenth day of the month through the last day of the month.

c) No PA shall be reimbursed by DHS-DRS for services rendered to one or more HSP customers for more than 16 hours in a 24-hour period. The counselor may grant an exception should an emergency occur that results in the loss of a paid or unpaid primary caregiver who resides with the customer, and there is imminent danger to the health, safety and well being of the customer. When this occurs, the additional hours may not exceed the annual service cost maximum (SCM). The
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16-hour limitation does not apply to PAs providing respite services.

(Source: Amended at 29 Ill. Reg. 16508, effective October 17, 2005)
NOTICE OF EMERGENCY AMENDMENT

1) **Heading of the Part:** Medical Payment

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

3) **Section Number:** 140.442  
   **Emergency Action:** Amendment

4) **Statutory Authority:** Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13] and Public Act 94-0048

5) **Effective Date:** October 5, 2005

6) **If this emergency amendment is to expire before the end of the 150-day period, please specify the date on which it is to expire:** Not Applicable

7) **Date Filed with the Index Department:** October 5, 2005

8) A copy of the emergency amendment, including any materials incorporated by reference, is on file in the agency's principal office and is available for public inspection.

9) **Reason for Emergency:** This emergency amendment concerning prescription drugs is being filed pursuant to the enactment of the State’s budget plan for fiscal year 2006. Under this amendment, prior approval may be required for brand name prescription drugs for a medical assistance client when he or she has already received three brand name drugs in the preceding 30 day period. Immediate implementation of this change is necessary to ensure that costs related to name brand prescription drugs are maintained within necessary budgetary constraints. Section 5-45 of Public Act 94-0048 specifically authorizes emergency rulemaking for the implementation of these changes for fiscal year 2006.

10) **Complete Description of the Subjects and Issues Involved:** This emergency amendment imposes a limitation concerning the dispensing of brand name prescription drugs to medical assistance clients. Under this limitation, the Department may require prior approval for brand name prescription drugs for a client who is 21 years of age and older when he or she has already received three brand name prescription drugs in the preceding 30 day period. Certain therapeutic classes of drugs, which are specified in the emergency change, will not be subject to this policy. Other policy exceptions are also described concerning drugs that have no generic alternatives and brand name drugs that are cost effective. This promotion of therapeutically effective generic alternatives to brand name drugs is expected to result in an approximate annual savings of $27 million.
**DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES**

**NOTICE OF EMERGENCY AMENDMENT**

11) **Are there any other proposed amendments pending on this Part?**  Yes

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<td>140.80</td>
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<td>August 12, 2005 (29 Ill. Reg. 12338)</td>
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<td>140.400</td>
<td>Amendment</td>
<td>September 30, 2005 (29 Ill. Reg. 14463)</td>
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<tr>
<td>140.924</td>
<td>Amendment</td>
<td>September 30, 2005 (29 Ill. Reg. 14463)</td>
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</table>

12) **Statement of Statewide Policy Objectives:**  This emergency amendment neither creates nor expands any State mandate affecting units of local government.

13) **Information and questions regarding this emergency amendment shall be directed to:**

   Joanne Scattoloni  
   Office of the General Counsel, Rules Section  
   Illinois Department of Healthcare and Family Services  
   201 South Grand Avenue East, Third Floor  
   Springfield, Illinois  62763-0002  

   (217) 524-0081

The full text of the Emergency Amendment begins on the next page:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

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 Incarcerated Persons

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.11 Enrollment Conditions for Medical Providers
140.12 Participation Requirements for Medical Providers
140.13 Definitions
140.14 Denial of Application to Participate in the Medical Assistance Program
140.15 Recovery of Money
140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
140.18 Effect of Termination on Individuals Associated with Vendor
140.19 Application to Participate or for Reinstatement Subsequent to Termination, Suspension or Barring
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

140.20 Submittal of Claims
140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22 Magnetic Tape Billings (Repealed)
140.23 Payment of Claims
140.24 Payment Procedures
140.25 Overpayment or Underpayment of Claims
140.26 Payment to Factors Prohibited
140.27 Assignment of Vendor Payments
140.28 Record Requirements for Medical Providers
140.30 Audits
140.31 Emergency Services Audits
140.32 Prohibition on Participation, and Special Permission for Participation
140.33 Publication of List of Terminated, Suspended or Barred Entities
140.35 False Reporting and Other Fraudulent Activities
140.40 Prior Approval for Medical Services or Items
140.41 Prior Approval in Cases of Emergency
140.42 Limitation on Prior Approval
140.43 Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55 Recipient Eligibility Verification (REV) System
140.71 Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72 Drug Manual (Recodified)
140.73 Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section
140.80 Hospital Provider Fund
140.82 Developmentally Disabled Care Provider Fund
140.84 Long Term Care Provider Fund
140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95 Hospital Services Trust Fund
140.96 General Requirements (Recodified)
140.97 Special Requirements (Recodified)
140.98 Covered Hospital Services (Recodified)
140.99 Hospital Services Not Covered (Recodified)
140.100 Limitation On Hospital Services (Recodified)
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.101 Transplants (Recodified)
140.102 Heart Transplants (Recodified)
140.103 Liver Transplants (Recodified)
140.104 Bone Marrow Transplants (Recodified)
140.110 Disproportionate Share Hospital Adjustments (Recodified)
140.116 Payment for Inpatient Services for GA (Recodified)
140.117 Hospital Outpatient and Clinic Services (Recodified)
140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
140.203 Limits on Length of Stay by Diagnosis (Recodified)
140.300 Payment for Pre-operative Days and Services Which Can Be Performed in an Outpatient Setting (Recodified)
140.350 Copayments (Recodified)
140.360 Payment Methodology (Recodified)
140.361 Non-Participating Hospitals (Recodified)
140.362 Pre July 1, 1989 Services (Recodified)
140.363 Post June 30, 1989 Services (Recodified)
140.364 Prepayment Review (Recodified)
140.365 Base Year Costs (Recodified)
140.366 Restructuring Adjustment (Recodified)
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140.368 Volume Adjustment (Repealed)
140.369 Groupings (Recodified)
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140.374 Alternatives (Recodified)
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140.376 Utilization, Case-Mix and Discretionary Funds (Repealed)
140.390 Subacute Alcoholism and Substance Abuse Services (Recodified)
140.391 Definitions (Recodified)
140.392 Types of Subacute Alcoholism and Substance Abuse Services (Recodified)
140.394 Payment for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.396 Rate Appeals for Subacute Alcoholism and Substance Abuse Services (Recodified)
140.398 Hearings (Recodified)

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF EMERGENCY AMENDMENT

Section
140.400  Payment to Practitioners
140.402  Copayments for Noninstitutional Medical Services
140.405  SeniorCare Pharmaceutical Benefit
140.410  Physicians’ Services
140.411  Covered Services By Physicians
140.412  Services Not Covered By Physicians
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140.TABLE J HSA Grouping (Repealed)
140.TABLE K Services Qualifying for 10% Add-On (Repealed)
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140.TABLE M Enhanced Rates for Maternal and Child Health Provider Services

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

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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.

SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

Section 140.442 Prior Approval of Prescriptions

a) The Department may require prior approval for the reimbursement of any drug except as provided in this Section. Determinations of whether prior approval for any drug is required shall be made in the following manner:

1) The Department shall consult with individuals or organizations which possess appropriate expertise in the areas of pharmacology and medicine. In doing so, the Department shall consult with organizations composed of physicians, pharmacologists, or both, and shall, to the extent that it consults with organizations, limit its consultations to organizations which include within their membership physicians practicing in all of the representative geographic areas in which recipients reside and practicing in a majority of the areas of specialization for which the Department reimburses physicians for providing care to recipients.

2) The Department shall consult with a panel from such organizations (the panel is selected by such organizations) to review and make recommendations regarding prior approval. The panel shall meet not less than four times a year for the purpose of the review of drugs. The actions of the panel shall be non-binding upon the Department and can in no way bind or otherwise limit the Department's right to determine in its sole discretion those drugs which shall be available without prior approval.

3) Upon U.S. Food and Drug Administration approval of a new drug, or when post-marketing information becomes available for existing drugs requiring prior approval, the manufacturer shall be responsible for submitting materials to the Department which the Department and the consulting organization shall consider in determining whether reimbursement for the drug shall require prior approval.

4) New dosage strengths and new dosage forms of products currently included in the list of drugs available without prior approval (see Section
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.440(e)) shall be available without prior approval upon the request of the manufacturer, unless otherwise designated by the Director. In such a case, the Director shall submit the new dosage strength, or new form, to the prior approval procedures described in this Section.

5) Upon receipt of the final agenda established for each meeting of the above described panel, the Department shall promptly review materials and literature supplied by drug manufacturers. Additional literature may be researched by the Department to assist the panel in its review of the products on the agenda. The Department shall make comments and within ten working days after receipt of the agenda, transmit such comments either in person or in writing to the panel. This shall be done for each meeting of the above described panel.

6) The consulting organization shall transmit its recommendations to the Department in writing.

7) Upon receipt of this transmittal letter, the Department shall, within 15 business days, notify all interested parties, including pharmaceutical product manufacturers, of all recommendations of the consulting organization accepted or rejected by the Director. Notifications to pharmaceutical manufacturers of the Director's decision to require prior approval shall include reasons for the decision. Decisions requiring prior approval of new drug products not previously requiring prior approval shall become effective no sooner than ten days after the notification to providers and all interested parties, including manufacturers. The Department shall maintain a mailing list of all interested parties who wish to receive a copy of applicable notices.

8) Drug manufacturers shall be afforded an opportunity to request reconsideration of products recommended for prior approval. The Drug manufacturers may submit whatever information they deem appropriate to support their request for reconsideration of the drug product. All reconsideration requests must be submitted in writing to the Department and shall be considered at the next regularly scheduled meetings of the above described expert panel convened by the consulting organization.

9) The Department shall provide that the following types of drugs are available without prior approval:
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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A) Drugs for the treatment of Acquired Immunodeficiency Syndrome (AIDS) which the Federal Food and Drug Administration has indicated is subject to a treatment investigational new drug application;

B) Contraceptive drugs and products;

C) Oncolytic drugs; and

D) Non-innovator products, listed in the State of Illinois Drug Product Selection Program's current Illinois Formulary, when the innovator product is available without prior approval.

b) Except as provided in subsection (c) below, prior approval shall be given for drugs requiring such authorization if:

1) The drug is a legend item (requires a prescription); and

2) The drug is used in accordance with predetermined standards consistent with the compendia consisting of the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information and the American Medical Association Drug Evaluations, as well as the peer-reviewed medical literature; and

3) The drug is necessary to prevent a higher level of care, such as institutionalization; or

4) The prescriber has determined that the drug is medically necessary.

c) For recipients covered by the General Assistance Medical Program, prior approval shall be given for drugs requiring such authorization if:

1) The drug is a legend item (requires a prescription), and

2) The drug is used in accordance with predetermined standards consistent with the compendia consisting of the American Hospital Formulary Service Drug Information, the United States Pharmacopeia-Drug Information and the American Medical Association Drug Evaluations, as well as the peer-reviewed medical literature, and
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3) The physician has documented that the requested item is necessary to prevent a life threatening situation and that items covered under the basic health protection plan are not effective to maintain the patient's life or to avoid the life threatening situation.

d) Decisions on all requests for prior approval by telephone or other telecommunications device and, upon the Department's receipt of such request, shall be made by the same time of the Department's next working day. In an emergency situation, the Department shall provide for the dispensing of at least a 72-hour supply of a covered prescription drug.

e) The Department may require prior approval prior to reimbursement for a brand name prescription drug if the patient for whom the drug is prescribed has already received three brand name prescription drugs in the preceding 30-day period, and is 21 years of age or older.

1) For purposes of subsection (e), brand name prescription drugs in the following therapeutic classes shall not count towards the limit of three brand name prescription drugs and shall not be subject to prior approval requirements because a patient has received three brand name prescription drugs in the preceding 30 days.

A) Antiretrovirals;
B) Antineoplastics;
C) Anti-Rejection Drugs;
D) Antipsychotics;
E) Anticonvulsants;
F) Insulin; and
G) Anti-Hemophilic Factor Concentrates.

2) The Department may exempt brand-name prescription drugs from the prior approval requirements of subsection (e) if there are no generic therapies for the condition treated within the same therapeutic drug class.
DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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or if the Department determines that the brand name prescription drug is cost effective.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

1) **Heading of the Part:** Food Stamps

2) **Code Citation:** 89 Ill. Adm. Code 121

3) **Section Numbers:** Peremptory Action:
   - 121.60 Amendment
   - 121.61 Amendment
   - 121.63 Amendment
   - 121.64 Amendment

4) **Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires this Peremptory Rulemaking:** These changes are being made to conform with Food and Nutrition Service regulations.

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

6) **Effective Date:** October 4, 2005

7) **A Complete Description of the Subjects and Issues Involved:** In accordance with regulations from the Food and Nutrition Service, this rulemaking revises the income eligibility standards and benefit allowances for the Food Stamp Program.

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

9) **Date Filed with the Index Department:** October 4, 2005

10) A copy of the peremptory rule, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

11) This rulemaking is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.

12) **Are there any proposed amendments pending on this Part?** Yes

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
<th>Illinois Register Citation</th>
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<tr>
<td>121.57</td>
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<td>28 Ill. Reg. 14387; 11-05-04</td>
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<td>121.58</td>
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<tr>
<td>121.63</td>
<td>Amendment</td>
<td>28 Ill. Reg. 15295; 11-29-04</td>
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</table>
13) **Statement of Statewide Policy Objectives**: This rulemaking does not create or expand a State mandate.

14) **Information and questions regarding these peremptory amendments shall be directed to**:

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

   (217) 785-9772

   The full text of the Peremptory Amendments begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

SUBPART A: APPLICATION PROCEDURES

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

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section 121.18 Work Requirement
121.19 Ending a Voluntary Quit Disqualification (Repealed)
121.20 Citizenship
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121.23 Work Registration/Participation Requirements
121.24 Individuals Exempt from Work Registration Requirements
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121.26 Period of Sanction
121.27 Voluntary Job Quit/Reduction in Work Hours
121.28 Good Cause for Voluntary Job Quit/Reduction in Work Hours
121.29 Exemptions from Voluntary Quit/Reduction in Work Hours Rules

SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 121.30 Unearned Income
121.31 Exempt Unearned Income
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121.32 Education Benefits (Repealed)
121.33 Unearned Income In-Kind
121.34 Lump Sum Payments and Income Tax Refunds
121.40 Earned Income
121.41 Budgeting Earned Income
121.50 Exempt Earned Income
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121.57 Assets
121.58 Exempt Assets
121.59 Asset Disregards

SUBPART D: ELIGIBILITY STANDARDS

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121.61 Gross Monthly Income Eligibility Standards
121.62 Income Which Must Be Annualized
121.63 Deductions from Monthly Income
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121.70 Composition of the Assistance Unit
121.71 Living Arrangement
121.72 Nonhousehold Members
121.73 Ineligible Household Members
121.74 Strikers
121.75 Students
121.76 Households Receiving AFDC, SSI, Interim Assistance and/or GA – Categorical Eligibility

SUBPART F: MISCELLANEOUS PROGRAM PROVISIONS

Section
121.80 Fraud Disqualification (Renumbered)
DEPARTMENT OF HUMAN SERVICES

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121.81 Initiation of Administrative Fraud Hearing (Repealed)
121.82 Definition of Fraud (Renumbered)
121.83 Notification To Applicant Households (Renumbered)
121.84 Disqualification Upon Finding of Fraud (Renumbered)
121.85 Court Imposed Disqualification (Renumbered)
121.90 Monthly Reporting and Retrospective Budgeting (Repealed)
121.91 Monthly Reporting (Repealed)
121.92 Budgeting
121.93 Issuance of Food Stamp Benefits
121.94 Replacement of the EBT Card or Food Stamp Benefits
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121.96 Uses For Food Coupons
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121.98 Client Training for the Electronic Benefits Transfer (EBT) System
121.105 State Food Program (Repealed)
121.107 New State Food Program
121.108 Transitional Food Stamp (TFS) Benefits
121.120 Redetermination of Eligibility
121.125 Redetermination of Earned Income Households
121.130 Residents of Shelters for Battered Women and their Children
121.131 Fleeing Felons and Probation/Parole Violators
121.135 Incorporation By Reference
121.140 Small Group Living Arrangement Facilities and Drug/Alcoholic Treatment Centers
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Section
121.160 Persons Required to Participate
121.162 Program Requirements
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121.163 Vocational Training
121.164 Orientation (Repealed)
121.165 Community Work
121.166 Assessment and Employability Plan (Repealed)
121.167 Counseling/Prevention Services
121.170 Job Search Activity
121.172 Basic Education Activity
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121.177 Illinois Works Component (Repealed)
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121.180 Grant Diversion Component (Repealed)
121.182 Earnfare Activity
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121.201 Establishing a Claim for Intentional Violation of the Program (Recodified)
121.202 Establishing a Claim for Unintentional Household Errors and Administrative Errors (Recodified)
121.203 Collecting Claim Against Households (Recodified)
121.204 Failure to Respond to Initial Demand Letter (Recodified)
121.205 Methods of Repayment of Food Stamp Claims (Recodified)
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121.207 Failure to Make Payment in Accordance with Repayment Schedule (Recodified)
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SUBPART I: WORK REQUIREMENT FOR FOOD STAMPS

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

NOTICE OF PEREMPTORY AMENDMENTS

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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NOTICE OF PEREMPTORY AMENDMENTS

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NOTICE OF PEREMPTORY AMENDMENTS


SUBPART D: ELIGIBILITY STANDARDS

Section 121.60 Net Monthly Income Eligibility Standards

a) Eligible households whose net monthly income does not exceed the maximum monthly income standards shall be assigned food stamp benefits based on the net monthly food stamp income.

b) The maximum net monthly income standards are:

<table>
<thead>
<tr>
<th>Household Size</th>
<th>Amount</th>
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<tbody>
<tr>
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<td>2</td>
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<td>5</td>
<td>18851836</td>
</tr>
<tr>
<td>6</td>
<td>21562401</td>
</tr>
<tr>
<td>7</td>
<td>24283366</td>
</tr>
<tr>
<td>8</td>
<td>27002631</td>
</tr>
</tbody>
</table>
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Each additional member...................... 272265

Derived from Office of Management and Budget non-farm, income poverty guidelines.

(Source: Peremptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005)

Section 121.61 Gross Monthly Income Eligibility Standards

a) Gross Monthly Income Eligibility Standards

1) The gross income standards of eligibility shall be 130 percent of the nonfarm income poverty guidelines prescribed by the Office of Management and Budget (see 7 CFR 273.9(a)(1) (2004)). However, categorically eligible households and households containing a member who is elderly, blind or disabled will be exempt from this gross income check (see also 7 CFR 273.9(c) (2004)). To qualify for increased benefits, a household must contain a member who meets one of the following requirements:

A) A member is 60 years of age or older. An individual is considered age 60 in the fiscal month in which he or she becomes 60.

B) A member receives Supplemental Security Income (SSI) benefits under Title XVI of the Social Security Act, (this includes the household where the member is receiving SSI income pending a final decision from the Social Security Administration. This SSI income is being provided on a temporary or emergency basis).

C) A member receives Social Security disability or blindness benefits under Title II (RSDI) of the Social Security Act.

D) A member receives State Supplemental Payment (SSP) due to blindness or disability.

E) A veteran with a service-connected disability rated or paid as totally disabled by the Department of Veterans Affairs (VA).

F) A veteran considered by the VA to be in need of regular aid and attendance or permanently housebound.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

G) A veteran's surviving spouse who is considered in need of aid and attendance or considered permanently housebound by the VA or a veteran's surviving child who is considered permanently incapable of self-support by the VA.

H) A veteran's surviving spouse or child entitled to compensation for a service-connected death or pension benefits for a nonservice-connected death from the VA, if the spouse or child also has a disability considered permanent under Social Security requirements.

I) A member receives federal, state, or local government disability pension and is considered permanently disabled under Social Security requirements.

J) A member receives Railroad Retirement disability benefits.

K) A member receives an annuity payment from Railroad Retirement and is eligible for Medicare.

L) A member receives disability-related medical assistance benefits (Categories 92, 93 and P3) under Title XIX (Medicaid) of the Social Security Act.

2) For those veterans, surviving spouses, or children mentioned in subsections (a)(1)(F) and (G) of this Section, proof of receipt of VA disability benefits is sufficient verification of disability. For those veterans mentioned in subsection (a)(1)(E) of this Section, a verified statement, in writing, from the VA that the individual is totally disabled must be provided. To verify disability for those individuals mentioned in subsection (a)(1)(H) of this Section, the individual must provide a statement from the Social Security Administration or from a physician licensed under the Medical Practice Act of 1987 [225 ILCS 60], or a licensed or certified psychologist under the Clinical Psychologist Licensing Act [225 ILCS 15] that the individual suffers from one of the disabilities listed in the preamble to Section 221(i) of the Social Security Act (42 USC 421(i)) or if the disability is obvious, by the observation of the caseworker (for example, permanent loss of use of both hands).
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

3) Legally obligated child support payments paid by a household member shall be excluded from gross income when comparing income to the gross income standard to determine eligibility.

<table>
<thead>
<tr>
<th>Household Size</th>
<th>Gross Income</th>
</tr>
</thead>
<tbody>
<tr>
<td>One Person</td>
<td>$1,037,409</td>
</tr>
<tr>
<td>Two Persons</td>
<td>1,390,354</td>
</tr>
<tr>
<td>Three Persons</td>
<td>1,744,698</td>
</tr>
<tr>
<td>Four Persons</td>
<td>2,097,043</td>
</tr>
<tr>
<td>Five Persons</td>
<td>2,450,387</td>
</tr>
<tr>
<td>Six Persons</td>
<td>2,803,732</td>
</tr>
<tr>
<td>Seven Persons</td>
<td>3,156,076</td>
</tr>
<tr>
<td>Eight Persons</td>
<td>3,509,421</td>
</tr>
<tr>
<td>Each Additional Member</td>
<td>+ 354,345</td>
</tr>
</tbody>
</table>

(Source: Peremptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005)

Section 121.63 Deductions from Monthly Income

a) The deductions described in this Section shall be allowed in the determination of the adjusted net monthly food stamp income.

b) Earned Income Deduction. Eighty percent of total gross earned income is considered. See Sections 121.40 through 121.54 for a description of earned income.

c) Standard Deduction. The standard deduction for a household size of one through four persons is $134. The standard deduction for a household size of five persons is $157$453. For households of six or more persons, the standard deduction is $179$475.
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

d) Dependent Care Deduction

1) The dependent care deduction consists of payments for the care of a child or other dependent when necessary for a household member to accept or continue employment or to seek employment in compliance with the job search criteria or to attend training or pursue education which is preparatory for employment (see 89 Ill. Adm. Code 112.70 through 112.84).

2) The amount of the deduction is to be determined by the actual costs for care and is not to exceed $200 per month for each child under age 2 and $175 per month for each other dependent household member.

e) Child Support Deduction. The child support deduction is the amount of legally obligated child support paid by a household member to or for a nonhousehold member.

f) Shelter Costs Deduction

1) The shelter deduction is the amount of shelter costs that exceeds 50% of the household's total income after the allowable deductions in subsections (b), (c), (d), and (e) of this Section have been made. The shelter deduction shall not exceed $400.

2) If the household contains a member who is elderly or disabled, as defined at 7 CFR 271.2 (2003) and Section 121.61, there is no limit on the amount of the excess shelter deduction.

3) Shelter costs include only the following:

   A) continuing charges for the shelter occupied by the household (rent, mortgage and other charges leading to the ownership of the shelter, including interest on such charges);

   B) property taxes, State and local assessments and insurance on the structure itself; and

   C) utility costs, as described in subsection (g) of this Section.

4) Shelter costs for a home temporarily unoccupied by the household because
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

of employment or training away from home, illness or abandonment caused by a natural disaster or casualty loss, if:

A) the household intends to return to the home;

B) the current occupants of the home, if any, are not claiming the shelter costs for food stamp purposes; and

C) the home is not leased or rented during the absence of the household.

5) Charges for repair of a home which was damaged or destroyed due to a natural disaster. Shelter costs shall not include repair charges which have been or will be reimbursed by private or public relief agencies, insurance companies or any other source.

g) Utility Costs

1) Utility costs include:

A) the cost of heating and cooking fuel, air conditioning, electricity, water, sewerage, garbage and trash collection;

B) basic service fee for one telephone (including tax on the basic fee) of $27; and

C) fees charged by the utility provider for initial installation.

2) Utility deposits are not considered to be utility costs.

3) A standard must be used if the household is billed for utilities. See Section 121.63(g)(7) for households that claim utility expenses for an unoccupied home. Households that are billed for heating or air conditioning, or both, or heating, air conditioning and electricity, must use the air conditioning/heating standard allowance of $259. Those households that are not billed for air conditioning or heating but are billed for at least two other utilities must use the limited utility standard allowance of $155. Those households that are not billed for air conditioning or heating but are billed for a single utility, other than telephone, must use the single utility standard allowance of $32. If only a
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

separately-billed telephone expense is claimed, the basic telephone allowance of $27 per month will be allowed. Households living in rental housing who are billed on a regular basis by a landlord for costs for utilities must use the appropriate standard.

4) A household that is billed less often than monthly for its costs for utilities must continue to use the appropriate standard between billing months.

5) Households in public housing or privately-owned rental units that receive a bill for over-usage are entitled to use the air conditioning/heating standard allowance. When households (as defined at 7 CFR 273.1(a) (2004 (2003 (2002))) live together, the air conditioning/heating standard allowance, the limited utility standard allowance, or the single utility standard allowance, whichever is appropriate, shall be allowed for each household that contributes toward the utility costs whether or not each household participates in the program.

6) Households whose expense for heat or electricity, or both, is covered by indirect energy assistance payments under the Low Income Home Energy Program (47 Ill. Adm. Code 100) shall be entitled to the air conditioning/heating standard allowance (7 CFR 273.9 and 273.10(d)(6) (2004 (2003 (2002))). Households who receive, apply for, or anticipate applying for a Low Income Energy Assistance Program (IHEAP) (47 Ill. Adm. Code 100) payment during the 12-month period, beginning with the date of the food stamp application, shall be allowed the air conditioning/heating standard (7 CFR 273.9). The provisions of subsection (f)(3) of this Section are applicable to households whose expenses for heating or electricity, or both, are covered by indirect energy assistance payments.

7) A household that has both an occupied home and an unoccupied home is entitled to only one standard. The appropriate utility standard may be used for the home the household chooses.

h) Excess Medical Deduction. A deduction for excess medical expenses shall be allowed for households which contain an elderly or disabled member as defined at 7 CFR 271.2 (2004 (2003)) and Section 121.61. The medical expenses incurred by the qualifying household member which are over $35 will be deducted, if the expenses will not be reimbursed by insurance or a third party.
Section 121.64 Food Stamp Benefit Amount

a) The monthly food stamp benefit amount is determined by subtracting 30% of the adjusted net monthly income from the maximum monthly food stamp benefit amount.

b) Maximum Monthly Food Stamp Benefit Amount:

<table>
<thead>
<tr>
<th>Household Size</th>
<th>Amount</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>$152,149</td>
</tr>
<tr>
<td>2</td>
<td>$278,274</td>
</tr>
<tr>
<td>3</td>
<td>$399,393</td>
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<tr>
<td>4</td>
<td>$506,499</td>
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<tr>
<td>5</td>
<td>$601,592</td>
</tr>
<tr>
<td>6</td>
<td>$722,711</td>
</tr>
<tr>
<td>7</td>
<td>$798,786</td>
</tr>
<tr>
<td>8</td>
<td>$912,898</td>
</tr>
<tr>
<td>Each additional member</td>
<td>$114,112</td>
</tr>
</tbody>
</table>

c) All one and two-person households will receive a minimum monthly food stamp benefit amount of $10.

d) September Food Stamp Benefit Amount Adjustment
The annual revisions of maximum gross and net income standards, standard deduction, maximum excess shelter deduction and food stamp benefit amounts are effective October 1st of each year. Because the September fiscal month of
NOTICE OF PEREMPTORY AMENDMENTS

certain households includes days which fall in the October calendar month, the portion of the September fiscal food stamp benefit amount covering October 1st and later must be increased to reflect the new standards.

(Source: Peremptory amendment at 29 Ill. Reg. 16538, effective October 4, 2005)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF CORRECTION TO NOTICE ONLY

1) **Heading of the Part:** Senior Citizens and Disabled Persons Prescription Drug Discount Program

2) **Code Citation:** 80 Ill. Adm. Code 2151


4) **The information being corrected is as follows:**

   Number (10)(B) on the notice page indicated that the agency response was "pending" but may now more accurately state the following:

   10) **Has JCAR issued a Statement of Objection to this amendment?** Yes

       **B) Agency Response:** CMS' response was published at 29 Ill. Reg. 15659, dated October 14, 2005.

   Number 11 should have included an additional change in the rulemaking text since its proposal and should have read as follows:

   11) **Differences between proposal and final version:** The Department deleted language that would have allowed it to unilaterally waive the enrollment fee outside of the rulemaking process. Also, the proposal to reduce the fee to $9.99 was changed to $10.00.
WITHDRAWAL OF FILING PROHIBITION OF PROPOSED RULEMAKING

ELEVATOR SAFETY REVIEW BOARD

Heading of the Part: Illinois Elevator Safety Rules

Code Citation: 41 Ill. Adm. Code 220

Section Numbers:

<table>
<thead>
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<th>220.10</th>
<th>220.20</th>
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</tr>
<tr>
<td>220.130</td>
<td>220.140</td>
<td>220.150</td>
<td>220.160</td>
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</table>

Date Originally Published in Illinois Register: 1/21/05
29 Ill. Reg. 1101

Date Filing Prohibition Published in Illinois Register: 7/1/05

Date Filing Prohibition Became Effective: 6/16/05

Date Filing Prohibition Withdrawn: 10/11/05

The Joint Committee on Administrative Rules hereby Certifies that, pursuant to Section 5-115 of the Illinois Administrative Procedure Act and 1 Ill Adm Code 220.1000(c)(6), the Joint Committee, at its meeting on 10/11/05, has withdrawn the prohibition of the Elevator Safety Review Board's rulemaking titled Illinois Elevator Safety Rules (41 Ill. Adm. Code 220), because the Board agreed to withdraw the rulemaking. The Committee originally issued this prohibition at its 6/14/05 meeting.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that if the State Board of Education proposes to repeal Staff Development Plans and Programs (23 Ill. Adm. Code 30; 29 Ill. Reg. 8572), SBE also initiate legislation to repeal Sections 2-3.59 and 2-3.60 of the School Code, the statutes requiring these programs.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that if the State Board of Education proposes to repeal Insurance for Certificated Employees (23 Ill. Adm. Code 56; 29 Ill. Reg. 8578), SBE also initiate legislation to repeal Section 2-3.124 of the School Code, the statute requiring this program.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that if the State Board of Education proposes to repeal Professional Development Block Grant (23 Ill. Adm. Code 160; 29 Ill. Reg. 8590), SBE also initiate legislation to repeal Article 1C of the School Code, the statute requiring this program.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that if the State Board of Education proposes to repeal Scientific Literacy (23 Ill. Adm. Code 220; 29 Ill. Reg. 8595), SBE also initiate legislation to repeal Section 2-3.94 of the School Code, the statute requiring this program.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

STATE BOARD OF EDUCATION

Heading of the Part: Alcohol and Drug Education Initiative (Repealer)

Code Citation: 23 Ill. Adm. Code 225

Section Numbers: 225.10  225.20  225.30  225.40  225.50  225.60

Date Originally Published in the Illinois Register: 6/24/05
29 Ill. Reg. 8604

At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that if the State Board of Education proposes to repeal the Alcohol and Drug Education Initiative (23 Ill. Adm. Code 225; 29 Ill. Reg. 8604), SBE also initiate legislation to repeal Section 2-3.93 of the School Code, the statute requiring this program.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

STATE BOARD OF EDUCATION

Heading of the Part: Summer School for Remedial Education (Repealer)

Code Citation: 23 Ill. Adm. Code 230

Section Numbers: 230.10  230.20  230.30
                   230.40  230.50  230.60

Date Originally Published in the Illinois Register: 6/24/05
                                                 29 Ill. Reg. 8615

At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the
above cited rulemaking and recommended that if the State Board of Education proposes to repeal
Summer School for Remedial Education (23 Ill. Adm. Code 230; 29 Ill. Reg. 8615), SBE also
initiate legislation to repeal Section 2-3.61 of the School Code, the statute requiring this
program.

The agency should respond to this Recommendation in writing within 90 days after receipt of
this Statement. Failure to respond will constitute refusal to accede to the Committee's
Recommendation. The agency's response will be placed on the JCAR agenda for further
consideration.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that if the State Board of Education proposes to repeal Subpart B of the Alternative Learning Opportunities Program (23 Ill. Adm. Code 240; 29 Ill. Reg. 8621), SBE also initiate legislation to repeal Sections 13B-40.20, 13B-40.25 and 13B-40.30 of the School Code and any other portions of the Alternative Learning Opportunities Law that set out program grant criteria.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that if the State Board of Education proposes to repeal the Urban Education Partnership Program (23 Ill. Adm. Code 245; 29 Ill. Reg. 8632), SBE also initiate legislation to repeal Section 2-3.106 of the School Code, the statute requiring this program.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that, if the State Board of Education proposes to repeal Comprehensive Arts Programs (23 Ill. Adm. Code 250; 29 Ill. Reg. 8644), SBE also initiate legislation to repeal Section 2-3.65 of the School Code, the statute requiring this program.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that if the State Board of Education proposes to repeal its rules titled Conservation Education (23 Ill. Adm. Code 251; 29 Ill. Reg. 8048), SBE initiate legislation to repeal the Conservation Education Act, the statute requiring this program.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that if the State Board of Education proposes to repeal the Mathematics and Science Loan Program (23 Ill. Adm. Code 360; 29 Ill. Reg. 8650), SBE also initiate legislation to repeal Section 2-3.54 of the School Code, the statute requiring this program.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that if the State Board of Education proposes to repeal Subpart A of the School Technology Program (23 Ill. Adm. Code 575; 29 Ill. Reg. 8644), SBE also initiate legislation to repeal Section 2-3.117 of the School Code, the statute requiring this program.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
At its meeting on October 11, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Central Management Services review the policy established in its peremptory rule titled Pay Plan (80 Ill. Adm. Code 310; 29 Ill. Reg. 14098) and clarify the provisions relating to salary adjustments for teachers of the deaf at the Illinois School for the Deaf in Jacksonville who are proficient in sign language and/or are bilingual.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.
The following second notices were received by the Joint Committee on Administrative Rules during the period of October 11, 2005 through October 17, 2005 and have been scheduled for review by the Committee at its November 15, 2005 meeting in Chicago. 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.

<table>
<thead>
<tr>
<th>Second Notice Expires</th>
<th>Agency and Rule</th>
<th>Start Of First Notice</th>
<th>JCAR Meeting</th>
</tr>
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<tbody>
<tr>
<td>11/26/05</td>
<td>Department of Central Management Services, Conditions of Employment (80 Ill. Adm. Code 303)</td>
<td>3/11/05 29 Ill. Reg. 3403</td>
<td>11/15/05</td>
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<td>11/30/05</td>
<td>Department of Natural Resources, The Taking of Wild Turkeys – Spring Season (17 Ill. Adm. Code 710)</td>
<td>8/19/05 29 Ill. Reg. 12808</td>
<td>11/15/05</td>
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<td>11/30/05</td>
<td>Department of Natural Resources, Conservation Reserve Enhancement Program (CREP) (17 Ill. Adm. Code 1515)</td>
<td>8/26/05 29 Ill. Reg. 13165</td>
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<td>Secretary of State, Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)</td>
<td>8/5/05 29 Ill. Reg. 12231</td>
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<td>Secretary of State, Cancellation, Revocation or Suspension of Licenses or Permits (92 Ill. Adm. Code 1040)</td>
<td>8/12/05 29 Ill. Reg. 12340</td>
<td>11/15/05</td>
</tr>
</tbody>
</table>
PROCLAMATIONS

2005-339

MILLIONS MORE MOVEMENT DAY

WHEREAS, ten years ago, nearly two million men gathered in our nation's capital for the Million Man March. The march was one of the largest demonstrations in Washington history, surpassing the historic gathering of 250,000 for the March on Washington in 1963; and

WHEREAS, while the March on Washington promoted civil rights, the Million Man March encouraged African American men to take responsibility for their own actions and to help develop their own communities. In response, 13,000 applications were filed for adoption of African American children, and 1.5 million African American men registered to vote; and

WHEREAS, despite the progress that has resulted from the Million Man March, 10 years later, many African American men are still trapped in a cycle of perpetual poverty and crime. Sadly, 1 in 4 African American males are unemployed, and compared to white men, an unacceptably disproportionate number of African American men are incarcerated; and

WHEREAS, clearly, much work remains to be done to address the social disparities that threaten the security and well-being of countless African Americans throughout the United States, including the State of Illinois; and

WHEREAS, once again, African American men will gather in Washington, D.C. on October 15 as part of the Millions More Movement to commemorate the 10 year anniversary of the Million Man March and to demonstrate their continued commitment to personal responsibility and national unity:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 15, 2005 as MILLIONS MORE MOVEMENT DAY in Illinois in support of the important and vital campaign to heighten our consciousness of issues affecting African Americans, and the desperate need to address them for the future welfare of our country.

Issued by the Governor October 12, 2005.

Filed with the Secretary of State October 12, 2005.

2005-340

THE HONORABLE EMIL JONES, JR. DAY

WHEREAS, the Honorable Emil Jones, Jr., President of the Illinois Senate, was born on October 18, 1935 in Chicago. This year, he celebrates his 70th birthday; and

WHEREAS, a graduate of Chicago’s Tilden Technical High School and Loop Junior College, Jones also attended Roosevelt University, where he majored in Business Administration and received the Doctorate of Humane Letters Honoris Causa Degree in 2004; and

WHEREAS, Jones first took office in the Illinois House of Representatives in 1973, where he served until his election to the Illinois Senate in 1982. On January 12, 2005, he received the unanimous support of the Senate Democratic Caucus for Senate President in the 94th General Assembly, marking his second term as the Senate’s chief presiding officer; and

WHEREAS, among his many accomplishments in the Illinois Legislature, President Jones has been a staunch supporter of education issues, and has always worked hard to ensure
that all Illinois children have the best possible opportunities for success. He is also a strong advocate for working families, and was instrumental in the passage of legislation in 1998 to double the personal exemption on the state income tax; and

WHEREAS, President Jones is active in his Chicago Southside community as a member of Holy Name of Mary Church, the Morgan Park Civic League, the Knights of St. Peter Claver, and the 111th Street YMCA Board of Directors. He is also involved with the National Black Caucus of State Legislators, the National Conference of State Legislators, and the Board of Directors of the State Legislative Leaders Foundation; and

WHEREAS, for both his legislative and community endeavors, President Jones has received numerous honors and awards throughout his career from various educational, business, labor, and civic organizations across the country; and

WHEREAS, on this joyous occasion, as Senate President Emil Jones, Jr. celebrates his milestone 70th birthday, I am proud to recognize his exemplary service to the State of Illinois for over 30 years, and I join his family and friends in commemorating this special day:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 18, 2005 as THE HONORABLE EMIL JONES, JR. DAY in Illinois.

Issued by the Governor October 14, 2005.
Filed with the Secretary of State October 14, 2005.

2005-341
NATIONAL MARTIAL ARTS DAY

WHEREAS, martial arts teaches and instills important and valuable skills and lessons not only for self-defense, but also for self-confidence, self-control, and self-discipline; and

WHEREAS, these skills and lessons are the basis and foundation for good character and future success in all aspects of life such as social relationships and career choices; and

WHEREAS, in addition to personal development and enrichment, martial arts also provides a healthy emotional outlet for relieving stress and a safe social environment for children; and

WHEREAS, this year, the National Association of Professional Martial Artists and Project Action Foundation will celebrate October 15 as National Martial Arts Day to promote the positive benefits of martial arts on October 15; and

WHEREAS, martial arts schools throughout the United States, including the State of Illinois, will also sponsor charitable fundraisers, parties, performances, open houses, and other activities to mark the occasion:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 15, 2005 as NATIONAL MARTIAL ARTS DAY in Illinois to join the National Association of Professional Martial Artists and Project Action Foundation in recognizing martial arts.

Issued by the Governor October 14, 2005.
Filed with the Secretary of State October 14, 2005.
ILINOIS REGISTER

PROCLAMATIONS

2005-342
ILLINOIS' SAFE SCHOOLS WEEK

WHEREAS, every day, millions of parents throughout the United States, including the State of Illinois, send their children off to schools for an education; and

WHEREAS, while parents should not have to worry about the safety and security of their children, events such as Columbine dramatically demonstrate that dangers and threats to them are real. Consequently, our first priority is to ensure that they are not exposed to violence; and

WHEREAS, there are other menaces to our children at schools, including bullying, drugs, and theft. Accordingly, it is also our responsibility to ensure that our children are safe and secure from these and other threats and dangers; and

WHEREAS, it is not the responsibility of our educational institutions alone to address these serious issues. The safety and security of our children also depends on the active collaboration and cooperation of law enforcement and government; and

WHEREAS, only by working together can we avert violence, end bullying, minimize the proliferation of drugs, reduce theft, and resolve other problems. That is why I urge our educators, law enforcement authorities, and government leaders to collectively assess the dangers and threats to our children and then develop and implement plans and procedures to deal with them:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 16-22, 2005 as ILLINOIS' SAFE SCHOOLS WEEK to promote efforts to protect our children so that no parent has to worry about their well-being while they are learning.

Issued by the Governor October 14, 2005.

Filed with the Secretary of State October 14, 2005.

2005-343
WORLD FOOD DAY

WHEREAS, millions around the world are starving, and sadly, more than 16,000 children die from hunger-related causes every day; and

WHEREAS, the facts are even more startling when considering the millions of dollars in food that is wasted every year; and

WHEREAS, the problem is not a shortage of food, but poverty. No one should starve simply because they cannot afford to eat; and

WHEREAS, eating is a necessity, not a luxury to living. Consequently, access to food should be a basic human right; and

WHEREAS, the United States National Committee for World Food Day will promote October 16 as World Food Day to raise awareness about the pervasive and age-old problem of hunger; and

WHEREAS, by making charitable contributions to organizations committed and dedicated to addressing this important issue, we can save countless lives:
THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 16, 2005 as WORLD FOOD DAY to raise awareness about this needless and tragic problem, and to encourage all citizens to support relief efforts so that no one is a victim of hunger.

Issued by the Governor October 14, 2005.
Filed with the Secretary of State October 14, 2005.
ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 29, Issue 44 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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## ORDER FORM

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<td>- Renewal</td>
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<td>(Processing fee for credit cards purchases, if applicable.)</td>
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<td>TOTAL AMOUNT OF ORDER</td>
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☐ Check Make Checks Payable To: **Secretary of State**

☐ VISA ☐ Master Card ☐ Discover  (There is a $1.50 processing fee for credit card purchases.)

Card #: ____________________________ Expiration Date: _______

Signature: ____________________________

**Send Payment To:** Secretary of State
Department of Index
Administrative Code Division
111 E. Monroe
Springfield, IL 62756

**Fax Order To:** (217) 524-0308

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