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## INTRODUCTION

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

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

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

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

## ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2014

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

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

## 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: 140.462                      Proposed Action: 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 allows Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs) to be reimbursed under an alternate payment methodology (APM) for non-surgical, transcervical, permanent female contraceptive devices. As proposed, reimbursement would be made on a fee-for-service basis in accordance with the agency's fee schedule. Reimbursement through this APM would be separate from any encounter payment the FQHC or RHC may receive for a transcervical permanent contraceptive device.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
140.80	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.82	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.84	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.86	New Section	38 Ill. Reg. 14658; July 18, 2014
140.420	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.421	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.425	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.442	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.457	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.458	Amendment	38 Ill. Reg. 14658; July 18, 2014

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

140.472	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.485	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.488	Amendment	38 Ill. Reg. 14658; July 18, 2014
140.Table D	Repeal	38 Ill. Reg. 14658; July 18, 2014
140.20	Amendment	38 Ill. Reg. 16096; August 1, 2014
140.25	Amendment	38 Ill. Reg. 16096; August 1, 2014
140.413	Amendment	38 Ill. Reg. 16468; August 8, 2014
140.462	Amendment	38 Ill. Reg. 16468; August 8, 2014
140.418	Amendment	38 Ill. Reg. 17533; August 22, 2014
140.6	Amendment	38 Ill. Reg. 18022; August 29, 2014
140.464	Amendment	38 Ill. Reg. 18022; August 29, 2014
140.513	Amendment	38 Ill. Reg. 18022; August 29, 2014
140.497	Amendment	38 Ill. Reg. 18308; September 5, 2014

- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) 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:

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

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

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

- 13) Initial Regulatory Flexibility Analysis:

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 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: January 2014

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

## 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 PROGRAMSPART 140  
MEDICAL PAYMENT

## SUBPART A: GENERAL PROVISIONS

## Section

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

## 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 Suspension and Denial of Payment, Recovery of Money and Penalties
- 140.16 Termination, Suspension or Exclusion of a Vendor's Eligibility to Participate in the Medical Assistance Program
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## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 140.19 Associated with Vendor  
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- 140.20 Submittal of Claims
- 140.21 Reimbursement for QMB Eligible Medical Assistance Recipients and QMB  
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- 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
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- 140.45 Withholding of Payments Upon Provider Audit, Quality of Care Review, Credible  
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- 140.72 Drug Manual (Recodified)
- 140.73 Drug Manual Updates (Recodified)

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- 140.82 Developmentally Disabled Care Provider Fund
- 140.84 Long Term Care Provider Fund
- 140.94 Medicaid Developmentally Disabled Provider Participation Fee Trust

## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

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## DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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140.948	Negotiation Procedures (Recodified)
140.950	Factors Considered in Awarding ICARE Contracts (Recodified)
140.952	Closing an ICARE Area (Recodified)
140.954	Administrative Review (Recodified)
140.956	Payments to Contracting Hospitals (Recodified)
140.958	Admitting and Clinical Privileges (Recodified)
140.960	Inpatient Hospital Care or Services by Non-Contracting Hospitals Eligible for Payment (Recodified)
140.962	Payment to Hospitals for Inpatient Services or Care not Provided under the ICARE Program (Recodified)
140.964	Contract Monitoring (Recodified)
140.966	Transfer of Recipients (Recodified)
140.968	Validity of Contracts (Recodified)
140.970	Termination of ICARE Contracts (Recodified)
140.972	Hospital Services Procurement Advisory Board (Recodified)
140.980	Elimination Of Aid To The Medically Indigent (AMI) Program (Emergency Expired)
140.982	Elimination Of Hospital Services For Persons Age Eighteen (18) And Older And Persons Married And Living With Spouse, Regardless Of Age (Emergency Expired)

## SUBPART I: PRIMARY CARE CASE MANAGEMENT PROGRAM

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## Section

140.990	Primary Care Case Management Program
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140.993	Care Management Fees
140.994	Panel Size and Affiliated Providers
140.995	Mandatory Enrollment
140.996	Access to Health Care Services
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## SUBPART J: ALTERNATE PAYEE PARTICIPATION

## Section

140.1001	Registration Conditions for Alternate Payees
140.1002	Participation Requirements for Alternate Payees
140.1003	Recovery of Money for Alternate Payees
140.1004	Conditional Registration for Alternate Payees
140.1005	Revocation of an Alternate Payee

## SUBPART K: MANDATORY MCO ENROLLMENT

140.1010	Mandatory Enrollment in MCOs
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## SUBPART L: UNAUTHORIZED USE OF MEDICAL ASSISTANCE

## Section

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140.TABLE G	Travel Distance Standards
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140.TABLE I	Staff Time and Allocation for Training Programs (Recodified)
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140.TABLE K	Services Qualifying for 10% Add-On (Repealed)
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**AUTHORITY:** Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V and VI and 12-13].

**SOURCE:** Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983; amended at 7 Ill. Reg. 12868, effective September 20, 1983; peremptory amendment at 7 Ill. Reg. 15047, effective October 31, 1983; amended at 7 Ill. Reg. 17358, effective December 21, 1983; amended at 8 Ill. Reg. 254, effective December 21, 1983; emergency amendment at 8 Ill. Reg. 580, effective January 1, 1984, for a maximum of 150 days; codified at 8 Ill. Reg. 2483; amended at 8 Ill. Reg. 3012, effective February 22, 1984; amended at 8 Ill. Reg. 5262, effective April 9, 1984; amended at 8 Ill. Reg. 6785, effective April 27, 1984; amended at 8 Ill. Reg. 6983, effective May 9, 1984; amended at 8 Ill. Reg. 7258, effective May 16, 1984; emergency amendment at 8 Ill. Reg. 7910, effective May 22, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 7910, effective June 1, 1984; amended at 8 Ill. Reg. 10032, effective June 18, 1984; emergency amendment at 8 Ill. Reg. 10062, effective June 20, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 13343, effective July 17, 1984; amended at 8 Ill. Reg. 13779, effective July 24, 1984; Sections 140.72 and 140.73 recodified to 89 Ill. Adm. Code 141 at 8 Ill. Reg. 16354; amended (by adding sections being codified with no substantive change) at 8 Ill. Reg. 17899; peremptory amendment at 8 Ill. Reg. 18151, effective September 18, 1984; amended at 8 Ill. Reg. 21629, effective October 19, 1984; peremptory amendment at 8 Ill. Reg. 21677, effective October 24, 1984; amended at 8 Ill. Reg. 22097, effective October 24, 1984; peremptory amendment at 8 Ill. Reg. 22155, effective October 29, 1984; amended at 8 Ill. Reg. 23218, effective November 20, 1984; emergency amendment at 8 Ill. Reg. 23721, effective November 21, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 25067, effective December 19, 1984; emergency amendment at 9 Ill. Reg. 407, effective January 1, 1985, for a

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maximum of 150 days; amended at 9 Ill. Reg. 2697, effective February 22, 1985; amended at 9 Ill. Reg. 6235, effective April 19, 1985; amended at 9 Ill. Reg. 8677, effective May 28, 1985; amended at 9 Ill. Reg. 9564, effective June 5, 1985; amended at 9 Ill. Reg. 10025, effective June 26, 1985; emergency amendment at 9 Ill. Reg. 11403, effective June 27, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11357, effective June 28, 1985; amended at 9 Ill. Reg. 12000, effective July 24, 1985; amended at 9 Ill. Reg. 12306, effective August 5, 1985; amended at 9 Ill. Reg. 13998, effective September 3, 1985; amended at 9 Ill. Reg. 14684, effective September 13, 1985; amended at 9 Ill. Reg. 15503, effective October 4, 1985; amended at 9 Ill. Reg. 16312, effective October 11, 1985; amended at 9 Ill. Reg. 19138, effective December 2, 1985; amended at 9 Ill. Reg. 19737, effective December 9, 1985; amended at 10 Ill. Reg. 238, effective December 27, 1985; emergency amendment at 10 Ill. Reg. 798, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 672, effective January 6, 1986; amended at 10 Ill. Reg. 1206, effective January 13, 1986; amended at 10 Ill. Reg. 3041, effective January 24, 1986; amended at 10 Ill. Reg. 6981, effective April 16, 1986; amended at 10 Ill. Reg. 7825, effective April 30, 1986; amended at 10 Ill. Reg. 8128, effective May 7, 1986; emergency amendment at 10 Ill. Reg. 8912, effective May 13, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 11440, effective June 20, 1986; amended at 10 Ill. Reg. 14714, effective August 27, 1986; amended at 10 Ill. Reg. 15211, effective September 12, 1986; emergency amendment at 10 Ill. Reg. 16729, effective September 18, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 18808, effective October 24, 1986; amended at 10 Ill. Reg. 19742, effective November 12, 1986; amended at 10 Ill. Reg. 21784, effective December 15, 1986; amended at 11 Ill. Reg. 698, effective December 19, 1986; amended at 11 Ill. Reg. 1418, effective December 31, 1986; amended at 11 Ill. Reg. 2323, effective January 16, 1987; amended at 11 Ill. Reg. 4002, effective February 25, 1987; Section 140.71 recodified to 89 Ill. Adm. Code 141 at 11 Ill. Reg. 4302; amended at 11 Ill. Reg. 4303, effective March 6, 1987; amended at 11 Ill. Reg. 7664, effective April 15, 1987; emergency amendment at 11 Ill. Reg. 9342, effective April 20, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 9169, effective April 28, 1987; amended at 11 Ill. Reg. 10903, effective June 1, 1987; amended at 11 Ill. Reg. 11528, effective June 22, 1987; amended at 11 Ill. Reg. 12011, effective June 30, 1987; amended at 11 Ill. Reg. 12290, effective July 6, 1987; amended at 11 Ill. Reg. 14048, effective August 14, 1987; amended at 11 Ill. Reg. 14771, effective August 25, 1987; amended at 11 Ill. Reg. 16758, effective September 28, 1987; amended at 11 Ill. Reg. 17295, effective September 30, 1987; amended at 11 Ill. Reg. 18696, effective October 27, 1987; amended at 11 Ill. Reg. 20909, effective December 14, 1987; amended at 12 Ill. Reg. 916, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1960, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 5427, effective March 15, 1988; amended at 12 Ill. Reg. 6246, effective March 16, 1988; amended at 12 Ill. Reg. 6728, effective March 22, 1988; Sections 140.900 thru 140.912 and 140.Table H and 140.Table I recodified to 89 Ill. Adm. Code 147.5 thru 147.205 and 147.Table A and 147.Table B at 12 Ill. Reg. 6956; amended at 12 Ill. Reg. 6927, effective April 5, 1988; Sections 140.940

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

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

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

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

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

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

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2013; amended at 37 Ill. Reg. 18275, effective November 4, 2013; amended at 37 Ill. Reg. 20339, effective December 9, 2013; amended at 38 Ill. Reg. 859, effective December 23, 2013; emergency amendment at 38 Ill. Reg. 1174, effective January 1, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 4330, effective January 29, 2014; amended at 38 Ill. Reg. 7156, effective March 13, 2014; amended at 38 Ill. Reg. 12141, effective May 30, 2014; amended at 38 Ill. Reg. 15081, effective July 2, 2014; emergency amendment at 38 Ill. Reg. 15673, effective July 7, 2014, for a maximum of 150 days; emergency amendment at 38 Ill. Reg. 18216, effective August 18, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 18462, effective August 19, 2014; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART D: PAYMENT FOR NON-INSTITUTIONAL SERVICES

**Section 140.462 Covered Services in Clinics**

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

- a) Hospital-Based Organized Clinics
  - 1) Covered services described in 89 Ill. Adm. Code 148.
  - 2) Group psychotherapy services meeting the guidelines set forth in Section 140.413(a)(4)(C).
- b) Encounter Rate Clinics
  - 1) With respect to those encounter rate clinics that qualify as Maternal and Child Health providers, as described in Section 140.924, covered services are those described in Section 140.922.
  - 2) With respect to all other encounter rate clinics, covered services are medical services that provide for the continuous health care needs of persons who elect to use this type of service, including dental services that will be billed as separate encounters for dates of service on or after January 1, 2011.
  - 3) Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).

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- c) Rural Health Clinics  
Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:
- 1) Physician's Services, including covered services of nurse practitioners, nurse midwives and physician-supervised physician assistants. Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
  - 2) Other services for which a separate encounter may be billed include dentist and behavioral health services as defined in Section 140.463(a).
  - 3) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice that have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:
    - A) medical case management;
    - B) laboratory services;
    - C) occupational therapy;
    - D) patient transportation;
    - E) pharmacy services;
    - F) physical therapy;
    - G) podiatric services;
    - H) speech and hearing services;
    - I) x-ray services;
    - J) health education;
    - K) nutrition services;

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- L) optometric services.
- 4) A rural health clinic (RHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service provided.
- 5) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing prior to billing for the services.
- 6) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any RHC services with the exception of services identified in subsections (c)(7) and (c)(8).
- 7) Effective July 1, 2012 through June 30, 2013, a physician or APN may submit fee-for-service billings for implantable contraceptive devices administered in an RHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:
- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;
- B) The RHC must be listed as the payee on the claim;
- C) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
- D) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.
- 8) Effective July 1, 2013, an RHC may submit fee-for-service billings for Long Acting Reversible Contraceptives (LARCs).implantable contraceptive devices. For dates of service October 1, 2014 and after, an RHC may submit fee-for-service billing for non-surgical transcervical

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permanent contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:

- A) To the extent that the LARCs or transcervical permanent contraceptive devices ~~were implantable device was~~ purchased under the 340B Drug Pricing Program, the device must be billed at the RHC's actual acquisition cost;
  - B) Reimbursement shall be made at the RHC 's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
  - C) This reimbursement shall be separate from any encounter payment the RHC may receive for implanting the device.
- d) Federally Qualified Health Centers  
Those core services for which the clinic or center may bill an encounter as described in 42 CFR 440.90 (2000) are as follows:
- 1) Physician's services, including covered services of nurse midwives, nurse practitioners and physician-supervised physician assistants. Group psychotherapy services must meet the guidelines set forth in Section 140.413(a)(4)(C).
  - 2) Other services for which separate encounters may be billed include dentists and behavioral health services as defined in Section 140.463(a).
  - 3) Medically-necessary services and supplies furnished by or under the direction of a physician or dentist within the scope of licensed practice have been included in the cost report but neither fee-for-service nor encounter billings may be billed. Some examples of these services include:
    - A) medical case management;
    - B) laboratory services;
    - C) occupational therapy;

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- D) patient transportation;
  - E) pharmacy services;
  - F) physical therapy;
  - G) podiatric services;
  - H) optometric services;
  - I) speech and hearing services;
  - J) x-ray services;
  - K) health education;
  - L) nutrition services.
- 4) A federally qualified health center (FQHC) that adds behavioral health services or dental services on or after October 1, 2001, must notify the Department in writing. These services are to be billed as an encounter with a procedure code that appropriately identifies the service.
- 5) Any service that is no longer provided on or after October 1, 2001, or any new service added on or after October 1, 2001, must be communicated to the Department in writing.
- 6) Effective January 1, 2001, the Medicare, Medicaid and SCHIP Benefits Improvement and Protection Act (BIPA) precludes fee-for-service billings for any FQHC services provided with the exception of services identified in subsections (d)(7) and (d)(8).
- 7) Effective July 1, 2012 through June 30, 2013, a physician or APN may submit fee-for-service billings for implantable contraceptive devices administered in an FQHC. Reimbursement for the implantable contraceptive devices shall be made in accordance with the following:

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- A) To the extent that the implantable device was purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;
  - B) The FQHC must be listed as the payee on the claim;
  - C) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
  - D) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.
- 8) Effective July 1, 2013, an FQHC may submit fee-for-service billings for LARCs. For dates of service October 1, 2014 and after, an FQHC may submit fee-for-service billing for non-surgical transcervical permanent~~implantable~~ contraceptive devices. Reimbursement for the implantable contraceptive device shall be made in accordance with the following:
- A) To the extent that the LARCs or transcervical permanent devices~~were implantable device was~~ purchased under the 340B Drug Pricing Program, the device must be billed at the FQHC's actual acquisition cost;
  - B) Reimbursement shall be made at the FQHC's actual acquisition cost or the rate on the Department's practitioner fee schedule, whichever is applicable;
  - C) This reimbursement shall be separate from any encounter payment the FQHC may receive for implanting the device.
- e) School Based/Linked Health Clinics (Centers)  
Covered services are the following services, when delivered in a school based/linked health center setting as described in Section 140.461(f):
- 1) Basic medical services: well child or adolescent exams, consisting of a comprehensive health history, complete physical assessment, screening procedures and age appropriate anticipatory guidance; immunizations;

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EPSDT services; diagnosis and treatment of acute illness and injury; basic laboratory tests; prescriptions and dispensing of commonly used medications for identified health conditions, in accordance with Medical Practice and Pharmacy Practice Acts; and acute management and on-going monitoring of chronic conditions, such as asthma, diabetes and seizure disorders.

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

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

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- 1) Heading of the Part: Insurance Data Reporting Requirements
- 2) Code Citation: 50 Ill. Adm. Code 4203
- 3) 

<u>Section Numbers:</u>	<u>Proposed Action:</u>
4203.30	Amendment
4203.40	Amendment
4203.50	Amendment
4203.60	Amendment
4203.70	Amendment
4203.80	Amendment
4203.90	Amendment
4203.100	Amendment
4203.110	Amendment
- 4) Statutory Authority: Implementing Article XLII and authorized by Section 1204 of the Illinois Insurance Code [215 ILCS 5/Art. XLII and 1204]
- 5) A Complete Description of the Subjects and Issues Involved: Part 4203 refers to National Association of Independent Insurers (NAII), which is no longer in existence; the rule needs to be amended to refer instead to Property Casualty Insurers Association of America (PCI), which succeeded NAII. Housekeeping changes are being made to the rule as well.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.

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

Barbara Delano, Asst. General Counsel Department of Insurance 122 S. Michigan Ave., 19th Floor Chicago IL 60601-3251	or	Susan Anders, Rules Coordinator Department of Insurance 320 West Washington, 4 <sup>th</sup> Floor Springfield IL 62767-0001
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312/814-0919

217/558-0957

fax: 217/524-9033

- 13) Initial Regulatory Flexibility Analysis:

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

B) Reporting, bookkeeping or other procedures required for compliance: Only minor changes in codes used for reporting

C) Types of Professional skills necessary for compliance: None

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

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

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TITLE 50: INSURANCE  
CHAPTER I: DEPARTMENT OF INSURANCE  
SUBCHAPTER vv: INSURANCE COST CONTAINMENTPART 4203  
INSURANCE DATA REPORTING REQUIREMENTS

## SUBPART A: COST CONTAINMENT REPORTING

Section	
4203.10	Applicability
4203.20	Purpose and Scope
4203.30	Data Collection Procedures
4203.40	General Submission Guidelines
4203.50	Required Data Types (Lines, Classes, and Coverages)
4203.60	Line Item Matrix For Cost Containment Reporting
4203.70	Coding Conventions for Other Liability/ <a href="#">Excess Insurance</a> , Medical Malpractice, Earthquake, Commercial Auto Liability, <a href="#">and</a> Business Owners Packages, <del>and</del> <a href="#">Excess Insurance</a>
4203.80	Coding Conventions for Homeowner and Residential Fire Insurance
4203.90	Coding Conventions for Private Passenger Auto Liability Insurance (Excluding PIP)
4203.100	Coding Conventions for Private Passenger Auto Physical Damage
4203.110	Record Layout for the Four Formats

## SUBPART B: MEDICAL MALPRACTICE REPORTING

Section	
4203.200	Applicability
4203.210	Purpose and Scope
4203.220	Definitions
4203.230	Reports

SUBPART C: MARKET SURVEY FOR OCCURRENCE INSURANCE  
COVERAGE OF STATE RESPONSE ACTION CONTRACTORS

Section	
4203.300	Purpose (Repealed)
4203.310	Declaration (Repealed)

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4203.APPENDIX A Filing Requirements for Medical Malpractice Reporting

4203.APPENDIX B Guidelines for Submission of Medical Malpractice Reporting (Repealed)

AUTHORITY: Implementing Article XLII and authorized by Section 1204 of the Illinois Insurance Code [215 ILCS 5].

SOURCE: Adopted at 22 Ill. Reg. 4853, effective March 3, 1998; amended at 31 Ill. Reg. 2287, effective January 22, 2007; amended at 33 Ill. Reg. 2285, effective January 26, 2009; amended at 36 Ill. Reg. 18744, effective December 17, 2012; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_

## SUBPART A: COST CONTAINMENT REPORTING

**Section 4203.30 Data Collection Procedures**

- a) **Scope of Procedure**  
Each insurer shall report its business written separately for Illinois and multi-state (including Illinois) for each line, subline, or class, or endorsement specified by this Part. Where zip code reporting is required, each line, subline, class or endorsement shall be reported separately for each zip code. Only data for the voluntary market will be reported.
- b) **Methods of Compiling Annual Experience**  
Experience for each class or type of business required in the data call will be provided on a calendar year basis. The calendar year data represents a comparison of losses with exposures and premiums in the same 12 month period. For the calendar year experience method, the insurer or agent will report evaluations as of December 31. Data will be reported for the current year minus one year. (For example, the ~~2006~~1996 report will contain data for ~~2005~~1995, evaluated as of December 31, ~~2005~~1995, the latest complete, calendar year experience year.)
- c) **Experience Method By Line**
  - 1) For all lines, each insurer will report the premium and loss data for the latest experience year. (For example, 2008 data for reporting year 2009.)
  - 2) In reporting the required data, please note the following clarifications:

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- A) The "Other Liability" line includes classes from liquor liability, day care centers, and lawyers professional liability, and excess/umbrella coverage.
  - B) Data from Beach Plans and Assigned Risk Plans will not be reported. (The Illinois FAIR Plan Association will submit Illinois-only data for homeowners.) Insurers will not report any FAIR Plan data.
- d) Preparation and Completion of Statistical Reports
- 1) Insurers may report statistics directly, or through an agent. Agents reporting data for more than one insurer will report each insurer's data on separate records.
  - 2) Insurers will report their data within the required time frame using the codes and record formats provided in Sections 4203.50 through 4203.110.
  - 3) Exemption requests:
    - A) All companies requesting exemption from data submission requirements must notify the Department prior to each filing date. The notice must contain the following information:
      - i) Name of company or agent,
      - ii) FEIN (not applicable to agents),
      - iii) NAIC group and company number (not applicable to agents),
      - iv) Filing date (e.g., 11/25/~~0696~~),
      - v) Address, City, State and Zip code,
      - vi) Contact person,
      - vii) Phone number of contact person,

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- viii) Email address for contact person,
  - ix) Reason for exemption.
- B) All data for each line of business must be submitted as a complete submission. In the event data is resubmitted, all data previously submitted for that line of business by that insurer will be deleted and replaced by the resubmitted data.
- C) Insurers need not submit a record (for either Illinois only or multi-state) for any line, class, or endorsement if written premiums, earned premiums, and paid and outstanding losses in the Illinois-only data are all zeroes.
- e) **Reporting of Exposures**  
A count of the number of written exposures will be reported separately for each line, type of business and classification. Section 4203.50 provides the exposure basis for each.
- f) **Reporting of Premiums**  
The premium reported will be the premium charged for the policies within each classification. Excess insurance premiums will be reported separately as addressed in subsection (r). Premiums will be reported on both a written and earned basis.
- g) **Reporting of Losses**  
Separate fields are provided for both paid losses and outstanding losses. Losses will be reported net as to third party recoveries (under salvage and subrogation). Paid losses are defined as all sums paid to claimants or policyholders in direct settlement of losses covered by the policies. Outstanding losses are defined as the amounts of loss reserves established for paying claims for the reporting period that have not been paid as of the evaluation date. Losses covered by an excess policy will be reported separately as addressed in subsection (s).
- h) **Reporting of Allocated Loss Adjustment Expenses**  
Allocated loss adjustment expense (ALAE) includes all expenses of the company which can be identified with and hence allocated to a particular claim. Insurers will report the amount of paid and outstanding ALAE for the private passenger auto liability, medical malpractice, other liability and commercial auto liability

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lines. Also, ALAE will be collected for business owners insurance and excess insurance. In those situations where an insurer cannot separate indemnity and ALAE, the insurer will submit a separate record; however, the insurer will enter the combined loss and ALAE total in the paid loss or outstanding loss fields and will identify this option by coding the corresponding paid ALAE or outstanding ALAE fields with the word "combined".

- i) **Reporting Paid Claims Count**  
Insurers will report the count of their paid claims. A claim closed without a loss payment is not to be reported. A claim involving only allocated loss adjustment expense is not to be reported with a claim count. A claim count is to be reported only for those cases where a loss payment has been made or a loss reserve has been established. A paid claim is defined as a claim for which a payment has been made. In cases where a claim is partially paid with an associated case reserve still maintained, insurers have the option to report the claim count as either paid or outstanding. A case involving loss payments or loss reserves under more than one classification will have a claim count under each classification.
- j) **Reporting Outstanding Claims Count**  
Insurers will report the count of outstanding claims. An outstanding claim is defined as a claim for which a case loss reserve exists as of the evaluation date. In cases where a claim is partially paid with an associated case reserve still maintained, insurers have the option to report the claim count as either paid or outstanding. A case involving loss payments or loss reserves under more than one classification will have a claim count under each classification.
- k) **Run-off Business**  
Companies with no written or earned premiums, but with paid or outstanding losses in a line, class, subclass, or endorsement for Illinois-only data must report data for that line, class, subclass, or endorsement for both Illinois-only and multi-state. If the aforementioned situation occurs in only the multi-state data, the insurer will not be required to report that data.
- l) **Three Year Prepaid Policies**  
Premiums for three year prepaid policies shall be reported as three separate annual policies.
- m) **Other Prepaid Policies**  
The procedure, outlined in subsection (l), applies to other policies not having a

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one year term with proper recognition of the policy term and using a pro rata allocation formula. In all cases policy periods shall be annual or less.

- n) **Treatment of Installment Payments**  
Premiums for policies written on an installment basis will be reported as though they were prepaid policies.
- o) **Installment Charge Premium**  
Additional premium resulting from the application of installment charges shall be reported as premium.
- p) **Divisible Package Policies**  
Insurers will report premiums separately by each classification used in developing the total package premium.
- q) **Rounding Rule**  
Data will be reported in whole numbers. All decimals will be rounded to the nearest integer. (Decimals less than .5 will be rounded down to the nearest whole number while decimals .5 and above will be rounded up to the nearest whole number.)
- r) **Reporting Excess Insurance Premiums**  
Written and earned premiums for excess insurance will be entered in the appropriate fields for this type class. (See Section 4203.70.) Premiums for excess insurance are defined as that premium charged for coverage in excess of the primary policy limits added by a different policy (e.g., umbrella policy or through an endorsement to the policy).
- s) **Reporting Excess Insurance Losses**  
Paid losses and outstanding losses for excess insurance will be entered in the appropriate fields for this class. (See Section 4203.70.) An excess loss is defined as a loss resulting in an incurred cost to the insurer in excess of the primary policy limits and covered by a different policy or an endorsement to the policy. Examples include umbrella policies and excess limits endorsements.

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

**Section 4203.40 General Submission Guidelines**

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- a) **Guidelines for Data Submission and Collection**

There will be only one filing date each year. Data must be submitted no later than November 30 of each year. The submission will be submitted electronically to the Illinois Department of Insurance, Market Analysis Unit, 320 W. Washington, Springfield, Illinois 62767-0001. Insurers are responsible for developing or obtaining any software required to convert and/or translate their internal file structures and formats to those prescribed by this Part.
- b) **Penalties**

Failure to comply with any of these specifications may subject the insurer to those penalties described in Section 1204 of the Illinois Insurance Code [215 ILCS 5/1204].
- c) **Leading Zeros**

Since fields are not fixed-length, leading zeros and spaces should be omitted.
- d) **Negative Numbers**

Negative numbers will be submitted as a dash before the number (without a space between the negative and number). For example a negative one hundred dollar premium would be coded -100.
- e) **Data Reported by Illinois and Multi-State**
  - 1) All required data will be reported in the aggregate for:
    - A) Illinois only, and
    - B) multi-state including Illinois.
  - 2) All data contained in this data call shall be submitted on a calendar year basis.
- f) **Required Data Elements**

Data shall be reported for the following nine insurance elements:

  - 1) Number of written exposures,
  - 2) Amount of direct written premiums,

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- 3) Amount of direct earned premiums,
- 4) Amount of paid losses,
- 5) Amount of outstanding losses,
- 6) Amount of paid allocated loss adjustment expenses,
- 7) Amount of outstanding allocated loss adjustment expenses,
- 8) Number of paid claims,
- 9) Number of outstanding claims.

g) Required Lines or Coverages of Insurance  
 The Department requires that data be submitted for classes within the following ~~940~~ lines or coverage types of insurance.

Coverage Type	Line of business
Residential Fire	01.0
Homeowners Multiple Peril	04.0
Business Owners Packages	05.0
Medical Malpractice	11.0
Earthquake	12.0
Other Liability	17.0
Private Passenger Automobile Liability	19.2
Commercial Automobile Liability	19.4
Private Passenger Automobile Physical Damage	21.1

h) Reported By Zip Code  
 All Illinois data reported for line 01.0, 04.0, 19.2 and 21.1 must be reported by zip code. All other data within the data call is to be reported on a statewide basis.

i) Reported By Form Type  
 There will be a separate record for each line, class, or type of coverage for each form type used in writing a policy. Note that an insurer may use any one or more of the form types within the same line or class of insurance. When multiple form

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types are used the insurer must generate a record for each of those form types.

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

**Section 4203.50 Required Data Types (Lines, Classes, and Coverages)**

Within the required lines of insurance identified in Section 4203.40(g), the Department requires data for specified lines, classes or coverages. There are 9 categories contained in the following table that summarize the data that must be filed in Illinois pursuant to this Part.

**OTHER LIABILITY**

<u>CLASS OR DATA TYPE</u>	<u>CLASS CODE</u>	<u>EXPOSURE BASE</u>
<b>DAY CARE CENTERS</b>		
Day care center liability – day nurseries	82115	square feet
Day care center liability – day care centers	41714	person-months
Day care center liability individual insurer program not rated using one of the exposure bases noted above. <sup>1</sup>	81714	NA
<b>LAWYERS PROFESSIONAL LIABILITY</b>		
Lawyers professional liability – lawyers	81400	person-months
Lawyers professional liability – employed law clerks, investigators, abstractors, and paralegals	81420	person-months
Lawyer's professional liability individual insurance program not rated using one of the exposure bases noted above. <sup>2</sup>	81401	NA
<b>LIQUOR LIABILITY</b>		
Clubs	70412	receipts
Package stores, and other retail establishments	59211	receipts

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Manufacturers, wholesalers, and distributors	50911	receipts
Restaurants, taverns, hotels, motels incl: package sales	58161	receipts
Temporary licenses	58168	<del>NA</del> no exposure
Owners or lessors of premises used by others	58169	<del>NA</del> no exposure
Liquor liability – not otherwise classified	11111	<del>NA</del> no exposure
Liquor liability individual insurer programs not rated using one of the exposure bases noted above. <sup>1</sup>	81111	NA

## EXCESS INSURANCE

Commercial Automobile	9772	NA
Personal Umbrella	99930	NA
Commercial Umbrella	99935	NA
Excess Insurance – All Other	88888	NA

## OTHER

All other coverage contained in line 17.1 and 17.2 of the company's state page exhibit for the filing year	OTHR	<del>NA</del>
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Table:

- <sup>1</sup> Individual insurer programs that are not rated using one of the exposure bases above with this specified class definition will be reported as classification codes 81111 and 81714, respectively.
- <sup>2</sup> Individual insurer programs that are not rated using one of the exposure bases noted above with this specified class definition will be reported as classification code 81401.

**MEDICAL MALPRACTICE**

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CLASS OR DATA TYPE	CLASS CODE		EXPOSURE BASE
	MD <sup>1</sup>	DO <sup>2</sup>	
<b>CARDIAC SURGERY</b>			
Surgery – cardiac	80141	NA	person-months
Surgery – cardiovascular disease	80150	84150	person-months
<b>CARDIAC – OTHER</b>			
Cardiovascular disease – minor surgery	80281	84281	person-months
Cardiovascular disease – no surgery	80255	84255	person-months
<b>CRITICAL CARE MEDICINE</b>			
Intensive care medicine. Applies to any general practitioner or specialist employed in intensive care hospital unit	80283	84283	person-months
<b>DENTISTS</b>			
Oral surgery with anesthesia	80210	NA	person-months
Oral surgery without anesthesia	80211	NA	person-months
<b>EMERGENCY ROOM SURGERY</b>			
Emergency medicine – including major surgery	80157	84157	person-months
<b>EMERGENCY ROOM – OTHER</b>			
Emergency room – no major surgery	80102	84102	person-months
<b>GENERAL PRACTITIONER (FAMILY PRACTICE)</b>			
Family physician or general practitioner – no surgery	80420	84420	person-months

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Family physician or general practitioner – minor surgery	80421	84421	person-months
Surgery – general practice or family practice	80117	NA	person-months
<b>GENERAL SURGERY</b>			
Surgery – general – not otherwise classified. Does not apply to family or general practitioner or to any specialist who occasionally performs major surgery.	80143	84143	person-months
<b>NEUROSURGERY</b>			
Surgery – neurology – including child	80152	84152	person-months
Neurology – including child – minor surgery	80288	84288	person-months
<b>OBSTETRICS/GYNECOLOGY – SURGERY</b>			
Surgery – gynecology	80167	84167	person-months
Surgery – obstetrics	80168	NA	person-months
Surgery – obstetrics – gynecology	80153	84153	person-months
<b>OBSTETRICS/GYNECOLOGY – OTHER</b>			
Gynecology – minor surgery	80277	84277	person-months
Gynecology – no surgery	80244	84244	person-months
<b>ORTHOPEDIC SURGERY</b>			
Surgery – orthopedic	80154	84154	person-months
<b>PHYSICIANS, SURGEONS, AND DENTISTS</b>			
Physicians, Surgeons, and Dentists not otherwise classified	94999	94999	person-months
Physicians, Surgeons, and Dentists individual programs not rated using one of the exposure bases noted above	90430	NA	person-months

## DEPARTMENT OF INSURANCE

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## PLASTIC SURGERY

Surgery – plastic – not otherwise classified	80156	84156	person-months
Surgery – plastic – otorhinolaryngology	80155	84155	person-months

## THORACIC SURGERY

Surgery – thoracic	80144	84144	person-months
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## VASCULAR SURGERY

Surgery – vascular	80146	NA	person-months
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## OTHER

All other coverage contained in line 11.0 of the company's state page exhibit for the filing year	OTHR	<del>NA</del> person-months
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Table:

<sup>1</sup> MD = Medical Doctor

<sup>2</sup> DO = Doctor of Osteopathy

**COMMERCIAL AUTO LIABILITY**

<u>CLASS OR DATA TYPE</u>	<u>CLASS CODE</u>	<u>EXPOSURE BASE</u>
Fleet and non-fleet combined trucks, tractors, and trailers – zone rated	1A 1B 1C	car-months (BI) receipts number of miles
Fleet and non-fleet combined trucks, tractors, and trailers – all other, regardless of miles	2A	car-months (BI)

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Fleet and non-fleet taxicabs, and public livery, regardless of mileage, including limousines	3A 3B 3C	car-months (BI) receipts number of miles
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## OTHER

All other coverage contained in line 19.4 of the company's state page exhibit for the filing year.	OTHR	<u>NA</u>
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**PRIVATE PASSENGER AUTO LIABILITY**

<u>CLASS OR DATA TYPE</u>	<u>CLASS CODE</u>	<u>EXPOSURE BASE</u>
PPA Liability	<u>LIABNA</u>	car-months (BI)

## OTHER

All other coverage contained in line 19.2 of the company's state page exhibit for the filing year	OTHR	<u>NA</u> car-months (BI)
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**HOMEOWNER MULTI-PERIL**

<u>CLASS OR DATA TYPE</u>	<u>CLASS CODE</u>	<u>EXPOSURE BASE</u>
HO-1	HO-1	house-months
HO-2	HO-2	house-months
HO-3	HO-3	house-months
HO-4	HO-4	house-months
HO-5	HO-5	house-months
HO-6	HO-6	house-months
HO-8	HO-8	house-months

## DEPARTMENT OF INSURANCE

## NOTICE OF PROPOSED AMENDMENTS

Mobile Homes	Mobile	house-months
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## HOMEOWNER ENDORSEMENTS

Home Day Care endorsement	323	house-months
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Earthquake endorsement	HEQ	house-months
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## OTHER

All other coverage contained in line 04.0 of the company's state page exhibit for the filing year	OTHR	<u>NA</u> house-months
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**BUSINESS OWNERS PACKAGE**

<u>CLASS OR DATA TYPE</u>	<u>CLASS CODE</u>	<u>EXPOSURE BASE</u>
Business Owners Package (BOP)	77777	NA
Other coverage contained in line 05.1 and 05.2 of the company's state page exhibit for the filing year	OTHR	<u>NA</u>

**PRIVATE PASSENGER AUTO PHYSICAL DAMAGE**

<u>CLASS OR DATA TYPE</u>	<u>CLASS CODE</u>	<u>EXPOSURE BASE</u>
PPA Physical Damage	<u>PHYD</u> <del>NA</del>	car-months (comp)
Other coverage contained in line 21.1 of the company's state page exhibit for the filing year	OTHR	<u>NA</u>

**EARTHQUAKE (REQ ONLY)**

<u>CLASS OR DATA TYPE</u>	<u>CLASS CODE</u>	<u>EXPOSURE BASE</u>
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DEPARTMENT OF INSURANCE

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Residential Earthquake	REQ	NA
Other coverage contained in line 12.0 of the company's state page exhibit for the filing year	OTHR	<u>NA</u>

**RESIDENTIAL FIRE**

<u>CLASS OR DATA TYPE</u>	<u>CLASS CODE</u>	<u>EXPOSURE BASE</u>
<u>Building</u> <del>Business</del> and Contents – owner-occupied, 1-4 units	9A	house-months
Contents only	9B	house-months
Building only – non-owner-occupied	9C	house-months
<u>Earthquake endorsement</u>	<u>HEQ</u>	<u>house-months</u>
Other coverage contained in line 01.0 of the company's state page exhibit for the filing year	OTHR	<u>NA</u> <del>house-months</del>

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

**Section 4203.60 Line Item Matrix For Cost Containment Reporting**

Revised Field #	Other Liability, Medical Malpractice, Earthquake (REQ), BOP, Excess Insurance & Commercial Auto	Homeowners & Residential Fire	Private Passenger Auto Liability	Private Passenger Physical Damage
1	FEIN	FEIN	FEIN	FEIN
2	Filing Method	Filing Method	Filing Method	Filing Method
3	Line of Business	Line of Business	Line of Business	Line of Business
4	State ID	State ID	State ID	State ID
5	Class Code	Class Code	<u>Class Code</u> <del>Not used</del>	<u>Class Code</u> <del>Not used</del>
6	Statistical Year	Statistical Year	Statistical Year	Statistical Year

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7	Not used	Zip Code	Zip Code	Zip Code
8	Form Type	Not used	BI Written Premium	Comp Written Premium
9	Written Premium	Written Premium	BI Earned Premium	Comp Earned Premium
10	Earned Premium	Earned Premium	BI Paid Loss	Comp Paid Loss
11	Paid Losses	Paid Losses	BI OS Loss	Comp OS Loss
12	Outstanding Losses	Outstanding Losses	BI PD ALAE	# Comp Wr. Exposure
13	Paid ALAE	Written Exposures	BI OS ALAE	# Comp Paid Claims
14	OS ALAE	# Paid Claims	# BI Written Exposure	# Comp OS Claims
15	Written Exposures	# OS Claims	#BI Paid Claims	Collision Wr. Premium
16	# Paid Claims		#BI OS Claims	Collision Er. Premium
17	# OS Claims		PD Written Premium	Collision Paid Loss
18			PD Earned Premium	Collision OS Loss
19			PD Paid Loss	# Collision Paid Claims
20			PD OS Loss	# Collision OS Claims
21			PD Paid ALAE	Other Written Premium
22			PD OS ALAE	Other Earned Premium
23			# PD Paid Claims	Other Paid Loss
24			#PD OS Claims	Other OS Loss
25			UM/UIM Written Prem	# Other Paid Claims
26			UM/UIM Earned Prem	# Other OS Claims
27			UM/UIM Paid Loss	
28			UM/UIM OS Loss	
29			UM/UIM Paid ALAE	
30			UM/UIM OS ALAE	

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31			# UM/UIM Paid Claims	
32			# UM/UIM OS Claims	
33			Med Pay Written Prem	
34			Med Pay Earned Prem	
35			Med Pay Paid Loss	
36			Med Pay OS Loss	
37			Med Pay Paid ALAE	
38			Med Pay OS ALAE	
39			# Med Pay Paid Claims	
40			# Med Pay OS Claims	
41			Other Written Prem	
42			Other Earned Prem	
43			Other Paid Loss	
44			Other OS Loss	
45			Other Paid ALAE	
46			Other OS ALAE	
47			# Other Paid Claims	
48			# Other OS Claims	
49			# SL Written Exposures	
50			SL Written Prem	
51			SL Earned Prem	
52			BI SL Paid Loss	
53			BI SL OS Loss	
54			BI SL Paid ALAE	

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55			BI SL OS ALAE	
56			# BI SL Paid Claims	
57			# BI SL OS Claims	
58			PD SL Paid Loss	
59			PD SL OS Loss	
60			PD SL Paid ALAE	
61			PD SL OS ALAE	
62			# PD SL Paid Claims	
63			# PD SL OS Claims	

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

**Section 4203.70 Coding Conventions for Other Liability/~~Excess Insurance~~, Medical Malpractice, Earthquake, Commercial Auto Liability, and Business Owners Packages,~~and Excess Insurance~~**

This Section provides instructions for coding the fields for other liability, medical malpractice, earthquake, commercial auto liability, and business owners packages~~Business Owners Packages~~ (BOP). The following provides a detailed description of each data field:

- a) FEIN – This alpha-numeric field reflects the Federal Employer Identification Number assigned to the insurer. (Do not include the hyphen; for example 555555555.)
- b) Filing Method – This one-character alpha-numeric field identifies the source of the data as either an agent or an insurance company. Possible codes are:
  - 1 = American Association of Insurance Services (AAIS)
  - 2 = Insurance Services Office, Inc. (ISO)
  - 3 = Property Casualty Insurers Association of America (PCI)  
~~National Association of Independent Insurers (NAII)~~
  - 4 = National Independent Statistical Service (NISS)
  - 5 = Company Direct – Partial
  - 6 = Company Direct – 100 Percent

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7 = Other

- c) Line of Business – This alpha-numeric field identifies the line or general classification to which the data belongs. Possible codes are:

05.0 = BOP (Business Owners Package)

11.0 = Medical Malpractice

12.0 = Earthquake

17.0 = Other/Excess Liability

19.4 = Commercial Auto Liability

- d) State Identifier – This field identifies the geographical source of the data. Possible codes are:

12 = Illinois only

MS = Multi-state

- e) **Class Code** – The data call requires specific data for each Type of Insurance and class code identified below.

05.0~~BOP~~ = BOP (Business Owners Package)

~~Business Owners Package (B.O.P)~~

- 7777 = Business Owners Package (BOP)~~All other coverage contained in line 05.1 and 05.2~~

Other

- OTHR = All other coverage contained in line 05.1 and 05.2

11.0 = Medical Malpractice

Cardiac – Other

- 80281 = cardiovascular disease – minor surgery by MD
- 84281 = cardiovascular disease – minor surgery by DO
- 80255 = cardiovascular disease – no surgery by MD
- 84255 = cardiovascular disease – no surgery by DO

Cardiac – Surgery

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- 80141 = surgery – cardiac by MD
- 80150 = surgery – cardiovascular disease by MD
- 84150 = surgery – cardiovascular disease by DO

## Critical Care Medicine

- 80283 = intensive care medicine – applies to any general practitioner or specialist employed in intensive care hospital unit by MD
- 84283 = intensive care medicine – applies to any general practitioner or specialist employed in intensive care hospital unit by DO

## Dentists

- 80210 = Oral surgery with anesthesia
- 80211 = Oral surgery without anesthesia

## Emergency Room – Other

- 80102 = emergency room – no major surgery by MD
- 84102 = emergency room – no major surgery by DO

## Emergency Room – Surgery

- 80157 = emergency medicine – including major surgery by MD
- 84157 = emergency medicine – including major surgery by DO

## General Surgery

- 80143 = surgery – general – not otherwise classified. Does not apply to family or general practitioner or to any specialist who occasionally performs major surgery by MD
- 84143 = surgery – general – not otherwise classified. Does not apply to family or general practitioner or to any specialist who occasionally performs major surgery by DO

## Neurosurgery

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- 80152 = surgery – neurology – including child by MD
- 84152 = surgery – neurology – including child by DO
- 80288 = neurology – including child – minor surgery by MD
- 84288 = neurology – including child – minor surgery by DO

## Obstetrics/Gynecology – Other

- 80277 = gynecology – minor surgery by MD
- 84277 = gynecology – minor surgery by DO
- 80244 = gynecology – no surgery by MD
- 84244 = gynecology – no surgery by DO

## Obstetrics/Gynecology – Surgery

- 80167 = surgery – gynecology by MD
- 84167 = surgery – gynecology by DO
- 80168 = surgery – obstetrics by MD
- 80153 = surgery – obstetrics – gynecology by MD
- 84153 = surgery – obstetrics – gynecology by DO

## Orthopedic Surgery

- 80154 = surgery – orthopedic by MD
- 84154 = surgery – orthopedic by DO

## Physicians and Surgeons

- 80420 = family physician or general practitioner – no surgery by MD
- 84420 = family physician or general practitioner – no surgery by DO
- 80421 = family physician or general practitioner – minor surgery by MD
- 84421 = family physician or general practitioner – minor surgery by DO
- 80117 = surgery – general practice or family practice by MD

## Physicians, Surgeons, and Dentists

- 94999 = physicians, surgeons, and dentists classes not specifically listed
- 90430 = physicians, surgeons, and dentists individual insurer programs not rated using one of the exposure bases noted above

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## Plastic Surgery

- 80156 = surgery – plastic – not otherwise classified by MD
- 84156 = surgery – plastic – not otherwise classified by DO
- 80155 = surgery – plastic – otorhinolaryngology by MD
- 84155 = surgery – plastic – otorhinolaryngology by DO

## Vascular Surgery

- 80146 = surgery – vascular by MD
- 80144 = surgery – thoracic by MD
- 84144 = surgery – thoracic by DO

## OTHER

- OTHR = All other coverage contained in line 11.0

## 12.0 = Earthquake

- REQ = Residential Earthquake
- OTHR = All other coverage contained in line 12.0

## 17.0 = Other Liability

## Day care

- 82115 = day care center liability – day nurseries
- 41714 = day care center liability – day care centers
- 81714 = day care center liability individual insurance not rated using one of the exposure bases noted above.

## Lawyer

- 81400 = lawyers professional liability – lawyers
- 81420 = lawyers professional liability – employed law clerks, investigators, abstractors and paralegals
- 81401 = lawyers professional liability individual insurance not rated using one of the exposure bases noted above.

## Liquor

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- 70412 = clubs
- 59211 = package stores and other retail establishments
- 50911 = manufacturers, wholesalers, and distributors
- 58161 = restaurants, taverns, hotels, motels including package sales
- 58168 = temporary licenses
- 58169 = owners or lessors of premises used by others
- 11111 = liquor liability – not otherwise classified
- 81111 = liquor liability individual insurer programs not rated using one of the exposure bases noted above.<sup>1</sup>

## Excess Coverage

- 9772 = commercial auto
- 99930 = personnel umbrella
- 99935 = commercial umbrella
- 88888 = excess insurance – all other

## Other

- OTHR = All other coverage contained in line 17.1 and 17.2

## 19.4 = Commercial Auto Liability

- 1A = fleet and non-fleet combined trucks, tractors, and trailers – zone rated (car-months (BI))
- 1B = fleet and non-fleet combined trucks, tractors, and trailers – zone rated (receipts)
- 1C = fleet and non-fleet combined trucks, tractors, and trailers – zone rated (number of miles)
- 2A = fleet and non-fleet combined trucks, tractors, and trailers – all other, regardless of miles (car-months (BI))
- 3A = fleet and non-fleet taxicabs, and public livery, regardless of mileage, including limousines (car-months (BI))
- 3B = fleet and non-fleet taxicabs, and public livery, regardless of mileage, including limousines (receipts)
- 3C = fleet and non-fleet taxicabs, and public livery, regardless of mileage, including limousines (number of miles)

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- OTHR = All other coverage contained in line 19.4
- f) Statistical Data Year – This four-character alpha-numeric field reflects the experience year. (For example, for the November 1996 annual data filing, the statistical data year will be coded 1995 for lines that use the calendar year experience method.
- g) Field Not Currently Used
- h) Form Type – This alpha-numeric field reflects the form type that was used in providing coverage. The insurer will report a separate record for each form type for each class and geographic location (Illinois-only or multi-state). Possible codes are:
- C = claims-made
  - O = occurrence
  - T = claims-made tail coverage
- i) Amount of Written Premium – This field reflects the amount of total written premiums corresponding to each of the class codes.
- j) Amount of Earned Premium – This field reflects the total amount of earned premiums corresponding to each of the class codes.
- k) Amount of Paid Losses – This field reflects the amount of paid losses corresponding to each of the class codes. Please see Section 4203.30(g) for the definition of paid losses. If the insurer is unable to separate paid losses from ALAE, the insurer will follow the instructions provided in Section 4203.30(h).
- l) Amount of Outstanding Losses – This field reflects the amount of outstanding losses corresponding to each of the class codes. Please see Section 4203.30(g) for the definition of outstanding losses and Section 4203.30(h) for special instructions for those situations where separating outstanding losses and outstanding ALAE are not possible.
- m) Amount of Paid ALAE – This field reflects the amount of paid ALAE for each of the class codes. If an insurer is unable to separate paid ALAE from the paid losses, the combined paid losses and paid ALAE will be

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reported in the paid losses field for the line and the code "combined" will appear in the paid ALAE field. For the earthquake data, the amount of paid ALAE field should be blank.

- n) Amount of Outstanding ALAE – This field reflects the amount of outstanding allocated loss adjustment expenses for each of the class codes. If an insurer is unable to separate outstanding ALAE from the outstanding losses, the combined outstanding losses and outstanding ALAE will be reported in the outstanding losses field for the line and the code "combined" will appear in the ALAE field. For the earthquake data, the amount of outstanding ALAE field should be blank.
- o) Number of Written Exposures – This field reflects the count of written exposures for each of the class codes. The field "number of exposures" for BOP, earthquake, and excess insurance will be left blank.
- p) Number of Paid Claims – This field reflects the paid claims count corresponding to each of the class codes. Please see Section 4203.30(i) for the definition of paid claims.
- q) Number of Outstanding Claims – This field reflects the outstanding claims count corresponding to each of the class codes. Please see Section 4203.30(j) for the definition of outstanding claims.

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

**Section 4203.80 Coding Conventions for Homeowner and Residential Fire Insurance**

This Section provides instructions for coding 15 fields included in the homeowner and residential fire insurance line. All homeowner and residential fire records will be submitted by zip code.

- a) Data for the homeowner and residential fire lines will be reported on a calendar year basis. Only voluntary business will be reported.
- b) In the homeowner line, the insurer will code one record for each class for multi-state data and one record for each class for each zip code for Illinois-only data. It is not necessary to submit a record that sums the data for all the zip codes in each class.

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- c) The following provides a detailed description of each data field:
- 1) FEIN – This alpha-numeric field reflects the Federal Employer Identification Number assigned to the insurer. (Do not include the hyphen, for example 555555555.)
  - 2) Filing Method – This one-character alpha-numeric field identifies the source of the data as either an agent or an insurance company. Possible codes are:
    - 1 = American Association of Insurance Services (AAIS)
    - 2 = Insurance Services Office, Inc. (ISO)
    - 3 = [Property Casualty Insurers Association of America](#)  
~~(PCI)National Association of Independent Insurers (NAII)~~
    - 4 = National Independent Statistical Service (NISS)
    - 5 = Company Direct – Partial
    - 6 = Company Direct – 100 Percent
    - 7 = Other
  - 3) Line of Business – This alpha-numeric field identifies the general business line to which the data belongs. The possible codes are:
    - 04.0 = Homeowners
    - 01.0 = Residential Fire
  - 4) State Identifier – This field identifies the geographical source of the data. Possible codes are:
    - 12 = Illinois only
    - MS = Multi-state
  - 5) Class Code – Classification Code – This alpha-numeric field identifies the class of insurance being reported in the line. The insurer should report one record for multi-state data and one record for each class by zip code for Illinois-only data. It is not necessary to report a record that sums all zip code data for a class. Possible codes for the classification field are:
    - 04.0 = Homeowners

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- HO-1
- HO-2
- HO-3
- HO-4
- HO-5
- HO-6
- HO-8
- Mobile
- 323 = Day care endorsement
- HEQ = Homeowner earthquake endorsement
- OTHR = All other coverage contained in line 04.0

01.0 = Residential Fire

- 9A = residential fire, building & contents (owner-occupied 1-4 units)
- 9B = residential fire (contents only)
- 9C = residential fire (building only for non-owner-occupied)
- HEQ = earthquake edorsement
- OTHR = All other coverage contained in line 01.0

6) Statistical Data Year – This four-character alpha-numeric field reflects the experience year. (For example, the statistical data year for the November ~~20061996~~ annual filing for the calendar year method will be coded 20051995.)

7) Zip Code – This alpha-numeric field identifies the zip code where the homeowner exposure is located. Possible codes are:

Actual zip code = The range for Illinois zip codes (60001 through 62999).

99999 = Code for Illinois-only data where zip code does not fall within the range for Illinois zip codes (60001 through 62999).

AGENCY NOTE: There should be one record for each represented zip code for each of the classes HO-1, HO-2, HO-3, HO-4, HO-5, HO-6, HO-8, mobile, 323, 9A, 9B, ~~and 9C~~, and OTHR for Illinois-only data and one record for each class reported for multi-state data.

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- 8) Field Not Currently Used
- 9) Amount of Written Premium – This field reflects the amount of written premiums corresponding to each of the class codes HO-1 through HO-8, mobile ~~homes~~, 323, HEQ, 9A, 9B, ~~and 9C~~, and OTHR.
- 10) Amount of Earned Premium – This field reflects the amount of earned premium corresponding to each of the class codes HO-1 through HO-8, mobile homes, 323, HEQ, 9A, 9B, ~~and 9C~~, and OTHR.
- 11) Amount of Paid Losses – This field reflects the paid losses corresponding to each of the class codes HO-1 through HO-8, mobile ~~homes~~, 323, HEQ, 9A, 9B, ~~and 9C~~, and OTHR. Please see Section 4203.30(g) for the definition of paid losses.
- 12) Amount of Outstanding Losses – This field reflects the outstanding losses corresponding to each of the class codes HO-1 through HO-8, mobile ~~homes~~, 323, HEQ, 9A, 9B, ~~and 9C~~, and OTHR.
- 13) Number of Written Exposures – This field reflects the count of exposures for each of the class codes HO-1 through HO-8, mobile ~~homes~~, 9A, 9B, ~~and 9C~~, and OTHR.
- 14) Number of Paid Claims – This field reflects the paid claims count corresponding to each of the class codes HO-1 through HO-8, mobile ~~homes~~, 323, HEQ, 9A, 9B, ~~and 9C~~, and OTHR. Please see Section 4203.30(i) for the definition of paid claims.
- 15) Number of Outstanding Claims – This field reflects the outstanding claims count corresponding to each of the class codes HO-1 through HO-8, mobile ~~homes~~, 323, HEQ, 9A, 9B, ~~and 9C~~, and OTHR. Please see Section 4203.30(j) for the definition of outstanding claims.

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

**Section 4203.90 Coding Conventions for Private Passenger Auto Liability Insurance  
(Excluding PIP)**

This Section provides instructions for coding the 63 fields in the private passenger auto liability

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records, excluding PIP. All private passenger auto liability records will be submitted by zip code.

- a) Data for the private passenger automobile liability line will be reported on a calendar year basis and will include only the voluntary market. No-fault data will be excluded.
- b) In the private passenger auto liability line, the insurer will submit one record for ~~each class~~the line for multi-state data and one record for each class for each zip code for Illinois-only data. It is not necessary to submit a record which sums the Illinois-only data for all the zip codes. Insurers are also required to report premium and exposure data for each class by zip code using the calendar year method of compiling annual experience.
- c) The applicable bodily injury and property damage data for split limit policies will be reported in Fields 8-48. The applicable data for single limit policies will be reported in Fields 49-63. Written exposures, written premium, and earned premium for single limit policies will be reported in Fields 49-51. Losses, loss adjustment expenses, and claims counts will be reported for bodily injury and property damage using the instructions in Fields 51-63.
- d) The following provides a detailed description of each data field:
  - 1) FEIN – This alpha-numeric field reflects the Federal Employer Identification Number assigned to the insurer. (Do not include the hyphen, for example 555555555.)
  - 2) Filing Method – This one-character alpha-numeric field identifies the source of the data as either an agent or an insurance company. Possible codes are:
    - 1 = American Association of Insurance Services (AAIS)
    - 2 = Insurance Services Office, Inc. (ISO)
    - 3 = Property Casualty Insurer Association of America (PCI)~~National Association of Independent Insurers (NAII)~~
    - 4 = National Independent Statistical Service (NISS)
    - 5 = Company Direct – Partial
    - 6 = Company Direct – 100 Percent
    - 7 = Other

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- 3) Line of Business – This alpha-numeric field identifies the general business line to which the data belongs. The code is:

19.2 = Private passenger auto liability

- 4) State Identifier – This field identifies the geographical source of the data. Possible codes are:

12 = Illinois only

MS = Multi-state

- 5) Class Code – Classification Code – This alpha-numeric field identifies the class of insurance being reported in the line. The insurer should report one record for each class for multi-state data and one record for each class for each zip code for Illinois-only data. It is not necessary to report a record that sums all zip code data for a class. Possible codes for the classification field are:

19.2 = Private passenger auto liability

• LIAB

• OTHR = all other coverage contained in line 19.2~~Field Not Currently Used~~

- 6) Statistical Data Year – This four-character alpha-numeric field reflects the experience year. (For example, the statistical data year field for the November ~~2006~~~~1996~~ annual filing, will be coded ~~2005~~~~one of the years 1990-1994~~.)

- 7) Zip Code – This alpha-numeric field identifies the zip code where the automobile exposure is rated (auto is garaged). Possible codes are:

Actual zip code = The range for Illinois zip codes (60001 through 62999)-

99999 = Code for Illinois-only data where zip code does not fall within the range for Illinois zip codes (60001 through 62999)-

AGENCY NOTE: There should be one record for each represented zip

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code for each class code LIAB and OTHR~~private passenger auto liability~~ for Illinois-only data and one record for each class code reported for the multi-state data. Each insurer will report premium and exposure data by zip code for private passenger automobile liability. For multi-state data, the zip code field will be blank.

- 8) Amount of PPA Liability Bodily Injury (BI) Written Premium – This field reflects the amount of written premiums for BI.
- 9) Amount of PPA Liability BI Earned Premium – This field reflects the amount of earned premiums for BI.
- 10) Amount of PPA Liability BI Paid Losses – This field reflects the paid losses for BI. Please see Section 4203.30(g) for the definition of paid losses.
- 11) Amount of PPA Liability BI Outstanding Losses – This field reflects the outstanding losses for BI. Please see Section 4203.30(g) for the definition of outstanding losses.
- 12) Amount of PPA Liability BI Paid ALAE – This field reflects the ALAE for BI. If an insurer is unable to separate paid ALAE from the paid loss, the combined loss and ALAE will be reported in the paid loss field for the line and the code "combined" will appear in the paid ALAE field.
- 13) Amount of PPA Liability BI Outstanding ALAE – This field reflects the ALAE for BI. If an insurer is unable to separate outstanding ALAE from the outstanding loss, the combined loss and ALAE will be reported in the outstanding loss field for the line and the code "combined" will appear in the outstanding ALAE field.
- 14) Number of PPA Liability BI Written Exposures – This field reflects the count of written exposures for the line. PPA liability exposures are based on the bodily injury component.
- 15) Number of PPA Liability BI Paid Claims – This field reflects the paid claims count for BI. Please see Section 4203.30(i) for the definition of paid claims.

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- 16) Number of PPA Liability BI Outstanding Claims – This field reflects the outstanding claims count for BI. Please see Section 4203.30(j) for the definition of outstanding claims.
- 17) Amount of PPA Liability Property Damage Written Premium – This field reflects the amount of written premiums for property damage liability.
- 18) Amount of PPA Liability Property Damage Earned Premium – This field reflects the amount of earned premiums for property damage liability.
- 19) Amount of PPA Liability Property Damage Paid Losses – This field reflects the paid losses for property damage liability. Please see Section 4203.30(g) for the definition of paid losses.
- 20) Amount of PPA Liability Property Damage Outstanding Losses – This field reflects the outstanding losses for property damage liability. Please see Section 4203.30(g) for the definition of outstanding losses.
- 21) Amount of PPA Paid Liability Property Damage ALAE – This field reflects ALAE for property damage liability. If an insurer is unable to separate paid ALAE from the paid loss, the combined paid loss and ALAE will be reported in the paid loss field for the line and the code "combined" will appear in the paid ALAE field.
- 22) Amount of PPA Outstanding Liability Property Damage ALAE – This field reflects outstanding ALAE for property damage liability. If an insurer is unable to separate outstanding ALAE from the outstanding loss, the combined outstanding loss and outstanding ALAE will be reported in the outstanding loss field for the line and the code "combined" will appear in the outstanding ALAE field.
- 23) Number of PPA Liability Property Damage Paid Claims – This field reflects the paid claims count for property damage liability. Please see Section 4203.30(l) for the definition of paid claims.
- 24) Number of PPA Liability Property Damage Outstanding Claims – This field reflects the outstanding claims count for property damage liability. Please see Section 4203.30(j) for the definition of outstanding claims.

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- 25) Amount of PPA Liability UM/UIM Written Premium – This field reflects the written premiums for UM/UIM.
- 26) Amount of PPA Liability UM/UIM Earned Premium – This field reflects the earned premiums for UM/UIM.
- 27) Amount of PPA Liability UM/UIM Paid Losses – This field reflects the paid losses for UM/UIM. Please see Section 4203.30(g) for the definition of paid losses.
- 28) Amount of PPA Liability UM/UIM Outstanding Losses – This field reflects the outstanding losses for UM/UIM. Please see Section 4203.30(g) for the definition of outstanding losses.
- 29) Amount of PPA Liability UM/UIM Paid ALAE – This field reflects the ALAE for UM/UIM liability. If an insurer is unable to separate paid ALAE from the paid loss, the combined loss and ALAE will be reported in the paid loss field for the line and the code "combined" will appear in the paid ALAE field.
- 30) Amount of PPA Liability UM/UIM Outstanding ALAE – This field reflects the outstanding ALAE for UM/UIM liability. If an insurer is unable to separate outstanding ALAE from the outstanding loss, the combined loss and ALAE will be reported in the paid loss field for the line and the code "combined" will appear in the outstanding ALAE field.
- 31) Number of PPA Liability UM/UIM Paid Claims – This field reflects the paid claims count for UM/UIM liability. Please see Section 4203.30(i) for the definition of paid claims.
- 32) Number of PPA Liability UM/UIM Outstanding Claims – This field reflects the outstanding claims count for UM/UIM liability. Please see Section 4203.30(j) for the definition of outstanding claims.
- 33) Amount of PPA Liability Medical Payments Written Premium – This field reflects the amount of written premiums for medical payments.
- 34) Amount of PPA Liability Medical Payments Earned Premium – This field reflects the amount of earned premiums for medical payments.

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- 35) Amount of PPA Liability Medical Payments Paid Losses – This field reflects the paid losses for medical payments. Please see Section 4203.30(g) for definition of paid losses.
- 36) Amount of PPA Liability Medical Payments Outstanding Losses – This field reflects the outstanding losses for medical payments. Please see Section 4203.30(g) for the definition of outstanding losses.
- 37) Amount of PPA Liability Medical Payments Paid ALAE – This field reflects ALAE for medical payments. If an insurer is unable to separate paid ALAE from the paid loss, the "combined" loss and ALAE will be reported in the paid loss field for the line and the code "combined" will appear in the paid ALAE field.
- 38) Amount of PPA Liability Medical Payments Outstanding ALAE – This field reflects ALAE for medical payments. If an insurer is unable to separate outstanding ALAE from the outstanding loss, the combined loss and ALAE will be reported in the outstanding loss field for the line and the code "combined" will appear in the paid ALAE field.
- 39) Number of PPA Liability Medical Payments Paid Claims – This field reflects the paid claims count for medical payments. Please see Section 4203.30(i) for the definition of paid claims.
- 40) Number of PPA Liability Medical Payments Outstanding Claims – This field reflects the outstanding claims count for medical payments. Please see Section 4203.30(j) for the definition of outstanding claims.

AGENCY NOTE: Fields 41-48 will be blank for the majority of private passenger auto liability insurers. The purpose of the other component is to capture any private passenger auto liability data from insurers that do not fall within bodily injury, property damage, UM/UIM, or medical payments.

- 41) Amount of PPA Liability Other Written Premium – This field reflects the amount of written premiums for other (not fitting any other private passenger auto liability field).
- 42) Amount of PPA Liability Other Earned Premium – This field reflects the

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amount of earned premiums for other (not fitting any other private passenger auto liability field).

- 43) Amount of PPA Liability Other Paid Losses – This field reflects the paid losses for other (not fitting any other private passenger auto liability field). Please see Section 4203.30(g) for the definition of paid losses.
- 44) Amount of PPA Liability Other Outstanding Losses – This field reflects the outstanding losses for other (not fitting any other private passenger auto liability field). Please see Section 4203.30(g) for the definition of outstanding losses.
- 45) Amount of PPA Liability Other Paid ALAE – This field reflects the paid ALAE for other (not fitting any other private passenger auto liability field). If an insurer is unable to separate paid ALAE from the paid loss, the combined loss and ALAE will be reported in the paid loss field for the line and the code "combined" will appear in the paid ALAE field.
- 46) Amount of PPA Liability Other Outstanding ALAE – This field reflects the outstanding ALAE for other (not fitting any other private passenger auto liability field). If an insurer is unable to separate outstanding ALAE from the outstanding loss, the combined loss and ALAE will be reported in the outstanding loss field for the line and the code "combined" will appear in the outstanding ALAE field.
- 47) Number of PPA Liability Other Paid Claims – This field reflects the paid claims count for other (not fitting any other liability field). Please see Section 4203.30(i) for the definition of paid claims.
- 48) Number of PPA Liability Other Outstanding Claims – This field reflects the outstanding claims count for other (not fitting any other liability field). Please see Section 4203.30(j) for the definition of outstanding claims.

AGENCY NOTE: Fields 49-63 provide the fields for an insurer to report its private passenger auto liability policies written with a single limit. If none were written for the experience period, these fields will be left blank.

- 49) Number of PPA Liability Single Limit (SL) Written Exposures – This field reflects the count of exposures written under single limit policies.

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- 50) Amount of PPA Liability for Single Limit (SL) Written Premium – This field reflects the amount of written premiums for policies written under single limit policies.
- 51) Amount of PPA Liability for SL Earned Premium – This field reflects the amount of earned premiums for policies written under single limit policies.
- 52) Amount of PPA Liability BI Paid Losses for SL Policies – This field reflects the amount of paid losses for bodily injury under single limit policies. Please see Section 4203.30(g) for the definition of paid losses.
- 53) Amount of PPA Liability BI Outstanding Losses for SL Policies – This field reflects the amount of outstanding losses for bodily injury under single limit policies. Please see Section 4203.30(g) for the definition of outstanding losses.
- 54) Amount of PPA Liability BI Paid ALAE for SL Policies – This field reflects the paid ALAE for bodily injury under single limit policies. If an insurer is unable to separate paid ALAE from the paid loss, the combined loss and ALAE will be reported in the paid loss field for the line and the code "combined" will appear in the paid ALAE field.
- 55) Amount of PPA Liability BI Outstanding ALAE for SL Policies – This field reflects the outstanding ALAE for bodily injury under single limit policies. If an insurer is unable to separate outstanding ALAE from the outstanding loss, the combined loss and ALAE will be reported in the outstanding loss field for the line and the code "combined" will appear in the outstanding ALAE field.
- 56) Number of PPA Liability BI Paid Claims for SL Policies – This field reflects the paid claims count for bodily injury under single limit policies. Please see Section 4203.30(i) for the definition of paid claims.
- 57) Number of PPA Liability BI Outstanding Claims for SL Policies – This field reflects the outstanding claims count for bodily injury under single limit policies. Please see Section 4203.30(j) for the definition of outstanding claims.

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- 58) Amount of PPA Liability Property Damage (PD) Paid Losses for SL Policies – This field reflects the paid losses for property damage under single limit policies. Please see Section 4203.30(g) for the definition of paid losses.
- 59) Amount of PPA Liability PD Outstanding Losses for SL Policies – This field reflects the outstanding losses for property damage under single limit policies. Please see Section 4203.30(g) for the definition of outstanding losses.
- 60) Amount of PPA Liability PD Paid ALAE for SL Policies – This field reflects the paid ALAE for property damage under single limit policies. If an insurer is unable to separate paid ALAE from the paid loss, the combined loss and ALAE will be reported in the paid loss field for the line and the code "combined" will appear in the paid ALAE field.
- 61) Amount of PPA Liability PD Outstanding ALAE for SL Policies – This field reflects the outstanding ALAE for property damage under single limit policies. If an insurer is unable to separate outstanding ALAE from the outstanding loss, the combined loss and ALAE will be reported in the outstanding loss field for the line and the code "combined" will appear in the outstanding ALAE field.
- 62) Number of PPA Liability PD Paid Claims – This field reflects the paid claims count for property damage under single limit policies. Please see Section 4203.30(i) for the definition of paid claims.
- 63) Number of PPA Liability PD Outstanding Claims – This field reflects the outstanding claims count for property damage under single limit policies. Please see Section 4203.30(j) for the definition of outstanding claims.

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

**Section 4203.100 Coding Conventions for Private Passenger Auto Physical Damage**

This Section provides instructions for coding the 26 fields included in the private passenger auto physical damage records.

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- a) Private passenger auto physical damage data are to be reported on a calendar year basis for only the voluntary market.
- b) In the private passenger physical damage line, the insurer will code one record for the line for multi-state data and one record for the line for each zip code represented in the Illinois-only data. It is not necessary to submit a record that sums the Illinois-only data for all the zip codes.
- c) The following provides a detailed description of each data field:
  - 1) FEIN – This alpha-numeric field reflects the Federal Employer Identification Number assigned to the insurer. (Do not include the hyphen, for example 555555555.)
  - 2) Filing Method – This one-character alpha-numeric field identifies the source of the data as either an agent or an insurance company. Possible codes are:
    - 1 = American Association of Insurance Services (AAIS)
    - 2 = Insurance Services Office, Inc. (ISO)
    - 3 = [Property Casualty Insurer Association of America \(PCI\)](#)~~National Association of Independent Insurers (NAII)~~
    - 4 = National Independent Statistical Service (NISS)
    - 5 = Company Direct – Partial
    - 6 = Company Direct – 100 Percent
    - 7 = Other
  - 3) Line of Business – This alpha-numeric field identifies the general business line to which the data belongs. The code for private passenger auto physical damage is:
    - 21.1 = Private passenger auto physical damage
  - 4) State Identifier – This field identifies the geographical source of the data. Possible codes are:
    - 12 = Illinois only
    - MS = Multi-state

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- 5) Class Code – Classification Code – This alpha-numeric field identifies the class of insurance being reported in the line. The insurer should report one record for each class code for multi-state data and one record for each class for each zip code for Illinois-only data. It is not necessary to report a record that sums all zip code data for a class. Possible codes for the classification field are:

21.1 = Private passenger auto physical damage

- PHYD
- OTHR = All other coverage contained in line 21.1~~Field Not Currently Used~~

- 6) Statistical Data Year – This four-character alpha-numeric field reflects the experience year. (For example, the statistical data year for the November ~~2006~~1996 annual filing, will be coded ~~2005~~1995.)

- 7) Zip Code – This alpha-numeric field identifies the zip code where the Illinois-only exposure is written. Possible codes are:

Actual zip code = The range for Illinois zip codes (60001 through 62999).

99999 = Code for Illinois-only data where zip code does not fall within the range for Illinois zip codes (60001 through 62999).

AGENCY NOTE: There should be one record for each represented zip code for private passenger auto physical damage for Illinois-only data. It is unnecessary to submit a record that sums the data for all the zip codes. For multi-state data, the zip code field should be blank.

- 8) Amount of PPA Physical Damage Comprehensive (Comp) Written Premium – This field reflects the amount of written premiums for comprehensive.
- 9) Amount of PPA Comprehensive Earned Premium – This field reflects the amount of earned premiums for comprehensive.
- 10) Amount of PPA Comprehensive Paid Losses – This field reflects the paid losses for comprehensive. Please see Section 4203.30(g) for the definition

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of paid losses.

- 11) Amount of PPA Comprehensive Outstanding Losses – This field reflects the outstanding losses for comprehensive. Please see Section 4203.30(g) for the definition of outstanding losses.
- 12) Number of PPA Comprehensive Written Exposures – This field reflects the written exposure count for private passenger auto physical damage – using the comprehensive component.
- 13) Number of PPA Comprehensive Paid Claims – This field reflects the paid claims count for comprehensive. Please see Section 4203.30(i) for the definition of paid claims.
- 14) Number of PPA Comprehensive Outstanding Claims – This field reflects the outstanding claims count for comprehensive. Please see Section 4203.30(j) for the definition of outstanding claims.
- 15) Amount of PPA Collision Written Premium – This field reflects the amount of written premiums for collision.
- 16) Amount of PPA Collision Property Damage Earned Premium – This field reflects the amount of earned premiums for collision.
- 17) Amount of PPA Collision Paid Losses – This field reflects the paid losses for collision. Please see Section 4203.30(g) for the definition of paid losses.
- 18) Amount of PPA Collision Outstanding Losses – This field reflects the outstanding losses for collision. Please see Section 4203.30(g) for the definition of outstanding losses.
- 19) Number of PPA Collision Paid Claims – This field reflects the paid claims count for collision. Please see Section 4203.30(i) for the definition of paid claims.
- 20) Number of PPA Collision Outstanding Claims – This field reflects the outstanding claims count for collision. Please see Section 4203.30(j) for the definition of paid claims.

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AGENCY NOTE: Fields 21-26 will be blank for the majority of private passenger auto physical damage insurers. The purpose of the other category is to capture any private passenger auto physical damage data from insurers that do not fall within the comprehensive or collision components.

- 21) Amount of PPA Other Written Premium – This field reflects the amount of written premiums for other (not fitting in comp or collision).
- 22) Amount of PPA Other Earned Premium – This field reflects the amount of earned premiums for other (not fitting in comp or collision).
- 23) Amount of PPA Other Paid Losses – This field reflects the paid losses for other (not fitting in comp or collision). Please see Section 4203.30(g) for the definition of paid losses.
- 24) Amount of PPA Other Outstanding Losses – This field reflects the outstanding losses for other (not fitting in comp or collision). Please see Section 4203.30(g) for the definition of outstanding losses.
- 25) Number of PPA Other Paid Claims – This field reflects the paid claims count for other (not fitting in comp or collision). Please see Section 4203.30(i) for the definition of paid claims.
- 26) Number of PPA Other Outstanding Claims – This field reflects the outstanding claims count for other (not fitting in comp or collision.) Please see Section 4203.30(j) for the definition of outstanding claims.

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

**Section 4203.110 Record Layout for the Four Formats**

Due to space limitations, the following abbreviations were used in this table:

Wr Prem	=	Written Premium
OS	=	Outstanding
BI	=	Bodily Injury
Med Pay	=	Medical Payments
SL	=	Single Limit

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E Prem	=	Earned Premium
ALAE	=	Allocated Loss Adjustment Expenses
PD	=	Property Damage
UM/UIM	=	Uninsured/Underinsured Motorists
Comp	=	Comprehensive
<del>Pd</del>	=	<del>Paid</del>
Coll	=	Collision, Other Liab, Medical
<u>PIP</u>	=	<u>Personal Injury Protection</u>

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

## DEPARTMENT OF REVENUE

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- 1) Heading of the Part: Income Tax
- 2) Code Citation: 86 Ill. Adm. Code 100
- 3) Section Number: 100.2197                      Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 5/601
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking amends Section 100.2197 to implement amendments to 35 ILCS 5/601 enacted in PA 96-468, which changed the method of computing the maximum allowable credit for taxes paid to other states.
- 6) Published studies or reports and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes  

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
100.7310	Amendment	38 Ill. Reg. 18131; August 29, 2014
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Persons who wish to submit comments on this rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:

Paul Caselton  
Deputy General Counsel - Income Tax  
Illinois Department of Revenue  
Legal Services Office

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101 West Jefferson  
Springfield IL 62796

217/782-7055

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: This rulemaking applies to individuals, trusts and estates that are residents of Illinois, and not to businesses or not-for-profit corporations as such.
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2014

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

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 100  
INCOME TAX

## SUBPART A: TAX IMPOSED

## Section

100.2000	Introduction
100.2050	Net Income (IITA Section 202)
100.2060	Compassionate Use of Medical Cannabis Pilot Program Act Surcharge (IITA Section 201(o))

## SUBPART B: CREDITS

## Section

100.2100	Replacement Tax Investment Credit Prior to January 1, 1994 (IITA <a href="#">Section 201(e)</a> )
100.2101	Replacement Tax Investment Credit (IITA 201(e))
100.2110	Investment Credit; Enterprise Zone and River Edge Redevelopment Zone (IITA Section 201(f))
100.2120	Jobs Tax Credit; Enterprise Zone and Foreign Trade Zone or Sub-Zone and River Edge Redevelopment Zone (IITA Section 201(g))
100.2130	Investment Credit; High Impact Business (IITA 201(h))
100.2140	Credit Against Income Tax for Replacement Tax (IITA 201(i))
100.2150	Training Expense Credit (IITA 201(j))
100.2160	Research and Development Credit (IITA Section 201(k))
100.2163	Environmental Remediation Credit (IITA 201(l))
100.2165	Education Expense Credit (IITA 201(m))
100.2170	Tax Credits for Coal Research and Coal Utilization Equipment (IITA 206)
100.2171	Angel Investment Credit (IITA 220)
100.2180	Credit for Residential Real Property Taxes (IITA 208)
100.2185	Film Production Services Credit (IITA Section 213)
100.2190	Tax Credit for Affordable Housing Donations (IITA Section 214)
100.2193	Student-Assistance Contributions Credit (IITA 218)
100.2195	Dependent Care Assistance Program Tax Credit (IITA 210)
100.2196	Employee Child Care Assistance Program Tax Credit (IITA Section 210.5)
100.2197	Foreign Tax Credit (IITA Section 601(b)(3))

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- 100.2198 Economic Development for a Growing Economy Credit (IITA 211)  
100.2199 Illinois Earned Income Tax Credit (IITA Section 212)

SUBPART C: NET OPERATING LOSSES OF UNITARY BUSINESS GROUPS  
OCCURRING PRIOR TO DECEMBER 31, 1986

## Section

- 100.2200 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Scope
- 100.2210 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group (IITA Section 202) – Definitions
- 100.2220 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Current Net Operating Losses: Offsets Between Members
- 100.2230 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group. (IITA Section 202) – Carrybacks and Carryforwards
- 100.2240 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Effect of Combined Net Operating Loss in Computing Illinois Base Income
- 100.2250 Net Operating Losses Occurring Prior to December 31, 1986, of Unitary Business Groups: Treatment by Members of the Unitary Business Group: (IITA Section 202) – Deadline for Filing Claims Based on Net Operating Losses Carried Back From a Combined Apportionment Year

SUBPART D: ILLINOIS NET LOSS DEDUCTIONS FOR LOSSES  
OCCURRING ON OR AFTER DECEMBER 31, 1986

## Section

- 100.2300 Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2310 Computation of the Illinois Net Loss Deduction for Losses Occurring On or After December 31, 1986 (IITA 207)
- 100.2320 Determination of the Amount of Illinois Net Loss for Losses Occurring On or After December 31, 1986
- 100.2330 Illinois Net Loss Carrybacks and Net Loss Carryovers for Losses Occurring On or

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- After December 31, 1986
- 100.2340 Illinois Net Losses and Illinois Net Loss Deductions for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Separate Unitary Versus Combined Unitary Returns
- 100.2350 Illinois Net Losses and Illinois Net Loss Deductions, for Losses Occurring On or After December 31, 1986, of Corporations that are Members of a Unitary Business Group: Changes in Membership

## SUBPART E: ADDITIONS TO AND SUBTRACTIONS FROM TAXABLE INCOME OF INDIVIDUALS, CORPORATIONS, TRUSTS AND ESTATES AND PARTNERSHIPS

- Section
- 100.2405 Gross Income, Adjusted Gross Income, Taxable Income and Base Income Defined; Double Deductions Prohibited; Legislative Intention (IITA Section 203(e), (g) and (h))
- 100.2410 Net Operating Loss Carryovers for Individuals, and Capital Loss and Other Carryovers for All Taxpayers (IITA Section 203)
- 100.2430 Addition and Subtraction Modifications for Transactions with 80-20 and Noncombination Rule Companies
- 100.2435 Addition Modification for Student-Assistance Contribution Credit (IITA Sections 203(a)(2)(D-23), (b)(2)(E-16), (c)(2)(G-15), (d)(2)(D-10))
- 100.2450 IIT Refunds (IITA Section 203(a)(2)(H), (b)(2)(F), (c)(2)(J) and (d)(2)(F))
- 100.2455 Subtraction Modification: Federally Disallowed Deductions (IITA Sections 203(a)(2)(M), 203(b)(2)(I), 203(c)(2)(L) and 203(d)(2)(J))
- 100.2470 Subtraction of Amounts Exempt from Taxation by Virtue of Illinois Law, the Illinois or U.S. Constitutions, or by Reason of U.S. Treaties or Statutes (IITA Sections 203(a)(2)(N), 203(b)(2)(J), 203(c)(2)(K) and 203(d)(2)(G))
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**AUTHORITY:** Implementing the Illinois Income Tax Act [35 ILCS 5] and authorized by Section 1401 of the Illinois Income Tax Act [35 ILCS 5/1401].

**SOURCE:** Filed July 14, 1971, effective July 24, 1971; amended at 2 Ill. Reg. 49, p. 84, effective November 29, 1978; amended at 5 Ill. Reg. 813, effective January 7, 1981; amended at 5 Ill. Reg. 4617, effective April 14, 1981; amended at 5 Ill. Reg. 4624, effective April 14, 1981; amended at 5 Ill. Reg. 5537, effective May 7, 1981; amended at 5 Ill. Reg. 5705, effective May 20, 1981; amended at 5 Ill. Reg. 5883, effective May 20, 1981; amended at 5 Ill. Reg. 6843, effective June 16, 1981; amended at 5 Ill. Reg. 13244, effective November 13, 1981; amended at 5 Ill. Reg. 13724, effective November 30, 1981; amended at 6 Ill. Reg. 579, effective December 29, 1981; amended at 6 Ill. Reg. 9701, effective July 26, 1982; amended at 7 Ill. Reg. 399, effective December 28, 1982; amended at 8 Ill. Reg. 6184, effective April 24, 1984; codified at 8 Ill. Reg. 19574; amended at 9 Ill. Reg. 16986, effective October 21, 1985; amended at 9 Ill. Reg. 685, effective December 31, 1985; amended at 10 Ill. Reg. 7913, effective April 28, 1986; amended at 10 Ill. Reg. 19512, effective November 3, 1986; amended at 10 Ill. Reg. 21941, effective December 15, 1986; amended at 11 Ill. Reg. 831, effective December 24, 1986; amended at 11 Ill. Reg. 2450, effective January 20, 1987; amended at 11 Ill. Reg. 12410, effective July 8, 1987; amended at 11 Ill. Reg. 17782, effective October 16, 1987; amended at 12 Ill. Reg. 4865, effective February 25, 1988; amended at 12 Ill. Reg. 6748, effective March 25, 1988; amended at 12 Ill. Reg. 11766, effective July 1, 1988; amended at 12 Ill. Reg. 14307, effective August 29, 1988; amended at 13 Ill. Reg. 8917, effective May 30, 1989; amended at 13 Ill. Reg. 10952, effective June 26, 1989; amended at 14 Ill. Reg. 4558, effective March 8, 1990; amended at 14 Ill. Reg. 6810, effective April 19, 1990; amended at 14 Ill. Reg. 10082, effective June 7, 1990; amended at 14 Ill. Reg. 16012, effective September 17, 1990; emergency amendment at 17 Ill. Reg. 473, effective December 22, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 8869, effective June 2, 1993; amended at 17 Ill. Reg. 13776, effective August 9, 1993; recodified at 17 Ill. Reg. 14189; amended at 17 Ill. Reg. 19632, effective November 1, 1993; amended at 17 Ill. Reg. 19966, effective November 9, 1993; amended at 18

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Ill. Reg. 1510, effective January 13, 1994; amended at 18 Ill. Reg. 2494, effective January 28, 1994; amended at 18 Ill. Reg. 7768, effective May 4, 1994; amended at 19 Ill. Reg. 1839, effective February 6, 1995; amended at 19 Ill. Reg. 5824, effective March 31, 1995; emergency amendment at 20 Ill. Reg. 1616, effective January 9, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 6981, effective May 7, 1996; amended at 20 Ill. Reg. 10706, effective July 29, 1996; amended at 20 Ill. Reg. 13365, effective September 27, 1996; amended at 20 Ill. Reg. 14617, effective October 29, 1996; amended at 21 Ill. Reg. 958, effective January 6, 1997; emergency amendment at 21 Ill. Reg. 2969, effective February 24, 1997, for a maximum of 150 days; emergency expired July 24, 1997; amended at 22 Ill. Reg. 2234, effective January 9, 1998; amended at 22 Ill. Reg. 19033, effective October 1, 1998; amended at 22 Ill. Reg. 21623, effective December 15, 1998; amended at 23 Ill. Reg. 3808, effective March 11, 1999; amended at 24 Ill. Reg. 10593, effective July 7, 2000; amended at 24 Ill. Reg. 12068, effective July 26, 2000; emergency amendment at 24 Ill. Reg. 17585, effective November 17, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 18731, effective December 11, 2000; amended at 25 Ill. Reg. 4640, effective March 15, 2001; amended at 25 Ill. Reg. 4929, effective March 23, 2001; amended at 25 Ill. Reg. 5374, effective April 2, 2001; amended at 25 Ill. Reg. 6687, effective May 9, 2001; amended at 25 Ill. Reg. 7250, effective May 25, 2001; amended at 25 Ill. Reg. 8333, effective June 22, 2001; amended at 26 Ill. Reg. 192, effective December 20, 2001; amended at 26 Ill. Reg. 1274, effective January 15, 2002; amended at 26 Ill. Reg. 9854, effective June 20, 2002; amended at 26 Ill. Reg. 13237, effective August 23, 2002; amended at 26 Ill. Reg. 15304, effective October 9, 2002; amended at 26 Ill. Reg. 17250, effective November 18, 2002; amended at 27 Ill. Reg. 13536, effective July 28, 2003; amended at 27 Ill. Reg. 18225, effective November 17, 2003; emergency amendment at 27 Ill. Reg. 18464, effective November 20, 2003, for a maximum of 150 days; emergency expired April 17, 2004; amended at 28 Ill. Reg. 1378, effective January 12, 2004; amended at 28 Ill. Reg. 5694, effective March 17, 2004; amended at 28 Ill. Reg. 7125, effective April 29, 2004; amended at 28 Ill. Reg. 8881, effective June 11, 2004; emergency amendment at 28 Ill. Reg. 14271, effective October 18, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 14868, effective October 26, 2004; emergency amendment at 28 Ill. Reg. 15858, effective November 29, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 2420, effective January 28, 2005; amended at 29 Ill. Reg. 6986, effective April 26, 2005; amended at 29 Ill. Reg. 13211, effective August 15, 2005; amended at 29 Ill. Reg. 20516, effective December 2, 2005; amended at 30 Ill. Reg. 6389, effective March 30, 2006; amended at 30 Ill. Reg. 10473, effective May 23, 2006; amended by 30 Ill. Reg. 13890, effective August 1, 2006; amended at 30 Ill. Reg. 18739, effective November 20, 2006; amended at 31 Ill. Reg. 16240, effective November 26, 2007; amended at 32 Ill. Reg. 872, effective January 7, 2008; amended at 32 Ill. Reg. 1407, effective January 17, 2008; amended at 32 Ill. Reg. 3400, effective February 25, 2008; amended at 32 Ill. Reg. 6055, effective March 25, 2008; amended at 32 Ill. Reg. 10170, effective June 30, 2008; amended at 32 Ill. Reg. 13223, effective July 24, 2008; amended at 32 Ill. Reg. 17492, effective October 24, 2008; amended at 33 Ill. Reg. 1195,

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effective December 31, 2008; amended at 33 Ill. Reg. 2306, effective January 23, 2009; amended at 33 Ill. Reg. 14168, effective September 28, 2009; amended at 33 Ill. Reg. 15044, effective October 26, 2009; amended at 34 Ill. Reg. 550, effective December 22, 2009; amended at 34 Ill. Reg. 3886, effective March 12, 2010; amended at 34 Ill. Reg. 12891, effective August 19, 2010; amended at 35 Ill. Reg. 4223, effective February 25, 2011; amended at 35 Ill. Reg. 15092, effective August 24, 2011; amended at 36 Ill. Reg. 2363, effective January 25, 2012; amended at 36 Ill. Reg. 9247, effective June 5, 2012; amended at 37 Ill. Reg. 5823, effective April 19, 2013; amended at 37 Ill. Reg. 20751, effective December 13, 2013; recodified at 38 Ill. Reg. 4527; amended at 38 Ill. Reg. 9550, effective April 21, 2014; amended at 38 Ill. Reg. 13941, effective June 19, 2014; amended at 38 Ill. Reg. 15994, effective July 9, 2014; amended at 38 Ill. Reg. 17043, effective July 23, 2014; amended at 38 Ill. Reg. 18568, effective August 20, 2014; amended at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART B: CREDITS

**Section 100.2197 Foreign Tax Credit (IITA Section 601(b)(3))**

- a) IITA Section 601(b)(3) provides that *the aggregate amount of tax which is imposed upon or measured by income and which is paid by a resident for a taxable year to another state or states on income which is also subject to the tax imposed by IITA Section 201(a) and (b) of the Illinois Income Tax Act shall be credited against the tax imposed by IITA Section 201(a) and (b) otherwise due under the IITA Illinois Income Tax Act for such taxable year.*
- b) Definitions applicable to this Section.
  - 1) Tax qualifying for the credit. A tax qualifies for the credit only if it is *imposed upon or measured by income* and is *paid by an Illinois resident to another state on income which is also subject to Illinois income tax.*
    - A) A tax "imposed upon or measured by income" shall mean an income tax or tax on profits imposed by a state and deductible under IRC section 164(a)(3). Such term shall not include penalties or interest imposed with respect to the tax.
    - B) A tax is "paid by an Illinois resident" to another state "on income which is also subject to Illinois income tax" only to the extent the income included in the tax base of the other state is also included in base income computed under IITA Section 203 during a period

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in which the taxpayer is an Illinois resident. Thus, for example, income tax paid to another state on retirement income excluded from base income under IITA Section 203(a)(2)(F) does not qualify for the credit, nor would income derived from a partnership or Subchapter S corporation whose tax year ends during a period in which the taxpayer is not an Illinois resident. See IRC section 706(a) and IRC section 1366(a)(1). If tax is paid to another state on income that is not included in base income or on income attributable to a period when the taxpayer was not a resident of Illinois, as well as on income that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois, the amount of tax qualifying for the credit shall be determined by multiplying the tax paid by a fraction equal to the income taxed by the other state that is included in base income and attributable to a period in which the taxpayer was a resident of Illinois divided by the total tax base on which the other state's tax was computed.

- 2) For purposes of IITA Section 601(b)(3), "state" *means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any political subdivision of any of the foregoing.* (IITA Section 1501(a)(22)) This definition is effective for tax years ending on or after December 31, 1989. The term "state" does not include foreign countries or any political subdivision of a foreign country.
- 3) "Resident" is defined at IITA Section 1501(a)(20) and in Section 100.3020 of this Part.
- 4) *Base income subject to tax both by another state and by this State or "double-taxed income" means items of income minus items deducted or excluded in computing the tax for which credit is claimed, to the extent such items of income, deduction or exclusion are taken into account in the computation of base income under IITA Section 203 for the person claiming the credit. However, under IITA Section 601(b)(3), as in effect prior to January 1, 2006 (the effective date of Public Act 94-247), no compensation received by a resident which qualifies as compensation paid in this State as determined under IITA Section 304(a)(2)(B) shall be considered income subject to tax by another state or states.*

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- A) Under IITA Section 203(a), base income of an individual is computed without allowing the standard deduction allowed in computing federal taxable income, and without allowing the exemptions provided in IITA Section 204. Double-taxed income is therefore computed without reduction for any standard deductions or exemptions allowed by the state.
- B) An item of income is not included in double-taxed income to the extent it is excluded or deducted in computing the tax for which the credit is claimed. For example, State X allows a deduction or exclusion equal to 60% of long-term capital gains and for 100% of winnings from the State X lottery. Only 40% of long-term capital gains is subject to tax in that state. Similarly, an individual subject to the Washington, D.C. unincorporated business tax is allowed to deduct from taxable income a reasonable allowance for compensation for personal services rendered. This deduction is in fact an exclusion for the "personal income" of the individual, which Congress has forbidden Washington, D.C. to tax except in the case of residents. Accordingly, double-taxed income is net of this deduction.
- C) An item of income that is excluded, subtracted or deducted in the computation of base income under IITA Section 203 cannot be included in double-taxed income. For example, IITA Section 203(a)(2)(L) allows a subtraction for federally-taxed Social Security and Railroad Retirement benefits, while dividends received from a Subchapter S corporation are excluded from federal gross income and therefore from base income. Accordingly, even if another state taxes such benefits or dividends, these amounts are not included in double-taxed income.
- D) An item of expense is deducted or subtracted in computing double-taxed income only to the extent that item is deducted or subtracted in computing the tax base in the other state and in computing base income under IITA Section 203. For example, State Y allows deductions for federal itemized deductions and for individual federal income taxes paid. No deduction for federal income taxes is allowed in computing base income under IITA Section 203, and

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so that deduction is not taken into account in computing base income subject to tax in State Y. Also, IITA Section 203(a) generally does not allow a deduction for federal itemized deductions, and so federal itemized deductions are generally not taken into account in computing base income subject to tax in State Y. However, IITA Section 203(a)(2)(V) allows self-employed individuals a subtraction modification for health insurance premiums, which can be taken as an itemized deduction in computing federal taxable income. Accordingly, in the case of a self-employed individual eligible for the Illinois subtraction, any itemized deduction for health insurance premiums taken into account in computing the State Y tax base is also taken into account in computing double-taxed income.

- E) For taxable years beginning prior to January 1, 2006, compensation paid in Illinois under IITA Section 304(a)(2)(B), as further explained in Section 100.3120 of this Part, is not included in double-taxed income, even if another state taxes such compensation. For example, an Illinois resident whose base of operations is in Illinois, but whose employment requires him or her to work in Illinois and for a substantial period of time in State Z, must treat all compensation from such employment as paid in Illinois under IITA Section 304(a)(2)(B)(iii). None of that compensation may be included in double-taxed income, even if State Z actually taxes the compensation earned for periods during which the resident was working in State Z. Public Act 94-247 (effective January 1, 2006) repealed the provision in IITA Section 601(b)(3) that stated compensation paid in Illinois may not be included in double-taxed income, and so compensation paid in Illinois may be included in double-taxed income in taxable years beginning on or after January 1, 2006.
- F) Some states impose an alternative minimum tax similar to the tax imposed by IRC section 55, under which a taxpayer computes a regular taxable income and also computes an alternative minimum taxable income by reducing some exclusions or deductions, and eliminating other exclusions and deductions entirely. The taxpayer applies different rate structures to regular taxable income and to alternative minimum taxable income, and is liable for the higher of

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the two taxes so computed. An item of income included in a state's alternative minimum taxable income but not in the regular taxable income of that state is not included in base income subject to tax in that state unless the taxpayer is actually liable for alternative minimum tax in that state. For example, a state allows a 60% capital gains exclusion for regular tax purposes, but includes 100% of the capital gains in its alternative minimum taxable income. If a taxpayer incurs alternative minimum tax liability in that state, 100% of the capital gains is included in double-taxed income. If only regular tax liability is incurred, only 40% of capital gains is included in double-taxed income.

- G) Some states compute the tax liability of a nonresident by first computing the tax on all income of the nonresident from whatever source derived, and then multiplying the resulting amount by a percentage equal to in-state sources of income divided by total sources of income or by allowing a credit based on the percentage of total income from sources outside the state. Other states determine the tax base of a nonresident by computing the tax base as if the person were a resident and multiplying the result by the percentage equal to in-state sources of income divided by total sources of income. The use of either of these methods of computing tax does not mean that income from all sources is included in double-taxed income. See *Comptroller of the Treasury v. Hickey*, 114 Md. App. 388, 689 A.2d 1316 (1997); *Chin v. Director, Division of Taxation*, 14 N.J. Tax 304 (T.C. N.J. 1994). When a state uses either of these methods of computation, double-taxed income shall be the base income of the taxpayer from all sources subject to tax in that state, as computed in accordance with the rest of this subsection (b)(4), multiplied by the percentage of income from sources in that state, as computed under that state's law; provided, however, that no compensation paid in Illinois under IITA Section 304(a)(2)(B) shall be treated as income from sources in that state in computing such percentage in any taxable year beginning prior to January 1, 2006.

EXAMPLE 1: Individual, an Illinois resident, has federal adjusted gross income of \$80,000 in Year 1, comprised of \$75,000 in wages, \$1,000 in taxable interest and \$4,000 in net rental income. Taxable interest includes

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\$200 in interest on federal government obligations and excludes \$500 in municipal bond interest. The rental income is from property in State X. Individual is subject to \$6,000 in federal income tax in Year 1. Individual's Illinois base income is \$80,300: his \$80,000 in adjusted gross income, plus \$500 in municipal bond interest, minus \$200 in federal government obligation interest.

State X computes Individual's income subject to its tax by starting with the \$4,000 in net rental income included in his federal adjusted gross income, and requiring him to add back \$3,000 in depreciation allowed on his rental property under IRC Section 168 in excess of straight-line depreciation, and subtracting the portion of his federal income tax liability allocable to his State X income. State X also allows Individual an exemption of \$1,000.

Double-taxed income in this case is \$7,000: the \$4,000 in net rental income plus the \$3,000 addition modification for excess depreciation. The \$3,000 addition modification for excess depreciation is a deduction allowed by Illinois but not by State X, and only the amount of depreciation deductible in both states is taken into account. The subtraction for federal income tax and the exemption are not taken into account in computing base income under IITA Section 203(a), and therefore are not taken into account in computing double-taxed income.

**EXAMPLE 2.** Assume the same facts as in Example 1, except that State X requires Individual to compute income tax as if he were a resident of State X, and then multiply the result by a fraction equal to his federal adjusted gross income from State X sources divided by total federal adjusted gross income. Under this method, Individual has State X taxable income of \$76,300 (\$80,000 in federal adjusted gross income, plus \$500 in municipal bond interest and \$3,000 in excess depreciation, minus \$200 in federal government obligation interest, \$6,000 in federal income taxes, and the \$1,000 exemption). The fraction actually taxed by State X is 5% (the \$4,000 in rental income divided by \$80,000 in federal adjusted gross income).

Under subsection (b)(4)(G), double-taxed income is \$4,165, computed as follows. First, State X taxable income is computed using only those items of income and deduction taken into account by both State X and Illinois.

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Accordingly, the \$6,000 in federal income taxes and the \$1,000 exemption are not taken into account. The State X taxable income so computed is \$83,300 (\$80,000 federal adjusted gross income plus \$3,000 in excess depreciation and \$500 in municipal bond interest minus \$200 in federal government obligation interest). Multiplying that amount by the 5% fraction used by State X yields double-taxed income of \$4,165.

EXAMPLE 3: Assume the same facts as in Example 2, except that State X deems \$10,000 of Individual's wages to be earned in State X. Under IITA Section 304(a)(2)(B)(iii), all of Individual's wages are considered "compensation paid in this State", even though Individual performs services in State X, because Individual's base of operations is in Illinois. Accordingly, Individual's State X taxable income is \$76,300, just as in Example 2, but his fraction allocated to State X is 17.5% (\$10,000 in wages plus \$4,000 in net rental income, the total divided by \$80,000 in federal adjusted gross income).

For taxable years beginning prior to January 1, 2006, Individual's double-taxed income is \$4,165, the same as in Example 2. Because compensation deemed "paid in this State" cannot be treated as double-taxed income, the State X fraction must be computed under subsection (b)(4)(G) without treating the \$10,000 in wages as allocable to State X. Accordingly, double-taxed income is the \$83,300 total of all items taxed by both states minus deductions allowed by both states, times 5% (the \$4,000 in net rental income divided by the \$80,000 in federal adjusted gross income).

For taxable years beginning on or after January 1, 2006, Individual's double-taxed income is \$14,578, which is the \$83,300 total of all items taxed by both states minus deductions allowed by both states, times 175% (the \$10,000 in wages taxed by both states plus the \$4,000 in net rental income, divided by the \$80,000 in federal adjusted gross income).

- c) Amount of the credit. Subject to limitations described in subsection (d) of this Section, the amount of the credit for a taxable year is the *aggregate amount of tax paid by a resident for the taxable year*. (IITA Section 601(b)(3)) Because the credit is allowed for taxes paid for the taxable year, rather than for taxes paid in or during the taxable year:
- 1) The amount of tax withheld for another state, estimated payments made to

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that state and overpayments from prior years applied against the current liability to that state are not relevant to the computation of the credit.

- 2) Any credit (including a credit for taxes paid to Illinois or another state, but not including a credit that is allowed for an actual payment of tax, such as a credit for income taxes withheld, for estimated taxes paid or for an overpayment of income tax in another taxable year) that is taken into account in determining the amount of tax actually paid or payable to another state shall reduce the amount of credit to which the taxpayer is entitled under this Section. In a case in which the taxpayer claims a transferable credit on the other state's return, the credit shall be treated as an actual payment of tax up to the amount the taxpayer paid for the credit, and only the amount of credit in excess of the amount paid shall reduce the amount of credit to which the taxpayer is entitled under this Section.
- 3) Any increase or decrease in the amount of tax paid to another state for a taxable year, as the result of an audit, claim for refund, or other change, shall increase or decrease the amount of credit for that taxable year, not for the taxable year in which the increase or decrease is paid or credited.
- d) Limitations on the amount of credit allowed for taxable years ending prior to December 31, 2009. *The aggregate credit allowed under IITA Section 601(b)(3) shall not exceed that amount which bears the same ratio to the tax imposed by IITA Section 201(a) and (b) otherwise due as the amount the taxpayer's base income subject to tax both by such other state or states and by this State bears to his total base income subject to tax by this State for the taxable year.* (IITA Section 601(b)(3)) The credit allowed under this Section for taxable years ending prior to December 31, 2009 is therefore the smaller of either the total amount of taxes paid to other states for the year or the product of Illinois income tax otherwise due (before taking into account any Article 2 credit or the foreign tax credit allowed under IITA Section 601(b)(3)) multiplied by a fraction equal to the aggregate amount of the taxpayer's double-taxed income, divided by the taxpayer's Illinois base income.
  - 1) In computing the aggregate amount of the taxpayer's double-taxed income, any item of income or deduction taken into account in more than one state shall be taken into account only once. For example, an individual subject to tax on his or her compensation by both State X and by a city in State X shall include the amount of such compensation only once in computing the

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aggregate amount of double-taxed income.

- 2) Because base income subject to tax both in another state and in Illinois cannot exceed 100% of base income, the credit cannot exceed 100% of the tax otherwise due under IITA Section 201(a) and (b).
  - 3) No carryover of any amount in excess of this limitation is allowed by the IITA.
- e) Limitations on the amount of credit allowed for taxable years ending on or after December 31, 2009. The credit allowed under IITA Section 601(b)(3) for tax paid to other states shall not exceed that amount which bears the same ratio to the tax imposed by IITA Section 201(a) and (b) otherwise due under the IITA as the amount of the taxpayer's base income that would be allocated or apportioned to other states if all other states had adopted the provisions in Article 3 of the IITA bears to the taxpayer's total base income subject to tax by this State for the taxable year. (IITA Section 601(b)(3)) The credit allowed under this Section for taxable years ending on or after December 31, 2009 is therefore the smaller of either the total amount of taxes paid to other states for the year or the product of Illinois income tax otherwise due (before taking into account any Article 2 credit or the foreign tax credit allowed under IITA Section 601(b)(3)) multiplied by a fraction equal to the amount of the taxpayer's base income that is sourced outside Illinois using the allocation and apportionment provisions of Article 3 of the IITA, divided by the taxpayer's Illinois base income.

EXAMPLE 4: Individual is an Illinois resident whose only income is employee compensation. Individual's employment requires him or her to spend a substantial amount of time each year working in other states, but Individual's base of operations under IITA Section 304(a)(2)(B) is in Illinois. Because all of Individual's base income is employee compensation that is sourced to Illinois under IITA Section 304(a)(2)(B), the limitation under this subsection on Individual's credit for taxes paid to other states will be zero, even if some or all of the employee compensation is actually taxed by another state.

EXAMPLE 5: Individual is an Illinois resident whose only income is employee compensation. Individual's employment requires him or her to spend a substantial amount of time each year working in several states, but Individual's base of operations under IITA Section 304(a)(2)(B) is in a state that imposes no personal income tax. Because all of Individual's base income is employee compensation

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that is sourced outside Illinois under IITA Section 304(a)(2)(B), his or her credit for taxes paid to other states may offset 100% of his or her Illinois income tax liability, even if some of his or her employee compensation is not actually taxed by another state.

EXAMPLE 6: Individual is an Illinois resident partner in a partnership engaged in multistate business activities, and his or her only income is business income derived from the partnership. The partnership apportions 25% of its business income to Illinois under IITA Section 304(a). Individual's credit may offset 75% of his or her Illinois income tax liability, regardless of how much of his or her income from the partnership is actually taxed by other states.

- fe) Disallowance of credit for taxes deducted in computing base income. *The credit provided by IITA Section 601(b)(3) shall not be allowed if any creditable tax was deducted in determining base income for the taxable year.* (IITA Section 601(b)(3)) A trust that has deducted the amount of a state tax imposed upon or measured by net income may include such tax in the computation of the credit allowed under this Section, but IITA Section 203(c)(2)(F) requires that trust to add back to its federal taxable income *an amount equal to the tax deducted pursuant to IRC section 164 of the Internal Revenue Code if the trust or estate is claiming the same tax for purposes of the Illinois foreign tax credit.* The amount that must be added back for a taxable year shall be the amount of tax deducted for such year on the trust's federal income tax return. Because no similar provision is made for individuals, an individual who has deducted taxes paid to another state in computing his or her federal adjusted gross income may not claim a credit for such taxes on his or her Illinois tax return.
- gf) Credit for taxes paid on behalf of the taxpayer. An Illinois resident individual who is a shareholder or partner claiming a foreign tax credit for the shareholder's or partner's share of personal income taxes paid to a foreign state on his or her behalf by a Subchapter S corporation or a partnership, respectively, must attach to his or her Illinois return a written statement from the Subchapter S corporation or partnership containing the name and federal employee identification number of the Subchapter S corporation or partnership and clearly showing the paid amount of foreign tax attributable to the shareholder or partner, respectively. Additionally, for taxable years ending prior to December 31, 2009, the statement must include the shareholder's or partner's share of the Subchapter S corporation's or partnership's items of income, deduction and exclusion in sufficient detail to allow computation of the amount of base income subject to tax under subsection

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(b)(4) of this Section. Taxes imposed directly on the Subchapter S corporation or the partnership are not eligible for the credit.

hg) Documentation required to support claims for credit. Any person claiming the credit under IITA Section 601(b)(3) *shall attach a statement in support thereof and shall notify the Director of any refund or reductions in the amount of tax claimed as a credit under IITA Section 601(b)(3) all in such manner and at such time as the Department shall by regulations prescribe. For taxable years ending on or after December 31, 2009, the documentation required to be provided with the taxpayer's return in order to support the credit shall be as stated in the forms or instructions. For taxable years ending prior to December 31, 2009, no* credit shall be allowed under this Section for any tax paid to another state nor shall any item of income be included in base income subject to tax in that state except to the extent the amount of such tax and income is evidenced by the following documentation attached to the taxpayer's return (or, in the case of an electronically-filed return, to the taxpayer's Form IL-8453, Illinois Individual Income Tax Electronic Filing Declaration), amended return or claim for refund:

- 1) Unless otherwise provided in this subsection (h)(g), a taxpayer claiming the credit must attach a copy of the tax return filed for taxes paid to the other state or states to the taxpayer's Illinois income tax return, Form IL-8453, amended return or claim for refund.
- 2) If the tax owed to the other state is satisfied by withholding of the tax from payments due to the taxpayer without the necessity of a return filing by the taxpayer, the taxpayer must attach a copy of the statement provided by the payor evidencing the amount of tax withheld and the amount of income subject to withholding.
- 3) A taxpayer claiming a credit for taxes paid by a Subchapter S corporation or partnership on the taxpayer's behalf must attach a copy of the statement provided to the taxpayer by the Subchapter S corporation or partnership pursuant to subsection (g)(f) of this Section, showing the taxpayer's share of the taxes paid and the income of the taxpayer on which the taxes were paid.

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

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- 1) Heading of the Part: Office of the Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies
- 2) Code Citation: 59 Ill. Adm. Code 50
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
50.10	Amendment
50.20	Amendment
50.30	Amendment
50.40	Amendment
50.50	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 1-17 of the Department of Human Services Act [20 ILCS 1305]
- 5) Effective Date of Rule: September 10, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: March 28, 2014; 38 Ill. Reg. 6999
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Only non-substantive changes were made to this rulemaking.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? Yes

Section Numbers:      Proposed Action:      Illinois Register Citation

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50.40	Amendment	38 Ill. Reg. 18065; August 29, 2014
50.70	Amendment	38 Ill. Reg. 18065; August 29, 2014
50.90	Amendment	38 Ill. Reg. 18065; August 29, 2014
50.100	Amendment	38 Ill. Reg. 18065; August 29, 2014

15) Summary and Purpose of Rulemaking: This rulemaking is necessary to make several updates and to add clarifying language about who can be present during an investigatory interview.

16) Information and questions regarding this adopted rule shall be directed to:

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

217/785-9772

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

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TITLE 59: MENTAL HEALTH  
CHAPTER I: DEPARTMENT OF HUMAN SERVICESPART 50  
OFFICE OF INSPECTOR GENERAL  
INVESTIGATIONS OF ALLEGED ABUSE OR NEGLECT IN  
STATE-OPERATED FACILITIES AND COMMUNITY AGENCIES

## Section

50.10	Definitions
50.20	Reporting an Allegation of Abuse, Neglect, or Financial Exploitation and Death Reports
50.30	Responsibilities of OIG for Intake Assessment
50.40	Method of Investigation
50.50	Conducting Investigations
50.60	Processing Investigative Reports, Reconsideration and Clarification Request Requirements, and the Contents of Case Files
50.70	Completed Investigations
50.80	Written Responses
50.90	Reporting by the Inspector General to the Illinois Department of Public Health Health Care Worker Registry
50.100	Removal of an Employee's Name and Finding from the Illinois Department of Public Health Health Care Worker Registry

**AUTHORITY:** Implementing and authorized by Section 1-17 of the Department of Human Services Act [20 ILCS 1305].

**SOURCE:** Adopted at 22 Ill. Reg. 19334, effective October 19, 1998; emergency amendment at 23 Ill. Reg. 4513, effective April 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 10812, effective August 23, 1999; emergency amendment at 26 Ill. Reg. 484, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8352, effective May 24, 2002; amended at 32 Ill. Reg. 8132, effective May 16, 2008; emergency amendment at 33 Ill. Reg. 13489, effective September 10, 2009, for a maximum of 150 days; emergency expired February 6, 2010; amended at 34 Ill. Reg. 5239, effective March 25, 2010; emergency amendment at 38 Ill. Reg. 18242, effective August 13, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 19152, effective September 10, 2014.

**Section 50.10 Definitions**

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For the purposes of this Part, the following terms are defined:

"Abuse". See definitions for physical abuse, sexual abuse, mental abuse and financial exploitation.

"Access". Admission to a community agency or facility for the purpose of conducting imminent risk assessments, conducting investigations, monitoring compliance with a written response, or completing any other statutorily assigned duty, such as annual unannounced site visits, including but not limited to conducting interviews and obtaining and reviewing any documents or records that [the Office of Inspector General \(OIG\)](#) believes to be pertinent to an investigation.

"Act". The Department of Human Services Act [20 ILCS 1305].

"Administrative action". Measures taken by the community agency or the facility as a result of the findings or recommendations contained in the investigation that protect individuals from abuse, neglect or financial exploitation, prevent recurrences, and eliminate problems.

"Agency". See the definition for community agency.

"Aggravating circumstance". A factor that is attendant to a finding and that tends to compound or increase the culpability of the accused [employee/facility/agency](#).

"Allegation". An assertion, complaint, suspicion or incident involving any of the following conduct by an employee, facility or agency against an individual or individuals: mental abuse, physical abuse, sexual abuse, neglect or financial exploitation.

"Authorized representative". The administrative head or executive director of a community agency appointed by the community agency's governing body with overall responsibility for fiscal and programmatic management, or the facility director or hospital administrator of a Department facility. If this person is implicated in an investigation, the governing body of the community agency or the Secretary of the Department shall be deemed the authorized representative for that investigation.

"Bodily harm". Any injury, damage or impairment to an individual's physical

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condition, or making physical contact of an insulting or provoking nature with an individual.

"Community agency" or "agency". A community agency licensed, funded or certified by the Department, but not licensed or certified by any other human services agency of the State, to provide mental health service or developmental disabilities service, or a program licensed, funded or certified by the Department, but not licensed or certified by any other human services agency of the State, to provide mental health service or developmental disability service.

"Complainant". The person who reports a death or an allegation of abuse, neglect or financial exploitation directly to OIG and is not the required reporter.

"Complaint". A report of a death or an allegation of abuse, neglect or financial exploitation reported directly to the OIG Hotline.

"Credible evidence". Any evidence that relates to the allegation or incident and that is considered believable and reliable.

"Day". Working day, unless otherwise specified.

"Deflection". A situation in which an individual is presented for admission to a facility or agency and the facility staff or agency staff do not admit that individual. Deflection includes triage, redirection and denial of admission.

"Department". The Department of Human Services.

"Egregious neglect". A finding of neglect as determined by the Inspector General that represents a gross failure to adequately provide for, or a callous indifference to, the health, safety or medical needs of an individual and results in an individual's death or other serious deterioration of an individual's physical condition or mental condition.

"Employee". Any person who provides services at the facility or the community agency on or off site. The service relationship can be with the individual, the facility or agency. Also, "employee" includes any employee or contractual agent of the Department of Human Services or the community agency involved in providing or monitoring or administering mental health or developmental disability services. This includes but is not limited to: owners, operators, payroll

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personnel, contractors, subcontractors and volunteers. For purposes of this Part, employee also includes someone who is no longer working for an agency or facility, but is the subject of an ongoing investigation for which OIG has jurisdiction.

"Facility" or "State-operated facility". A mental health facility or developmental disabilities center operated by the Department.

"Final report". A completed investigative report approved by the Inspector General that summarizes the evidence and that indicates whether the allegation of abuse, neglect or financial exploitation is substantiated, unsubstantiated or unfounded based on the evidence gathered from the investigation, when the reconsideration and response period has expired.

"Financial exploitation". Taking unjust advantage of an individual's assets, property or financial resources through deception, intimidation or conversion for the employee's, facility's or agency's own advantage or benefit.

"Finding". The Office of Inspector General's determination regarding whether an allegation is substantiated, unsubstantiated or unfounded.

"Health Care Worker Registry" or "Registry". The Health Care Worker Registry created by the Nursing Home Care Act [\[210 ILCS 45\]](#).

"Imminent danger". A preliminary determination of immediate, threatened or impending risk of illness, mental injury, or physical injury or deterioration to an individual's health that requires immediate action.

"Individual". Any person receiving mental health services, developmental disabilities services, or both from a facility or agency, while either on-site or off-site.

"Insulting or provoking". Contact that offends a reasonable sense of personal dignity.

"Medical treatment". Any treatment, other than diagnostic procedures, that may only be ordered or rendered to an individual by a physician or dentist regarding an injury.

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"Mental abuse". The use of demeaning, intimidating or threatening words, signs, gestures or other actions by an employee about an individual and in the presence of an individual or individuals that results in emotional distress or maladaptive behavior, or could have resulted in emotional distress or maladaptive behavior, for any individual present.

"Mitigating circumstance". A condition that is attendant to a finding and does not excuse or justify the conduct in question, but may be considered in evaluating the severity of the conduct, the culpability of the accused, or both the severity of the conduct and the culpability of the accused [employee/facility/agency](#).

"Neglect". An employee's, agency's or facility's failure to provide adequate medical care, personal care or maintenance, and that, as a consequence, causes an individual pain, injury or emotional distress, results in either an individual's maladaptive behavior or the deterioration of an individual's physical condition or mental condition, or places an individual's health or safety at substantial risk of possible injury, harm or death.

"Non-accidental". Occurring with volition or consciousness; not occurring by chance.

"OIG". The Office of Inspector General of the Department.

"Physical abuse". An employee's non-accidental and inappropriate contact with an individual that causes bodily harm. "Physical abuse" includes actions that cause bodily harm as a result of an employee/[facility/agency](#) directing an individual or person to physically abuse another individual.

"Preponderance of the evidence". Proof sufficient to persuade the finder of fact that a fact sought to be proved is more likely true than not true.

"Recommendation". Means an admonition [rendered by OIG](#), separate from a finding, that requires action by the facility, agency or Department to correct a systemic issue, problem or deficiency identified during an investigation.

"Required reporter". Any employee/[facility/agency](#) who suspects, witnesses, or is informed of an allegation of any one or more of the following: mental abuse, physical abuse, sexual abuse, neglect or financial exploitation.

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"Routine programmatic." Refers to services provided as part of the individual's habilitation plan, treatment plan or as a regular or ongoing component of the community agency's or facility's general services or practices.

"Secretary". The Chief Administrative Officer of the Department.

"Sexual abuse". Any sexual behavior, sexual contact or intimate physical contact between an employee and an individual, including an employee's coercion or encouragement of an individual to engage in sexual activity that results in sexual contact, intimate physical contact, sexual behavior or intimate physical behavior.

"Sexual contact". Inappropriate sexual contact between an employee and an individual involving either an employee's genital area, anus, buttocks or breasts or an individual's genital area, anus, buttocks or breasts. Sexual contact also includes sexual contact between individuals that is coerced or encouraged by an employee.

"Substantiated". There is a preponderance of the evidence to verify the substance of the allegation.

"Unfounded". There is no credible evidence to verify the substance of the allegation.

"Unsubstantiated". There is credible evidence, but less than a preponderance of evidence to verify the substance of the allegation.

"Victim". An individual who has been subjected to alleged abuse, neglect or financial exploitation.

(Source: Amended at 38 Ill. Reg. 19152, effective September 10, 2014)

**Section 50.20 Reporting an Allegation of Abuse, Neglect, or Financial Exploitation and Death Reports**

- a) Reporting – by a facility, community agency or employee
  - 1) If an employee witnesses, is told of, or suspects an incident of physical abuse, sexual abuse, mental abuse, financial exploitation, neglect or a death has occurred, the employee, community agency or facility shall

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report the allegation to the OIG hotline according to the community agency's or facility's procedures. The employee, community agency or facility shall report the allegation immediately, but no later than the time frames specified in subsections (a)(2) and (3) ~~of this Section~~. Such an employee or representative of a community agency or facility shall be deemed the "required reporter" for purposes of this Part. Such reporting ~~shall~~ additionally meet any requirements of 59 Ill. Adm. Code 115, 119 and 132 and Department administrative directives, as applicable.

- 2) Within four hours after the initial discovery of an incident of alleged physical abuse, sexual abuse, mental abuse, financial exploitation or neglect, the required reporter shall report the following allegations by phone to the OIG hotline:
  - A) Any allegation of physical, sexual or mental abuse by an employee;
  - B) Any allegation of neglect by an employee, community agency or facility;
  - C) Any allegation of financial exploitation by an employee, community agency or facility; and
  - D) Any injury or death of an individual that occurs within a facility or community agency program when abuse or neglect may be suspected.
  - E) At a minimum, required reporters to the OIG hotline shall provide details concerning:
    - i) Information about the victim, including name, date of birth, sex, disability, identification number and/or social security number (if known);
    - ii) Information about the incident, including what happened, when it happened, where it happened, how it happened and the identification of all witnesses;
    - iii) Information about the accused employee (if known),

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including name, contact information and if the accused [employee/facility/agency](#) is presently working with or will be working with the ~~alleged~~-victim; and

- iv) Information about the person initiating the complaint, including name, contact information, relationship to the victim and the need for anonymity (if applicable).
- 3) Written documentation of deaths from the required reporter  
Within 24 hours after initial discovery, the required reporter shall call the OIG hotline and report (as described in Section 50.30):
    - A) Any death occurring within 14 calendar days after discharge or transfer of an individual from a residential program or facility;
    - B) Any death of an individual occurring within 24 hours after deflection from a residential program or facility;
    - C) Any other death of an individual occurring within a residential program or facility or at any Department-funded site even though not alleged to be a result of abuse or neglect.
  - 4) ~~Screening of reports prohibited by community agency or facility~~  
Screening, delaying or withholding reports of incidents or allegations of abuse or neglect from OIG is strictly prohibited [by community agencies or facilities. Failure to report incidents or allegations of abuse or neglect to OIG within the required timeframe is a Class A misdemeanor \(see 20 ILCS 1305/1-17\(k\)\(1\)\).](#)
  - 5) Retaliation  
It is a violation of Sections 1-17(k)(3) of the Act for any employee or administrator of an agency or facility to take retaliatory action against an employee who acts in good faith in conformance with his or her duties as a required reporter.
  - 6) Other community agency and facility requirements
    - A) Reporting to OIG shall not relieve the community agency or facility from any statutory or regulatory reporting requirements

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applicable to the community agency or facility.

- B) If the authorized representative or his or her designee reviews the agency's or facility's form or any other internal document regarding an allegation of alleged abuse, or neglect of, or the death of, an individual at the respective community agency or facility, he/she shall not delete, delay, withhold, limit or otherwise restrict any of the information contained in the form. Information may be added by the authorized representative or his or her designee for clarification purposes only. Failure to report incidents or allegations of abuse or neglect within the required timeframe is a Class A misdemeanor (see 20 ILCS 1305/1-17(k)(1)).

b) **OIG hotline**

The OIG hotline (#1-800-368-1463) shall be communicated to individuals and guardians at the time of admission and the number shall be posted in plain sight at each community agency and facility location where individuals receive services.

c) **Other reports of allegations of abuse, neglect and financial exploitation**

- 1) Any other person, individual, family member, guardian or advocate who witnesses, is told of or suspects an incident of alleged abuse, neglect, financial exploitation or a death of an individual may have occurred, may report the incident to OIG by telephoning the OIG hotline, or in writing by fax or other electronic reporting system offered by OIG to the OIG hotlineIntake or mail at:

Department of Human Services

Office of Inspector General

901 Southwind Road

Springfield, Illinois 62703

2) **Notifications**

- A) Within 3 days after receipt of an allegation, OIG shall notify the authorized representative of the community agency or facility or his or her designee ~~within 3 days~~ that an allegation has been received unless such notification compromises the integrity of the investigation, such as, an allegation involving the authorized

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representative or his or her designee.

- B) Within 24 hours after notification of an allegation, the~~The~~ authorized representative of the community agency or facility shall notify the victim or guardian (if applicable) and the accused employee that an allegation has been received ~~within 24 hours~~. If the authorized representative or designee is unable to reach the guardian by phone, a letter of notification shall be sent within 24 hours.
- C) Immediately, but no later than within 3 days after receipt of an allegation, ~~immediately but no later than within 3 days regarding the allegation.~~ OIG shall also contact the complainant regarding the allegation.
- d) Training and technical assistance/Other requirements
- 1) Agencies and facilities shall have a policy detailing procedures for reporting allegations of abuse, neglect, financial exploitation and deaths as set forth in Sections 50.10 and 50.20.
  - 2) All employees, as defined in Section 50.10, shall be trained in Part 50 requirements upon being hired and at least biennially thereafter.
  - 3) Any person, community agency, or facility may request training or technical assistance from OIG in identifying, reporting, investigating and preventing abuse, neglect, financial exploitation, reporting of deaths, or participation in applicable OIG-sponsored training as referenced in Section 1-17(h) of the Act.
- e) Misleading reports  
Nothing in this Part protects persons who knowingly make misleading reports to harass or compromise community agency or facility effectiveness from action available to either the community agency or facility. Nothing in this Part prohibits OIG, other enforcement authorities, or any employee jeopardized by such reporting from obtaining allowable remedies.

(Source: Amended at 38 Ill. Reg. 19152, effective September 10, 2014)

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**Section 50.30 Responsibilities of OIG for Intake Assessment**

- a) Availability of OIG  
OIG shall be available 24 hours a day to assess reports of allegations of abuse, neglect or financial exploitation of, or the death of, an individual and provide any technical assistance with making the report.
- b) Responsibility of OIG for receiving the report  
OIG staff receiving the report of the allegation are responsible for assessing, based on the information received at intake, whether the allegation could constitute abuse, neglect, or financial exploitation and whether OIG has the authority to investigate in accordance with the Act. OIG shall make these assessments within one day after receiving the report.
- c) Reports involving routine programmatic, licensure or certification matters
  - 1) OIG shall have no supervision over or involvement in routine, programmatic, licensure or certification operations of the Department, the Bureau of Accreditation, Licensure and Certification, or any of the Department's funded agencies. (Section 1-17(a) of the Act)
  - 2) If the reported allegation relates to licensure or certification standards or routine programmatic operations and is deemed not to be abuse, neglect or financial exploitation, OIG shall refer the allegation to the appropriate agency or unit of government.
  - 3) If the reported allegation is not within OIG's authority or does not constitute abuse, neglect or financial exploitation, OIG shall refer the complainant to the appropriate agency or unit of government.
- d) Investigations by two or more State agencies  
When two or more State agencies could investigate an allegation of abuse or neglect at a community agency or facility, OIG shall not conduct an investigation that is redundant to an investigation conducted by another State agency (Section 1-17(a) of the Act) unless another State agency has requested that OIG participate in the investigation (such as the Departments of State Police, Children and Family Services, or Public Health).
- e) Referral to the Department of State Police/Local Law Enforcement

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The Inspector General shall, within 24 hours after determining that there is credible evidence indicating that a criminal act may have been committed in connection with an allegation of abuse, neglect, financial exploitation or death of an individual served by a facility or agency, or that law enforcement expertise is required, refer those allegations to the Department of State Police or ensure that notification is made to the respective local law enforcement entity for investigation in accordance with Section 1-17(1) of the Act.

- f) Authorized representative  
If the allegation of abuse, neglect or financial exploitation is within the jurisdiction of OIG, the authorized representative or his or her designee of a community agency or facility shall:
- 1) Ensure the immediate health and safety of involved individuals and employees, including ordering medical examinations and healthcare, when applicable, and immediately contacting victim services, when applicable (a listing of victim services is available by contacting the OIG hotline); and
  - 2) Remove ~~alleged~~ accused employees from having contact with individuals at the facility or agency when there is credible evidence supporting the allegation of abuse, pending the outcome of any further investigation, prosecution or disciplinary action against the employee ~~{(see 405 ILCS 5/3-210)}~~; and
  - 3) Ensure OIG is notified; and
  - 4) Unless otherwise directed by OIG, initiate the preliminary steps of the investigation by a designated employee who has been trained in the OIG-approved methods to gather evidence and documents and for whom there is no conflict of interest. This may include the need to:
    - A) Secure the scene of the incident and preserve evidence, if applicable;
    - B) Identify, separate potential witnesses, and take statements~~interview~~ when applicable;
    - C) Identify and record the names of all persons at the scene at the time

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of the incident and, when relevant, those who had entered the scene prior to the scene being secured;

- D) Secure all relevant documents and physical evidence, such as clothing, if applicable; [or](#)
  - E) Photograph the scene of the incident and the individual's injury, when applicable.
- g) OIG may determine what further action, if any, is necessary to protect the safety of any individual, secure the scene of the alleged incident, preserve the evidence and maintain the integrity of the investigation. Such action may include immediate emergency referrals (such as medical or housing services), the notification of law enforcement officials, requesting hospital services or contacting the Department or other State agencies for assistance.

(Source: Amended at 38 Ill. Reg. 19152, effective September 10, 2014)

**Section 50.40 Method of Investigation**

- a) Determination of primary responsibility for investigation
  - 1) The Office of Inspector General shall determine whether OIG, or the community agency with [an approved OIG](#)~~OIG's~~ investigative protocol, shall take primary responsibility for investigating the allegation. This determination shall be based on the nature of the allegation, frequency of allegations and complaints of a comparable type and knowledge of the facility or agency.
  - 2) OIG shall determine who shall assume primary responsibility for the investigation within one day after receipt of an allegation.
  - 3) OIG shall notify the authorized representative, the ~~alleged~~-victim or guardian (if applicable) and the accused [employee](#) in writing when an investigation will be opened and to whom the primary responsibility for the investigation will be assigned.
  - 4) OIG shall assume primary responsibility for investigating the following allegations:

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- A) Allegations of physical abuse or sexual abuse by an employee or allegations of financial exploitation over \$300 by an employee, facility or agency;
  - B) Allegations of neglect by an employee that result in an individual's death or other serious deterioration of an individual's physical or mental condition.
- 5) For any other allegation, OIG may designate primary responsibility for the investigation to the community agency on a case-by-case basis using the OIG investigative protocol. If at any time during the course of the investigation, the community agency requests that OIG assume primary responsibility for the investigation, OIG shall do so.
  - 6) When OIG designates primary responsibility for the investigation to the agency, OIG will provide investigative guidance and be available for assistance and shall retain the right to assume primary responsibility for the investigation at any time.
  - 7) If an investigation results in a substantiated finding of physical abuse, sexual abuse or egregious neglect, it shall result in the accused employee's identity and the OIG finding being reported to the Health Care Worker Registry in accordance with Section 50.90.
- b) OIG investigations may include, but are not limited to, site visits, telephone contacts, requests for written statements and responses from the community agency or the facility.
  - c) Nothing in this Part precludes a community agency or facility from taking immediate action that may include protecting the individuals from danger or harm, notifying appropriate law enforcement officials, or taking any other administrative action deemed necessary by the community agency or facility, unless otherwise directed by OIG. ~~However, the community agency or facility can take initial investigative steps in keeping with the requirements of Section 50.30(f).~~ The agency shall request approval from OIG prior to conducting its own full investigation beyond what is outlined in Section 50.30(f)(4).

(Source: Amended at 38 Ill. Reg. 19152, effective September 10, 2014)

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**Section 50.50 Conducting Investigations**

- a) Depending on the nature of the allegation, an investigation shall consist of, but not be limited to, the following procedures whether done by OIG, the community agency or the facility:
- 1) Ensure that the victim is not in imminent danger;
  - 2) Protect the integrity of the investigation at all times;
  - 3) Secure the scene of the incident;
  - 4) Identify and separate witnesses;
  - 5) Preserve and secure all evidence;
  - 6) Obtain statements from persons involved, including victims, accused employees, alleged perpetrators, and witnesses by face-to-face interviews, in writing, or by telephone; and
  - 7) Obtain copies of pertinent documents relating to the investigation, i.e., progress notes, incident or injury reports, patient or resident records, photographs, etc.
- b) **Confidentiality**  
Any allegations or investigations of reports of abuse, neglect and financial exploitation shall remain confidential until a final report is completed (Section 1-17(m) of the Act). The identity of any person as a complainant shall remain confidential in accordance with the Freedom of Information Act [5 ILCS 140] or unless identification is authorized by the complainant. Information concerning diagnosis and treatment for alcohol or drug abuse shall be disclosed to OIG by community agencies only in accordance with federal regulations at 42 CFR 2. Information concerning tests for human immunodeficiency virus (HIV) and diagnosis and treatment for acquired immune deficiency syndrome (AIDS) shall be disclosed to OIG by community agencies only in accordance with the AIDS Confidentiality Act [410 ILCS 305]. All personal health related information contained in OIG investigative reports shall remain confidential in accordance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA)

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(P.L. 104-191) (45 CFR 160, 162 and 164).

- c) All investigations shall be conducted in a manner that respects the dignity and human rights of all persons involved.
- d) Representation during interviews: An employee may request representation at an interview with OIG if he or she has reasonable grounds to believe that the interview may be used to support disciplinary action against him or her. If the investigator denies the request, the employee's statement may not be used in any subsequent disciplinary proceeding against that employee. No representative of the agency or facility that employs the interviewee may be present at an investigatory interview. ~~The community agency or facility that employs the interviewee does not have the right to be present at an investigative interview.~~ Union representation for AFSCME employees, Council 31 (State-operated facilities), shall be granted in accordance with the applicable union contract.
- e) No person shall interfere with or obstruct an OIG interview or investigation. This is a violation of Section 1-17(i)(2) of the Act.
- f) If the community agency has responsibility for conducting the investigation, OIG shall be available on request to answer questions and provide advice or technical assistance regarding the investigatory process.
- g) OIG shall be granted access, for the purpose of investigating abuse, neglect or financial exploitation, to any facility or program operated, funded, licensed or certified by the Department that is subject to the provisions of Section 1-17 of the Act.
  - 1) When advance notice to an authorized representative or his or her designee is not provided, OIG shall, on arrival at the community agency or facility site, request that an on-duty and on-site employee notify the authorized representative or his or her designee of OIG's arrival.
  - 2) Facilities and community agencies shall obtain and provide OIG with all written statements and any requested documents in a timely manner.
- h) If OIG determines that:
  - 1) An individual's health or safety is in imminent danger, the Inspector

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General shall immediately notify the Secretary or his or her designee and the authorized representative of the community agency or facility or his or her designee.

- 2) There is reason to believe that a violation of an existing Department rule may have occurred, OIG shall notify the authorized representative of the community agency or his or her designee and the appropriate Department office or division.

(Source: Amended at 38 Ill. Reg. 19152, effective September 10, 2014)

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- 1) Heading of the Part: Practice and Procedure for Appeals Before the Property Tax Appeal Board
- 2) Code Citation: 86 Ill. Adm. Code 1910
- 3) 

<u>Section Numbers</u> :	<u>Adopted Action</u> :
1910.5	Amended
1910.12	Amended
1910.20	Amended
1910.25	Amended
1910.30	Amended
1910.31	Amended
1910.40	Amended
1910.50	Amended
1910.55	Amended
1910.60	Amended
1910.64	Amended
1910.66	Amended
1910.69	Amended
1910.70	Amended
1910.75	Amended
1910.80	Amended
1910.88	Amended
1910.90	Amended
1910.95	Amended
- 4) Statutory Authority: 35 ILCS 200/Art.7 and 35 ILCS 200/16-180
- 5) Effective Date of Rule: October 1, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporation by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: January 10, 2014; 38 Ill. Reg. 788

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- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: The major difference is that the Property Tax Appeal Board deleted the proposed rules pertaining to the electronic filing of appeals and evidence as set forth in Sections 1910.35, 1910.41 and 1910.61. Sections 1910.35, 1910.41 and 1910.61 were removed from the rulemaking because at the present time the Property Tax Appeal Board is not yet able to receive appeals electronically and is in the process of developing the software/programming and obtaining the necessary hardware to do so. The Property Tax Appeal Board deleted changes to Section 1910.25(b) so that documents submitted by either the United States mail or a third party commercial carrier would both be considered filed on the date sent as evidenced by either the postmark date or the date on the tracking label. In Section 1910.60(d)(2), the Property Tax Appeal Board reinserted the requirement that a request to intervene be accompanied by a copy of the resolution of the governing board of a taxing body authorizing the request to intervene. Section 1910.35 was removed and restored to its original Section number 1910.31.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The rulemaking updated the section 1910.5 to be more reflective of language contained the Property Tax Code. The rulemaking also made significant changes to the Freedom of Information Procedures so as to better implement the provisions of the Freedom of Information Act. The other significant changes were in section 1910.30 clarifying the appeal application procedure, section 1910.60(c) reducing the amount of time an owner or taxpayer may intervene from 60 days to 30 days and to section 1910.88 limiting the use of facsimile machines.
- 16) Information and questions regarding this adopted rule shall be directed to:

Louis G. Apostol, JD, CAE  
Executive Director  
Property Tax Appeal Board  
Stratton Office Building, Room 402  
401 S. Spring Street

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Springfield IL 62706

217/785-4456 or 847/294-4399

fax: 217/7854425

email: [louis.apostol@illinois.gov](mailto:louis.apostol@illinois.gov)

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

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TITLE 86: REVENUE  
CHAPTER II: PROPERTY TAX APPEAL BOARDPART 1910  
PRACTICE AND PROCEDURE FOR APPEALS  
BEFORE THE PROPERTY TAX APPEAL BOARD

## Section

1910.5	Construction and Definitions
1910.10	Statement of Policy
1910.11	Rules of Order (Repealed)
1910.12	Meetings of the Board
1910.20	Board Information – Correspondence
1910.25	Computing Time Limits
1910.30	Petitions – <a href="#">Application Paper</a> <del>Application</del>
1910.31	Amendments
1910.40	Board of Review Response to Petition – <a href="#">Application Paper</a> <del>Application</del>
1910.50	Determination of Appealed Assessment
1910.55	Stipulations
1910.60	Interested Parties – Intervention <a href="#">Paper</a>
1910.63	Burdens of Proof
1910.64	Motion Practice – Service of Papers
1910.65	Documentary Evidence
1910.66	Rebuttal Evidence – <a href="#">Paper</a>
1910.67	Hearings
1910.68	Subpoenas
1910.69	Sanctions
1910.70	Representation at Hearings
1910.71	Ex Parte Communications
1910.72	Informal Settlement Conference
1910.73	Pre-hearing Conference – Formal Settlement Conference
1910.74	Administrative Review
1910.75	Access to Board Records – Freedom of Information Procedures
1910.76	Board Publications – Distribution
1910.77	Withdrawals and Substitutions of Attorneys
1910.78	Consolidation of Appeals
1910.79	Policy on Discovery
1910.80	Forms
1910.88	Use of Facsimile Machines

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1910.90	Procedural Hearing Rules
1910.91	Business Records (Repealed)
1910.92	Rules of Pleading, Practice and Evidence
1910.93	Request for Witnesses
1910.94	Inspection of Subject Property – Effect of Denial by Taxpayer or Property Owner
1910.95	Service of Documents in Certain Cases
1910.96	Evidence Depositions
1910.98	Transcription of Hearings – Official Record
1910.99	Adoption of Evidence
1910.100	Severability

**AUTHORITY:** Implementing and authorized by Article 7 and Sections 16-180 through 16-195 of the Property Tax Code [35 ILCS 200/Art. 7 and 16-180 through 16-195].

**SOURCE:** Adopted at 4 Ill. Reg. 23, p. 106, effective May 27, 1980; codified at 8 Ill. Reg. 19475; amended at 13 Ill. Reg. 16454, effective January 1, 1990; amended at 21 Ill. Reg. 3706, effective March 6, 1997; amended at 21 Ill. Reg. 11949, effective August 13, 1997; amended at 21 Ill. Reg. 14551, effective October 27, 1997; amended at 22 Ill. Reg. 957, effective December 19, 1997; amended at 22 Ill. Reg. 16533, effective September 2, 1998; amended at 24 Ill. Reg. 1233, effective January 5, 2000; amended at 29 Ill. Reg. 13574, effective August 19, 2005; amended at 29 Ill. Reg. 21046, effective December 16, 2005; amended at 30 Ill. Reg. 1419, effective January 20, 2006; amended at 30 Ill. Reg. 2640, effective February 15, 2006; amended at 30 Ill. Reg. 7965, effective April 14, 2006; amended at 30 Ill. Reg. 10103, effective May 16, 2006; expedited correction at 30 Ill. Reg. 14633, effective May 16, 2006; amended at 30 Ill. Reg. 12280, effective June 30, 2006; amended at 30 Ill. Reg. 14148, effective August 11, 2006; amended at 30 Ill. Reg. 16311, effective September 29, 2006; amended at 31 Ill. Reg. 16222, effective November 26, 2007; amended at 32 Ill. Reg. 16864, effective October 1, 2008; amended at 33 Ill. Reg. 7910, effective July 1, 2009; amended at 38 Ill. Reg. 19171, effective October 1, 2014.

**Section 1910.5 Construction and Definitions**

- a) **Standards.** This Part is to be construed in accordance with the appropriate provisions of the Statute on Statutes [5 ILCS 70].
- b) **Definitions.** The following words and phrases, whenever used in this Part, include in their meaning the definitions set below:
  - 1) Board – Property Tax Appeal Board.

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- 2) The Code – Property Tax Code [35 ILCS 200].
- 3) Real Property – *The land itself, with all things contained therein, and also all buildings, structures and improvements, and other permanent fixtures thereon, including all oil, gas, coal and other minerals in the land and the right to remove ~~such~~ oil, gas, and other minerals, excluding coal, from the land, and all rights and privileges belonging or pertaining thereto, except where otherwise specified by the Code. ~~Included therein is any vehicle or similar portable structure used or so constructed as to permit its use as a dwelling place, if the structure is resting in whole on a permanent foundation.~~ (Section 1-130 of the Code)*
- 4) Farm – *When used in connection with valuing land and buildings for an agricultural use, any property used solely for the growing and harvesting of crops; for the feeding, breeding and management of livestock; for dairying or for any other agricultural or horticultural use or combination thereof; including, but not limited to, hay, grain, fruit, truck or vegetable crops, floriculture, mushroom growing, plant or tree nurseries, orchards, forestry, sod farming and greenhouses; the keeping, raising and feeding of livestock or poultry, including dairying, poultry, swine, sheep, beef cattle, ponies or horses, fur farming, bees, fish and wildlife farming. The dwellings and parcels of real property on which farm dwellings are immediately situated shall be assessed as a part of the farm. Improvements, other than farm dwellings, shall be assessed as a part of the farm and in addition to the farm dwellings when such buildings contribute in whole or in part to the operation of the farm. For purposes of this Part, "farm" does not include property which is primarily used for residential purposes even though some farm products may be grown or farm animals bred or fed on the property incidental to its primary use. The ongoing removal of oil, gas, coal or any other mineral from property used for farming shall not cause that property to not be considered as used solely for farming. (Section 1-60 of the Code)*
- 5) Fair Cash Value – The amount for which a property can be sold in the due course of business and trade, not under duress, between a willing buyer and a willing seller. (Section 1-50 of the Code)
- 6) *PIN; Property Index Number; Permanent Index Number; Parcel Index*

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Numbering – *A number used to identify a parcel of property for assessment and taxation purposes. The index number shall constitute a sufficient description of the property to which it has been assigned, wherever a description is required by the Code. "Property Index Number" and "Permanent Index Number" shall be construed to be interchangeable terms.* (Section 1-120 of the Code)

- 7) *Taxing District; Taxing Body* – Any unit of local government, school district or community college district with the power to levy taxes. "Taxing District" and "Taxing Body" shall be construed to be interchangeable terms. (Section 1-150 of the Code)
- 8) Party, Interested Party – Either the contesting party, i.e., the (appellant (owner, taxpayer or taxing district) or, the board of review (appellee), or the intervenors (taxing district, owner or taxpayer).
- 9) Attorney – Any individual admitted to the practice of law in this State as set forth in the Attorney Act [705 ILCS 205].
- 10) Brief – A document that contains a summary of the facts, the pertinent case law and laws, statutes, and an argument on how the laws apply to the facts supporting a particular position.
- 11) Quadrennial Assessment – *The general assessment of real property required by law to be made once every four years.* (Sections 1-65, 9-215, 9-220 and 9-225 of the Code)
- 12) *Triennial Assessment* – *In counties of 3,000,000 or more inhabitants, the general assessment of real property required by law to be made once every three years.* (Section 9-220 of the Code)
- 13) Notice of Decision or Order – A written notice of decision or order of the Property Tax Appeal Board in any appeal may be disseminated to all parties and all other authorities affected thereby by placing same in the U.S. mail with postage fully prepaid or made available by electronic means.
- 14) Certification of Decision or Order – Certification shall be deemed to be the later of:

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- A) the date the decision or order is placed in the U.S. mail with postage fully prepaid to the parties of record; or
- B) the date the decision or order is transferred or made available by electronic means to the proper authorities.

15) Compulsory Sale –

- A) the sale of real estate for less than the amount owed to the mortgage lender or mortgagor, if the lender or mortgagor has agreed to the sale, commonly referred to as a "short sale"; and
- B) the first sale of real estate owned by a financial institution as a result of a judgment of foreclosure, transfer pursuant to a deed in lieu of foreclosure, or consent judgment, occurring after the foreclosure proceeding is complete. (Section 1-23 of the Code)

- c) All references in this Part to property record card shall be deemed to include, as a substitute, a property characteristic printout detailing the property's physical characteristics.
- d) Interpretation. The definitions listed in this Section are intended only as an aid to interpretation of this Part.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.12 Meetings of the Board**

- a) This Section is to be construed and administered in accordance with the appropriate provisions of the Open Meetings Act [5 ILCS 120]. ~~All meetings of the Property Tax Appeal Board are open to the public, except that meetings or portions of meetings may, upon a majority vote of a quorum present, be declared closed, in accordance with Sections 2 and 2a of the Open Meetings Act [5 ILCS 120/2 and 2a].~~
- b) Participation in Meetings: Participation in meetings is limited to the Board members and the Board's staff. The Board may waive this limitation except when

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waiver is inconsistent with the Property Tax Code, the Open Meetings Act, or this Part.

- c) **Public Notice:** The Board shall post, on or before January 1 of each year, its tentative schedule of meetings for that calendar year stating the date, time and place of the meetings. This publication, however, shall not preclude the Board from changing the date of a meeting when necessary to achieve the attendance of the maximum number of Board members, to account for weather emergencies, or other extraordinary circumstances.
- d) **Meeting Agenda and Posting:** The Board shall prepare an agenda for each meeting. The agenda shall constitute notice of the matters to be heard by the Board at that meeting. The agenda for each regular meeting shall be posted at the Board's ~~offices~~[principal office in Springfield](#) and at the location where the meeting is to be held, in an area easily accessible to the public, and at the earliest practicable date, but in no event less than 48 hours prior to the scheduled meeting. Agendas for regular meetings are for information purposes only. Inclusion of an item on the agenda shall not require the Board's consideration.
- e) **Special Meetings:** Special meetings may be called at any time, in conformance with the Open Meetings Act ~~{5 ILCS 120}~~, by the Chair of the Board through the Executive Director.
- f) **Minutes:** Minutes of open Board meetings shall be taken by the Executive Director or an assigned designee and shall be available for public inspection within 7 days after their approval by the members. Minutes shall include the date, time and place of the meeting, the members of the Board recorded as either present or absent, whether members were physically present or present by means of video or audio conference, a summary of discussion on all matters proposed, deliberated or decided, and a record of any votes taken. The Board shall post the minutes of a regular meeting open to the public on the Board's website within 7 days after approval of the minutes by the Board. Any minutes of meetings open to the public posted on the Board's website shall remain posted on the website for at least 60 days after their initial posting. (See Section 2.06 of the Open Meetings Act ~~{5 ILCS 120/2.06}~~.)
- g) **Quorum and Voting:** Three members of the Board shall constitute a quorum for the transaction of business and the affirmative vote of three members is necessary to adopt any final decision, motion, resolution or ordinance. Members attending

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the meeting by physical presence, video or audio conference shall constitute an attendance at a Board meeting. Each member attending a meeting shall have one vote in any matter before the Board. Voting shall be by voice vote and shall be recorded by the Executive Director or an assigned designee.

- h) Attendance by Means Other than Physical Presence:
- 1) Any member of the Board may participate in any meeting of the Board by video or audio conference provided that a quorum of the members of the Board is physically present and a majority of the Board allows the member to attend by video or audio conference, and the member is prevented from attending the meeting because of:
    - A) personal illness or disability;
    - B) employment purposes or the business of the Board; or
    - C) a family or other emergency.
  - 2) If a member wishes to attend a meeting by the means specified in this subsection (h), the member shall notify the Executive Director at least 24 hours before the meeting unless advance notice is impractical.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.20 Board Information – Correspondence**

- a) **Communications**

All communications to the Illinois Property Tax Appeal Board shall be addressed to the Clerk of the Property Tax Appeal Board, 402 William G. Stratton Building, 401 S. Spring Street, Springfield, Illinois 62706-0002, unless otherwise directed. The main telephone number is (217)782-6076. The facsimile number is (217)785-4425. The office of the Clerk of the Property Tax Appeal Board at Springfield, Illinois is the official location of the Board for the filing of papers for all counties.
- b) The regional office of the Illinois Property Tax Appeal Board in Cook County is located at 9511 West Harrison Street, Suite ~~LL-54171~~, Des Plaines, Illinois 60016. The main telephone number is (847)294-4121.

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- c) The website addresses of the Illinois Property Tax Appeal Board are [www.illinois.gov](http://www.illinois.gov)~~state.il.us/agency/ptab~~ and [www.ptabil.com](http://www.ptabil.com).
- d) The official business hours of the Illinois Property Tax Appeal Board are 8:30 a.m. to 5:00 p.m., Monday through Friday, excluding legal holidays for the State of Illinois.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.25 Computing Time Limits**

- a) The time within which any act under ~~this Part~~~~these rules~~ is to be done shall be computed by excluding the first day and including the last. Saturdays, Sundays and legal holidays for the State of Illinois shall be included in computing the time, except that when ~~the such~~ time ~~period~~ expires on a Saturday, Sunday or ~~a~~ legal holiday for the State of Illinois, ~~the timesuch~~ period shall be extended to include the next following business day.
- b) Petitions, evidence, motions, and all other written correspondence sent by United States Mail to the Property Tax Appeal Board shall be considered filed as of the postmark date in accordance with Section 1.25 of the Statute on Statutes [5 ILCS 70/1.25]. Petitions, evidence, motions, and all other written correspondence sent to the Property Tax Appeal Board by a delivery service other than the United States Mail shall be considered as filed with the Property Tax Appeal Board on the date sent as indicated on the tracking label.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.30 Petitions – ~~Application Paper~~Application**

- a) In counties with less than 3,000,000 inhabitants, petitions for appeal shall be filed within 30 days after the ~~postmark date or personal service~~ date of the written notice of the decision of the board of review. In counties with 3,000,000 or more inhabitants, petitions for appeal shall be filed within 30 days after the ~~postmark date or personal service~~ date of the written notice of the decision of the board of review or within 30 days after the date that the board of review transmits to the county assessor pursuant to Section 16-125 its final action on the township in which the property is located, whichever is later. (See Section 16-160 of the

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Code.)

- b) Petitions for appeal shall be filed within 30 days after ~~the postmark date or the date of personal service date of~~ written notice of the application of final adopted township equalization factors by the board of review. Petitions shall be filed for the subsequent year within 30 days after the date of the written notice when the Property Tax Appeal Board rendered a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review, or after adjournment of the session of the board of review at which assessments for the subsequent year are being considered. (See Section 16-185 of the Code.)
- c) The petition for appeal shall be on the prescribed form and a separate petition must be filed for each separately assessed parcel except for contiguous single-owner parcels that constitute a single property and except for condominium buildings or unless a written request is made to the Board for the filing of a single petition for multiple parcels. The request, together with the petition, shall be filed within 30 days after ~~the postmark date or personal service of the~~ written notice of the decision of the board of review or within 30 days after the date that the board of review transmits to the county assessor, pursuant to Section 16-125, its final action on the township in which the property is located, whichever is later. Each petition shall identify and describe the particular property including the PIN ~~or plate number, if any,~~ assigned to the subject parcel by the county. In appeals in which ~~where~~ multiple PIN~~parcels~~ are consolidated into a single petition, the assessed values and the relief requested for each individual PIN~~parcel~~ must be separately listed.
- d) Appeals filed with the Property Tax Appeal Board shall bear ~~an original~~ signature of the contesting party or the contesting party's attorney on at least one petition, and shall be filed with the Clerk of the Property Tax Appeal Board. Corporations, limited liability companies (LLC), partnerships, and other similar entities, and taxing districts shall be represented at all stages before the Property Tax Appeal Board by any person licensed to practice law in the State of Illinois.
- e) Two copies of the written notice of the decision of the board of review must be filed with the petition, if one has been issued. Alternatively, two copies of the decision of the Property Tax Appeal Board reducing the assessment of the subject property for the prior year shall be provided.
- f) Petitions for appeal shall be filed in triplicate and all copies of the same shall be

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properly signed as stated in subsection (d) ~~of this Section~~. In every case in which a change in assessed valuation of less than \$100,000 is sought, all written and documentary evidence must be submitted in duplicate with the petition. In every case ~~in which~~ where a change in assessed valuation of \$100,000 or more is sought, all written and documentary evidence must be submitted in triplicate with the petition. A photograph of the subject property should be submitted with the petition if it aids the contesting party in explaining the appeal.

- g) If the contesting party is unable to submit written or documentary evidence with the petition, the contesting party must submit a written request for ~~letter requesting~~ an extension of time with the petition. Upon receipt of this request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include, but is not limited to, the inability to submit evidence for a cause beyond the control of the contesting party, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the petition is filed. Evidence sent by mail shall be considered as filed on the date postmarked or in accordance with Section 1910.25(b).
- h) Every petition for appeal shall state the facts upon which the contesting party bases an objection to the decision of the board of review, together with a statement of the contentions of law the contesting party desires to raise. ~~Each petition must also set forth the assessment for the subject property the contesting party considers to be correct.~~ If contentions of law are raised, the contesting party shall submit a brief in support of his position with the petition. Extensions of time shall be granted in accordance with subsection (g) ~~of this Section~~. Failure to do so shall result in dismissal of the appeal.
- i) Every petition for appeal shall give the post office address where mail addressed to the contesting party may be received by the contesting party or his or her attorney, together with the contesting party's telephone number. Notice to the contesting party's attorney shall be deemed notice to the contesting party. A contesting party or attorney may provide an e-mail address for receipt of service of proceedings. The Property Tax Appeal Board must be notified in writing or electronically by any party of a change of mailing address or e-mail address within 30 ~~60~~ days after the change.
- j) The petition shall in all cases state the assessed value of the land, and the assessed

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value of the improvements (structures), and the total assessed value as placed on the property ~~by the local assessor and~~ by the board of review. The petition must also state the assessed valuation of the land, and the assessed value of the improvements (structures), and the total assessed value that~~which~~ the contesting party claims to be correct.

- k) All information required to fully complete the petition shall be furnished by the contesting party at the time the petition is filed. Incomplete petitions and/or a letter shall be returned with an explanation of the reasons for the rejection. The contesting party must resubmit the corrected petition within 30 days after the date of the return of the petition. If the returned petition is not resubmitted within the 30 day period, the appeal will be dismissed from consideration by the Board. Petitions that are not properly signed, petitions that do not state the assessed valuation assigned by the ~~local assessor and the~~ board of review, petitions that do not state the assessed valuation considered correct by the contesting party, and petitions not containing all information as required in this Section, shall be treated as incomplete petitions. Written or documentary evidence will be accepted after receipt of a completed petition only when a written request for~~letter requesting~~ an extension of time was filed in accordance with Section 1910.30(g)~~received~~ and granted.
- l) Upon receipt of a completed petition, including the written and documentary evidence from the contesting party, the Clerk of the Property Tax Appeal Board shall send a copy of the petition, including all documentary evidence, to the board of review and shall only forward a copy of the petition to the State's Attorney of the county in which the property is located. The Clerk shall cause the petition to become a part of ~~the~~such appeal proceedings and record.
- m) If the petition for appeal is filed by an interested taxing body, rather than by the owner or taxpayer whose assessment is in question, the taxing body must furnish the name and address of the owner and/or taxpayer of the property in question. A copy of the completed petition shall then be sent to the owner and/or taxpayer of the property by the Clerk of the Property Tax Appeal Board. Any petition filed by an interested taxing body without the name and address of the owner and/or taxpayer of the property in question shall be treated as an incomplete petition in accordance with subsection (k) ~~of this Section~~.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

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**Section 1910.31 Amendments**

- a) After the Property Tax Appeal Board has transmitted an appeal to the board of review and the time period for intervention under Section 1910.60 ~~of this Part~~ has expired, a petition for appeal may be amended to correct any technical defects, except when the amendment would be prejudicial to a party.
- b) The original filing of the petition, and not any subsequent amendment, shall determine whether:
  - 1) review of the Property Tax Appeal Board's final decision is afforded in the circuit court or the Appellate Court as provided in Section 16-195 of the Code; and
  - 2) the board of review shall notify taxing districts of the appeal as required by Section 16-180 of the Code and Section 1910.40(f) ~~of this Part~~.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.40 Board of Review Response to Petition – Application Paper~~Application~~**

- a) Upon receipt of the completed petition from the contesting party, the Clerk of the Property Tax Appeal Board shall notify the board of review of the filing of the appeal. Upon notification of the filing of the appeal, the board of review shall submit its completed Board of Review Notes on Appeal disclosing the final assessment of the subject property. The Board of Review Notes on Appeal shall also reflect the application of a local township equalization factor when multiplier ~~where~~ applicable. The board of review shall also submit a copy of the property record card of the subject property. The property record card should contain, if possible, a schematic drawing of all structural improvements to the land, a completed cost analysis, and an indication of the basis of the land value. The Board of Review Notes on Appeal and all written and documentary evidence supporting the board of review's position must be submitted to the Property Tax Appeal Board within 90 days after the date ~~of the postmark~~ of the notice of the filing of an appeal unless the board of review objects to the jurisdiction of the Property Tax Appeal Board over the assessment appeal. In every case in which a change in assessed valuation of less than \$100,000 is sought, all written and documentary evidence must be submitted in duplicate. In every case in which a change in assessed valuation of \$100,000 or more is sought, all written and

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documentary evidence must be submitted in triplicate.

- b) If the board of review objects to the Board's jurisdiction, it must submit a written request for dismissal of the petition prior to the submission of the Board of Review Notes on Appeal and accompanying documentation. The request for dismissal must set forth the basis of the board of review's objections to the Property Tax Appeal Board's jurisdiction over the appeal. In ~~thesesuch~~ cases, the Property Tax Appeal Board shall transmit a copy of the request for dismissal to the contesting party and secure a written response to the request for dismissal from the contesting party within 30 days after the ~~postmark~~ date of the notice of the filing of the motion to dismiss. A copy of the response shall be transmitted to the board of review. Upon receipt of the request for dismissal and the response, the Property Tax Appeal Board shall issue a ~~rulingdecision~~ determining if it has jurisdiction in the matter.
- c) If the board of review objects to the Board's jurisdiction and the Property Tax Appeal Board subsequently determines that it has jurisdiction over the parties and the subject matter of the appeal, the board of review shall submit its Board of Review Notes on Appeal, the subject's property record card and all written and documentary evidence within 30 days after the Board's ~~rulingdecision~~ determining jurisdiction.
- d) If the board of review is unable to submit the additional written or documentary evidence with the Notes on Appeal, it must submit a letter requesting an extension of time with the Board of Review Notes on Appeal. Upon receipt of the request, the Board shall grant a 30 day extension of time. The Board shall grant additional or longer extensions for good cause shown. Good cause may include, but is not limited to, the inability to submit evidence for a cause beyond the control of the board of review, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the Board of Review Notes on Appeal is filed.
- e) The Clerk shall cause the board of review's evidence to become a part of the appeal proceeding and record and shall send a copy of the evidence to the contesting party or his or her attorney.
- f) Pursuant to Section 16-180 of the Property Tax Code, in every case in which a change in assessed valuation of \$100,000 or more is sought, the board of review

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shall, within 30 days after the receipt of the notice of the filing of an appeal with the Board, serve a copy of the petition on all taxing districts as shown on the last available tax bill. The board of review shall also serve a certificate of service on the Property Tax Appeal Board, within 30 days after the receipt of the notice of the filing of an appeal with the Board, affirming that all taxing districts have been notified of the appeal. The certificate of service shall be signed by a member of the board of review or the clerk of the board of review.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.50 Determination of Appealed Assessment**

- a) All proceedings before the Property Tax Appeal Board shall be considered de novo meaning the Board will consider only the evidence, exhibits and briefs submitted to it, and will not give any weight or consideration to any prior actions by a local board of review or to any submissions not timely filed or not specifically made a part of the record. *The Board shall not be limited to the evidence presented to the board of review of the county. A party participating in the hearing before the Property Tax Appeal Board is entitled to introduce evidence that is otherwise proper and admissible without regard to whether that evidence has previously been introduced at a hearing before the board of review of the county. Each appeal shall be limited to the grounds listed in the petition filed with the Board.* (Section 16-180 of the Code)
- b) The Property Tax Appeal Board may accept into the record all evidence, exhibits and briefs submitted by all interested parties and render a decision without holding a hearing. On its own motion, the Board may order a hearing to be held at a time and place designated by the Board. *A hearing shall be granted if any party to the appeal submits a request in writing.* (Section 16-170 of the Code)
- c) The decisions of the Property Tax Appeal Board will be based on equity and the weight of the evidence.
  - 1) In all counties other than Cook, a three-year county wide assessment level to be based on relevant sales during the previous three years as certified by the Department of Revenue will be considered ~~when~~*where* sufficient probative evidence is presented indicating the estimate of full market value of the subject property on the relevant real property assessment date of January 1.

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- 2) In Cook County, for residential property of six units or less currently designated as Class 2 real estate according to the Cook County Real Property Assessment Classification Ordinance, as amended, ~~when~~where sufficient probative evidence indicating the estimate of full market value of the subject property on the relevant assessment date is presented, the Board may consider evidence of the appropriate level of assessment for property in that class. ~~The~~Such evidence may include:
  - A) the Department of Revenue's annual sales ratio studies for Class 2 property for the previous three years; and
  - B) competent assessment level evidence, if any, submitted by the parties pursuant to this Part.
- 3) In Cook County, for all other classes of property, ~~when~~where sufficient probative evidence indicating the estimate of full market value of the subject property on the relevant assessment date is presented, the Board will consider the level of assessment applicable to the subject property under the Cook County Real Property Assessment Classification Ordinance, as amended.
- d) Whether or not a hearing is held in the appeal proceeding, the proceeding before the Property Tax Appeal Board shall be terminated when the Board renders a decision. The Board may revise and/or correct a decision upon its own initiative at any time prior to the expiration of the administrative review filing period as provided in Section 16-195 of the Property Tax Code if a mistake in the calculation of an assessment or other clerical error is discovered. In ~~this~~such event, the Board shall issue an amended decision. The decision or order of the Property Tax Appeal Board in any such appeal shall, within 10 days after it is made and entered, be certified to every party to the proceeding and to the proper authorities, including the board of review whose decision was appealed, the County Clerk who extends taxes upon the assessment in question, and the County Collector (Treasurer) who collects property taxes upon ~~the~~such assessment.
- e) A majority of the Members of the Board is required to make a decision of the Board.
- f) *If a petition is filed by a taxpayer with the Property Tax Appeal Board, the*

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*taxpayer is precluded from filing objections based upon valuation in the Circuit Court as may otherwise be permitted by Sections 21-175 and 23-5 of the Property Tax Code. (Section 16-160 of the Code)*

- g) *If a taxpayer files objections based upon valuation in the Circuit Court as permitted by Sections 21-175 and 23-5 of the Property Tax Code, the taxpayer is precluded from filing a petition contesting the assessment of the subject property with the Property Tax Appeal Board. (Section 16-160 of the Code)*
- h) *If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review or after adjournment of the session of the board of review at which assessments for the subsequent year are being considered, the taxpayer may, within 30 days after the date of the written notice of the Property Tax Appeal Board decision, appeal the assessment for such subsequent year directly to the Property Tax Appeal Board. (Section 16-185 of the Code)*
- i) *If the Property Tax Appeal Board renders a decision lowering the assessment of a particular parcel on which a residence occupied by the owner is situated, such reduced assessment, subject to equalization, shall remain in effect for the remainder of the general assessment period as provided in Sections 9-215 through 9-225 of the Code, unless that parcel is subsequently sold in an arm's length transaction establishing a fair cash value for the parcel that is different from the fair cash value on which the Board's assessment is based, or unless the decision of the Property Tax Appeal Board is reversed or modified upon review. (Section 16-185 of the Code)*
- j) The contesting party may, at any time before the hearing begins, move to withdraw or voluntarily dismiss the appeal, by written request filed with the Board and all other parties to the appeal. Motions to withdraw or voluntarily dismiss an appeal are favored by the Board and will be denied only in the most extreme or compelling circumstances.
- k) *The Property Tax Appeal Board shall consider compulsory sales of comparable properties for the purpose of revising and correcting assessments, including those compulsory sales of comparable properties submitted by the taxpayer. (Section 16-183 of the Code)*

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

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**Section 1910.55 Stipulations**

- a) It is the policy of the Property Tax Appeal Board that the parties to an appeal should, to the fullest extent possible, stipulate to all matters that are not, or fairly should not be, in dispute. Prior to the hearing, during a prehearing conference, or during the hearing of any appeal, the parties may file a stipulation setting forth all pertinent facts that are not in dispute, a list of all exhibits to which there are no objections, and any other matters that are not in dispute.
- b) If a stipulation [revising and correcting an assessment](#) is agreed to by all interested parties, it may be taken into consideration by the Property Tax Appeal Board [provided it is fair and reasonable based on the, but must be supported by](#) evidence in the record. The Board reserves the right to write a decision based on the facts, evidence and exhibits in the record.
- c) If the Board is able to ascertain the correct assessment of the subject property, it will issue a decision notwithstanding any typographical or clerical errors, including but not limited to an erroneous increase of valuation of particular permanent index numbers, on the stipulation form. When a party or parties propose to stipulate to a revised assessment of the property, the Board shall forward the proposed stipulation or assessment agreement to all other parties and those parties shall have 30 days to file a written objection to the proposal. Failure to object within the 30-day period to the proposed assessment shall be considered acceptance of the stipulation or assessment agreement and the Board shall issue a decision in accordance with the stipulation or agreement. The Board shall not issue a decision based on the proposed stipulation or assessment agreement prior to the expiration of the time period for intervention as provided in Section 1910.60 ~~of this Part~~.
- d) A stipulation or assessment agreement shall be in writing and be clear and concise. Documents or papers or other exhibits annexed to or filed with a stipulation or agreement will be considered part of the stipulation or agreement. A stipulation or agreement shall be treated, to the extent of its terms, as a conclusive admission by the parties to the facts or issues stipulated or agreed to.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.60 Interested Parties – Intervention [Paper](#)**

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- a) Taxpayer/Owner of Property: Any taxpayer or owner of property dissatisfied with a decision of the board of review as such decision pertains to the assessment of his or her property may appeal that decision by filing a petition with the Property Tax Appeal Board within 30 days after ~~the postmark date or personal service date of the~~ the written notice of the decision of the board of review or the ~~postmark date or personal service~~ date of the written notice of the application of final, adopted township equalization factors by the board of review. If the taxpayer or owner of property files a petition within 30 days after ~~the postmark date or personal service date of~~ the written notice of the application of final, adopted township equalization factors, the relief the Property Tax Appeal Board may grant is limited to the amount of the increase caused by the application of the township equalization factor. Petitions shall be filed for the subsequent year within 30 days after the date of the written notice when the Property Tax Appeal Board rendered a decision lowering the assessment of a particular parcel after the deadline for filing complaints with the board of review, or after adjournment of the session of the board of review, at which assessments for the subsequent year are being considered. (See Section 16-185 of the Code.)
- b) Taxing Body Acting as Appellant: Any taxing body that has a revenue interest in a decision of the board of review may file an appeal by filing its petition within 30 days after ~~the postmark date of~~ the written notice to the taxpayer of a decision by the board of review. Any taxing district so filing must conform its petition and documentation to the provisions of Section 1910.30.
- c) Taxpayer/Owner ~~Acting~~ as Intervenor: Upon notice to the owner that a taxing body has filed an appeal affecting his property, the owner or taxpayer may become an intervening party by filing in triplicate with the Clerk of the Property Tax Appeal Board a Request to Intervene within ~~30~~ days after the postmark date of the notice to the owner or taxpayer that the taxing body has filed an appeal and shall comply with subsection (e) regarding the submission of evidence or with subsection (f) to seek an extension of time to submit evidence.
- d) Intervenor:-
- 1) Any taxing body that has a revenue interest in an appeal before the Property Tax Appeal Board may become an intervening party by filing in triplicate with the Clerk of the Property Tax Appeal Board a Request to Intervene through legal counsel in accordance with Section 1910.70(c).

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The Request to Intervene must be filed within the later to occur of:

- A) 60 days after the postmark date of the notice of the Board to the State's Attorney of the filing of an appeal; or
  - B) within 60 days after the postmark of the board of review service as required in Section 16-180 of the Property Tax Code.
- 2) The Request to Intervene must be accompanied by a copy of the resolution of the governing board of the taxing body authorizing its legal representative to file a Request to Intervene on its behalf.
- e) **Intervenors – [Taxing District and Taxpayer/Owner – Paper](#) Written and Documentary Evidence:** Requests to Intervene shall be filed in triplicate and all copies of the same shall be signed. All additional written and documentary evidence must be submitted with the Request to Intervene in triplicate. Any Request to Intervene that is received without a properly adopted copy of the resolution of the governing board of the taxing body authorizing its legal representative to file the Request to Intervene on its behalf shall be treated as incomplete and shall be returned. The filing of an incomplete Request to Intervene shall not extend the 60 day deadline without a written request explaining good cause for failure to timely submit a properly completed Request to Intervene and resolution.
  - f) **Extensions for Filing Additional Evidence:** If the intervening party is unable to submit the additional written or documentary evidence with the Request to Intervene, it must submit a letter requesting an extension of time to file additional written or documentary evidence with the Request to Intervene. Upon receipt of such a request, the Board shall grant a 30 day extension of time for the filing of written or documentary evidence. This shall not include an extension of time to file a Request to Intervene or resolution. The Board shall grant additional or longer extensions for the filing of written or documentary evidence for good cause shown. Good cause may include but is not limited to the inability to submit evidence for a cause beyond the control of the intervening party, such as the pendency of court action affecting the assessment of the property or the death or serious illness of a valuation witness. Without a written request for an extension, no evidence will be accepted after the Request to Intervene is filed.
  - g) **Records:** The Clerk of the Property Tax Appeal Board shall cause a Request to

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Intervene and all accompanying documentation to become a part of the appeal proceeding and record, and shall send a copy of the same to the contesting party and the board of review. Upon receipt of a timely Request to Intervene, the Clerk of the Property Tax Appeal Board shall cause a copy of the appeal record to be forwarded to the intervening party.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.64 Motion Practice – Service of Papers**

- a) Requests and motions for extensions of time in which to file evidence shall be made pursuant to Sections 1910.30(g), 1910.40(d) and 1910.60(f) ~~of this Part~~ for taxpayers, boards of review and intervenors, and shall not be made subject to this Section.
- b) Provided that the Property Tax Appeal Board has transmitted the appeal to the board of review pursuant to Section 1910.40(a) ~~of this Part~~ and no earlier than 15 days after receipt of the appeal by the board of review, all other motions shall be in writing setting forth the arguments and authorities relied upon to permit the Board to make a decision with or without oral argument, at its discretion. The motion shall also state the name of the appellant and the docket number of the appeal as assigned by the Board.
- c) A written motion shall be served at the same time upon all parties and filed with the Board's Springfield office. Motions shall be accompanied by proof of service upon all those required to be served, including the Board.
- d) Within 21 days after service of a motion, a party may file a response to the motion. If no response is filed, the party shall be presumed to have waived objection to the granting of the motion, but the waiver of objection does not bind the Board in its decision on the motion. Within 14 days after service of a response to a motion, the moving party may file a reply.
- e) The Board shall issue a written ruling on all motions, in the form of an order or letter, upon all parties at the same time.
- f) All motions filed and served shall be on 8½" x 11" paper, except when such a requirement would unreasonably burden the filing party.

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(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.66 Rebuttal Evidence – Paper**

- a) Upon receipt of the argument and accompanying documentation filed by a party, any other party may, within 30 days after the ~~postmark~~ date of the Board's notice, file written or documentary rebuttal evidence. Rebuttal evidence shall consist of written or documentary evidence submitted to explain, repel, counteract or disprove facts given in evidence by an adverse party and must tend to explain or contradict or disprove evidence offered by an adverse party. Rebuttal evidence shall include a written factual critique based on applicable facts and law, a review appraisal, or an analysis of an adverse party's appraisal prepared by a person who is an expert in the appraisal of real estate. This written critique, review appraisal, or analysis must be submitted within the responding party's 30-day rebuttal period pursuant to this Section.
- b) In any appeal in which a change in assessed valuation of \$100,000 or more is sought, the Board shall grant one 30-day extension of time to submit rebuttal evidence upon good cause shown in writing. Good cause shall include the complexity of the appeal, the volume of the evidence submitted by an opposing party, and the inability of a rebuttal appraiser to complete the review and written critique within the 30-day filing period. A request for an extension of time to submit rebuttal evidence shall be in writing, supported by affidavit, and served on the Board and all other parties to the appeal. No further extensions to submit rebuttal evidence shall be granted.
- c) Rebuttal evidence shall not consist of new evidence such as an appraisal or newly discovered comparable properties. A party to the appeal shall be precluded from submitting its own case in chief in the guise of rebuttal evidence.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.69 Sanctions**

- a) Failure of any party to comply fully with all rules and/or specific requests of the Property Tax Appeal Board as provided in Sections 1910.30, 1910.40, 1910.60, 1910.65, 1910.67, 1910.68 and 1910.73 ~~of this Part~~ shall result in the default of that party.

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- b) When a hearing as provided in Section 1910.67 ~~of this Part~~, or a pre-hearing conference as provided in Section 1910.73 ~~of this Part~~, is ordered by the Property Tax Appeal Board, all parties shall appear for the hearing or pre-hearing on the appeal on the date and at the time set by the Property Tax Appeal Board. Failure to appear on the date and at the time set by the Property Tax Appeal Board shall be sufficient cause to default that party.
- c) When a party, his attorney, or his witness engages in threatening, disruptive, vulgar, abusive or obscene conduct or language which delays or protracts a proceeding, the Board, by any Member, or Hearing Officer, shall exclude the offending person from the proceeding. Any party engaging in such conduct or language shall be defaulted.
- d) Failure of the contesting party to furnish a court reporter as required in Section 1910.98(a) ~~of this Part~~ shall be sufficient cause to dismiss the appeal. Failure of the contesting party to furnish a court reporter's transcript as required in Section 1910.98(b) ~~of this Part~~ within 60 days after the date of the hearing shall result in the dismissal of the appeal.
- e) Failure of the contesting party to pursue disposition of an appeal in a reasonable time will render the appeal subject to dismissal. In making this determination, the Board shall consider factors including, but not limited to, the history of the appeal, the length of time that has elapsed since the last action taken in the appeal, past attempts to schedule the appeal for hearing, and the contesting party's compliance with any Board or Hearing Officer requests or orders.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.70 Representation at Hearings**

- a) A party shall have the right to represent himself or herself and to be present at and participate in any hearing before the Property Tax Appeal Board. The right to participate shall include the rights to call, examine and cross-examine witnesses and to discuss any evidence properly submitted pursuant to this Part. A party may be represented at the hearing by any person who is admitted to practice as an attorney in this State. Accountants, tax representatives, tax advisers, real estate appraisers, real estate consultants and others not qualified to practice law in this State may not appear at hearings before the Board in a representative capacity, and may not conduct questioning, cross-examination or other investigation at the

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hearing. However, ~~those such~~ persons may testify at hearings before the Board and may assist parties and attorneys in preparation of cases for presentation by those parties and attorneys for the Board at hearings.

- b) As provided in subsection (a), only attorneys licensed to practice law in the State of Illinois shall be allowed to represent a party at a Property Tax Appeal Board hearing.
- c) Corporations, limited liability companies (LLC), partnerships and other similar entities, and taxing districts shall be represented at ~~all stages before the~~ Property Tax Appeal Board ~~hearing~~ by any person licensed to practice law in the State of Illinois.
- d) The board of review may be represented at a hearing by the county state's attorney's office, any attorney licensed to practice law in the State of Illinois properly authorized as a special assistant state's attorney, or board of review members or commissioners or their duly authorized designees.
- e) An attorney, pro se taxpayer (representing himself or herself), or board of review designee may enter an appearance either by signing the petition, a Request to Intervene, or other document initiating the participation of a party in a proceeding, or by filing an appearance in the proceeding. By signing a petition or a Request to Intervene, or filing an appearance, the attorney, pro se taxpayer, or board of review designee certifies that he or she has the authority to appear and act on behalf of a party in the proceeding.
- f) An attorney shall avoid appearing before the Board on behalf of his or her client in the capacity of both an advocate and a witness. When an attorney is a witness for the client, except as to merely formal matters, the attorney should leave the hearing of the appeal to other counsel. Except when essential to the ends of justice, an attorney shall avoid testifying before the Board on behalf of a client.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.75 Access to Board Records – Freedom of Information Procedures**

- a) Board Policy:  
This Section is established to implement the provisions of the Freedom of Information Act [5 ILCS 140]. The purpose of this Section is to support the

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policy of providing public access to public records in the possession of the Property Tax Appeal Board while, at the same time, protecting legitimate privacy interests ~~in confidentiality and maintaining administrative efficiency.~~

- b) Definitions-
- 1) FOIA – the Freedom of Information Act [5 ILCS 140].
  - 2) Freedom of Information Officer – the individual responsible for receiving and responding to requests for public records.
  - 3) Requester – a person who submits a written or electronic request for public records in accordance with this Section.
  - 4) ~~Business Days~~Working days – calendar days other than Saturdays and Sundays and legal State holidays.
  - 5) Public Access Counselor – an individual appointed to that office by the Attorney General under Section 7 of the Attorney General Act [15 ILCS 205].
- c) Person to Whom Requests~~whom requests~~ are Submitted~~submitted~~. Requests for public records shall be submitted to the Freedom of Information Officer of the Board. Requests shall be submitted to the following address:
- Freedom of Information Officer  
Illinois Property Tax Appeal Board  
402 Stratton Building  
401 South Spring Street  
Springfield, IL 62706  
ATTN: FOIA Request  
Fax: 217/785-4425  
E-mail: PTA.Webmaster@illinois.gov
- d) Form and Content~~ontents~~ of Requests~~requests~~.
- 1) Requests in accordance with ~~the~~ FOIA and this Section shall be in writing and may be submitted via mail, e-mail, fax, hand delivery, or other means available. ~~These~~Such requests may~~shall~~ be submitted on FOIA request

## PROPERTY TAX APPEAL BOARD

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forms provided by the Board. For e-mailed requests, indicate in the subject line of the e-mail that it contains a FOIA request.

- 2) Oral requests are not precluded by ~~the~~ FOIA; the Board may honor oral requests for inspection or copying neither are they governed by it. (See 5 ILCS 140/3(c).)
- 3) The requester shall provide the following information in a request for public records:
  - A) The requester's full name, mailing address, ~~and~~ telephone number, and, optionally, an electronic mail address;
  - B) A brief description of the public records sought, being as specific as possible; ~~and~~
  - C) Whether the request is for inspection of public records, copies of public records, or electronic copies; ~~both.~~
  - D) A statement as to the requested medium and format for the Board to use in providing the records sought, for example, paper, specific types of digital or magnetic media, or videotape; and
  - E) A statement as to whether the request is for a commercial purpose.
- e) Inspection of ~~Records~~ records at the Board's ~~Offices~~ offices.
  - 1) Generally, public records will be available for inspection by appointment only at the Board's offices in Springfield or Des Plaines between the hours of 8:30 AM and 5:00 PM Monday through Friday, except on State holidays. Space will be provided for the requester to inspect public records.
  - 2) An employee of the Board may be present throughout the inspection.
  - 3) A requester shall not be permitted to take briefcases, bags, folders or other similar materials, or pens, into the inspection area.
  - 4) A requester will be permitted to take pencils and paper into the inspection

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area.

- 5) Documents ~~which~~ the requester wishes to have copied shall be segregated during the course of inspection. Generally, all copying will be done by Board employees.
- f) Copies of Public Records~~public records~~.
- 1) Copies of public records shall be provided to the requester only upon payment of any charges that are due.
  - 2) There is no fee for up to 50 pages of standard paper copies. For pages beyond 50, there is a 15 cent per-page charge. Fees for copies of public records shall be assessed in accordance with Section 6(a) of ~~the~~ FOIA. A schedule of fees will be available in each of the Board's offices as required by Section 4 of ~~the~~ FOIA. Fees may be reduced or waived if the requester provides a written fee waiver request that includes a specific explanation as to why the request for information is in the public interest, not simply in the requester's personal interest, and merits a fee waiver that satisfies the criteria set forth in Section 6(~~cb~~) of ~~the~~ FOIA.
  - 3) Fees ~~will~~shall be waived if the requester is a federal, State or municipal agency, a constitutional officer, ~~or~~ member of the General Assembly, or a not-for-profit organization providing evidence of good standing with the Secretary of State's Office.
  - 4) Payment shall be made by check or money order payable to the Illinois Property Tax Appeal Board and sent to the Freedom of Information Officer.
  - 5) If the requester is unwilling or unable to pick up the copies of requested records at the Board's offices, the requester shall bear mailing or shipping costs.
- g) Time for Response~~response~~.
- 1) The Freedom of Information Officer shall respond to a written request for public records within 57 business working days after receipt of ~~the~~such request. Failure to comply with a written request, extend the time for

## PROPERTY TAX APPEAL BOARD

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response, or deny a request within 5 business days after its receipt shall be considered a denial of the request. If the Board fails to respond to a request within the requisite periods stated in this subsection (g), but thereafter provides the requester with copies of the requested records, it will not impose a fee for those copies. If the Board fails to respond to a request received, it will not treat the request as unduly burdensome under subsection (g) of FOIA [5 ILCS 140/3(d)].

- 2) In the event the request for public records cannot be responded to within 57 business days for one of the reasons provided in Section 3(~~ed~~) of ~~the~~ FOIA, the Board shall have an additional 57 business~~working~~ days in which to respond. The Board shall give the requester notice of the extension of time to respond. ~~The~~Such notice of extension shall set forth the reasons why the extension is necessary and the date by which the response will be forthcoming. Additionally, the requester and the Board may agree in writing to extend the time for compliance for a period to be determined by the parties.
- h) Types of Board Responses~~responses.~~
- 1) The Freedom of Information Officer shall respond to a request for public records in one of three ways:
    - A) approve the request;
    - B) approve in part and deny in part; or
    - C) deny the request.
  - 2) Upon approval of a request for public records, the Freedom of Information Officer may either provide the materials immediately, give notice that the materials shall be made available upon payment of reproduction costs, or give notice of the time and place for inspection of records.
  - 3) A denial of a request for public records shall be made in writing. It shall state the reasons for the denial in accordance with either Section 9(a)3(f) or (b)7 of ~~the~~ FOIA and the names and titles of individuals responsible for the decision. It shall also give notice of the requester's right to appeal to the Public Access Counselor~~Chairman of the Board.~~

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- 4) Categorical requests creating an undue burden upon the Board shall be denied only after extending to the requester an opportunity to confer in an attempt to reduce the request to manageable proportions in accordance with Section 3(gf) of ~~the~~ FOIA.
  - 5) Failure to respond to a written request within 57 businessworking days may be considered by the requester a denial of the request.
- i) Appeal of a Denialdenial.
- 1) A requester whose request for public records has been denied by the Freedom of Information Officer may appeal the denial to the Public Access Counselor established in the Office of the Attorney General not later than 60 days after the date of the final denial. [5 ILCS 140/9.5(a)]the Chairman of the Board. The Notice of Appeal shall be in writing and shall be addressed to the Board's Springfield office, attention: Chairman (FOIA Appeal).
  - 2) A requester also has the right to file suit for injunctive or declaratory relief in the Circuit Court for Sangamon County or for the county in which the requester resides, in accordance with the procedures set forth in Section 11 of FOIA. The Notice of Appeal shall include a copy of the original request and a written statement setting forth the reasons why the requester believes the appeal should be granted.
- j) Chairman's response to denial.  
The Chairman shall respond to an appeal within 7 working days after receiving a Notice of Appeal. The Chairman shall either affirm the denial or provide access to the requested public records. Failure to respond within 7 working days may be considered by the requester as an affirmation of the denial.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.80 Forms**

All forms issued pursuant to this Part will be available at the offices of the Property Tax Appeal Board, the Board's Internet site at [www.illinois.gov/state.il.us/agency/ptab](http://www.illinois.gov/state.il.us/agency/ptab) and [www.ptabil.com](http://www.ptabil.com), and at the county boards of review and supervisor of assessments or chief county assessment

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~~officer's county assessor's~~ offices. Only the prescribed forms of the Property Tax Appeal Board may be used.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.88 Use of Facsimile Machines**

~~The Property Tax Appeal Board prohibits use of facsimile transmissions, except in limited circumstances as set forth in this Section. In no event shall petitions, evidence, Board of Review Notes on Appeal, requests to intervene or rebuttal submissions be accepted by facsimile machine. Use of facsimile transmission is only allowable in limited circumstances, such as emergency motion practice for continuances of a scheduled hearing or upon a specific request of an employee of the Property Tax Appeal Board. Any petition or other document transmitted to the Property Tax Appeal Board by facsimile for a reason other than an emergency motion or upon Board request will not be accepted and, in the case of petitions, will be deemed to be non-filed. Any document containing 100 pages or less may be filed by facsimile transmission sent to the Property Tax Appeal Board at its designated number, provided that, within 5 days after the facsimile filing, the original document is submitted to the Board. The date imprinted on the document by the Board's telefax machine shall have the same effect as the United States Postal Service's postmark. The party submitting filing a document by facsimile transmission bears the risk that the transmission will not be successful. The date imprinted on the document by the Property Tax Appeal Board's telefax machine shall have the same effect as the U.S. Postal Service's postmark, except documents received by the Property Tax Appeal Board by facsimile transmission after 4:45 p.m., in whole or in part, will be deemed received on the next business day. The date imprinted on the transmission confirmation document by the sender's telefax machine may be presented as evidence of successful transmission and the filing of the document. The facsimile filer shall ensure that any document is filed with the Board in a timely manner. For purposes of this Section, "facsimile document" means a paper document transmitted to the Board from either a facsimile machine or a personal computer with facsimile capability.~~

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

**Section 1910.90 Procedural Hearing Rules**

- a) The provisions of this Section are promulgated pursuant to Section 16-180 of the Code and shall apply to all appeals before the Property Tax Appeal Board. Nothing contained in this Section shall in any way negate, limit, modify or otherwise affect any of the powers, duties or authority of the Board under the Code.

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- b) Appeals filed with the Property Tax Appeal Board shall be set for hearing pursuant to Section 1910.67 ~~of this Part~~. All hearings once commenced shall continue on successive work days until completed unless any Member or designated Hearing Officer orders a continuance of the hearing pursuant to subsection (d) ~~of this Section~~. Hearings shall be open to the public in accordance with Section 1910.67(f) ~~of this Part~~.
- c) The sequence to be followed for all hearings before the Property Tax Appeal Board shall be as follows:
- 1) Preliminary matters – motions or objections, or attempts to narrow issues or limit evidence shall be heard first;
  - 2) Opening statements – the contesting party shall proceed first, followed by the board of review and intervenors, if any; opening statements may be waived or may be reserved and presented prior to the commencement of a party's case in chief;
  - 3) Case in chief – the evidence and witnesses presented to prove the position of the contesting party shall be heard first, followed by those of the board of review and intervenors, if any; as witnesses complete their testimony, they are subject to cross-examination by the Hearing Officer and the other parties to the appeal; witnesses may be questioned under redirect examination where necessary;
  - 4) Rebuttal – the evidence and witnesses presented to rebut the evidence offered in opposition to the contesting party's position shall be heard after the completion of the cases in chief of all parties, followed by the rebuttal evidence and witnesses of the board of review and intervenors, if any;
  - 5) Closing statements – the closing argument of the contesting party shall be heard first, followed by the closing arguments of the board of review and intervenors, if any; the contesting party shall be permitted a brief rebuttal at the end of the closing arguments of the other parties.
- d) Continuances of appeals set for hearing shall be granted pursuant to Section 1910.67(i) ~~of this Part~~; a hearing that has commenced may be continued by order of the Hearing Officer to permit further testimony or argument only if the time

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allotted for the hearing has expired.

- e) All witnesses appearing before the Property Tax Appeal Board shall testify under oath or affirmation.
- f) Any party may object to the admissibility of evidence or testimony, and those objections must clearly state the specific ground or rule of law ~~that~~<sup>which</sup> is the basis for the objection.
  - 1) When an objection is made to the admissibility of evidence prior to the hearing of the appeal, the objection must be made in writing. A copy of the objection shall be transmitted to all other parties to the appeal, and the Property Tax Appeal Board shall solicit responses from all other parties. The Board shall issue its ruling on the objection in writing prior to the hearing of the appeal.
  - 2) When an objection is made to the admissibility of evidence or testimony during the hearing, the Hearing Officer may either sustain or overrule the objection if it is based on the provisions of this Part, or may reserve the ruling and permit the testimony and/or evidence into the record subject to the ruling of the Property Tax Appeal Board on the objection in its decision for the appeal.
  - 3) Any party offering evidence that is ruled inadmissible shall be permitted to make an offer of proof upon motion made at the hearing.
- g) The Property Tax Appeal Board or its designated Hearing Officer may exclude inadmissible evidence upon its own motion.
- h) Writings, documents and all copies of writings and documents submitted to the Property Tax Appeal Board shall be legible, and exhibits shall be plainly marked and identified. All exhibits and documentation discussed during the hearing shall be marked for identification by the Hearing Officer.
- i) The Property Tax Appeal Board may take official notice of decisions it has rendered, matters within its specialized knowledge and expertise, and all matters of which the Circuit Courts of this State may take judicial notice.
- j) Any party or his or her witness may be called by any other party as an adverse

## PROPERTY TAX APPEAL BOARD

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witness and examined as if under cross-examination in the same manner and under the same circumstances as provided in Section 2-1102 of the Code of Civil Procedure [735 ILCS 5/2-1102]. Upon a showing that a witness was called in good faith and that the party calling the witness is surprised by the witness' testimony, examination of the witness may proceed as if under cross-examination, and the testimony of the witness may be impeached by prior statements or otherwise.

- k) The Hearing Officer presiding over or scheduled to preside over a Property Tax Appeal Board hearing may be disqualified from the hearing as follows:
- 1) Any interested party may move for the disqualification of a Hearing Officer based on bias or a conflict of interest. The motion must be in writing and must state specific facts establishing that bias or a conflict of interest exists. Adverse rulings in pending or prior appeals shall not be sufficient to establish bias or a conflict of interest.
  - 2) A motion for disqualification shall be made promptly after the moving party learns the identity of the Hearing Officer or after learning facts that establish grounds for disqualification. The motion shall be presented to the Chairman of the Board or the Executive Director. If bias or a conflict of interest is found to exist, another Hearing Officer shall be appointed as soon as possible.
  - 3) The Hearing Officer may at any time voluntarily disqualify himself or herself.
- l) Decisions of the Property Tax Appeal Board shall dispose of contested matters upon the merits and shall set forth the Board's findings of fact and conclusions of law. Decisions shall be served by United States mail on the appellant, board of review and intervenor, if any. Decisions may also be delivered or made available to the proper authorities affected by the decision, including the State's Attorney, Chief County Assessment Officer, County Clerk and County Collector by United States mail or electronic means, if available, as provided in Section 16-185 of the Code. Decisions of the Board shall be based on the evidence contained in the administrative record.

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

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**Section 1910.95 Service of Documents in Certain Cases**

- a) Service Requirements and Application. ~~This Beginning with assessments made for the 2006 assessment year, except as otherwise provided in Sections 1910.30(f) and (l), 1910.40(a), (e), and (f), and 1910.60(c), (d), (e), and (g), this~~ Section contains the Property Tax Appeal Board's service requirements for documents submitted by a party in support of an issue pending in any appeal where a change in assessed valuation of \$1 million or more is sought before the Board. Service of documents shall commence after the contesting party has initiated a petition for appeal with the Board and after notice has been given to the board of review of the appeal filing as provided in Section 1910.40(a) ~~of this Part~~. Requests and motions for extensions of time made pursuant to Sections 1910.30(g), 1910.40 (b) and (d); and 1910.60(f) ~~of this Part~~ are not subject to this Section. All other motions made by the parties shall be governed by Section 1910.64 ~~of this Part~~.
- b) Method of Service. Service of documents shall be made at the same time upon all parties by personal delivery, by the United States Postal Service or by any other mail delivery service, properly addressed, with postage prepaid. Service on a party shall be at its last known address, unless otherwise designated by the party.
- c) Service on the Board. A party shall serve on the Board, at its Springfield office, an original and one copy of any document ~~on the Board at its Springfield office~~. Otherwise, all other parties are entitled to one legible copy of the document to be served.
- d) Proof of Service. Proof of service shall be attached to any document served upon a party. The proof of service shall show the date, time and manner of service, and may be by written acknowledgement of service, by certificate of the person effecting the service, or by certified mail with return receipt.
- e) Failure to Serve. Failure to serve copies of documents as required under this Section does not in any way impair the jurisdiction of the Board over any party. The Board shall order the offending party to reimburse the aggrieved party for any expenses shown to have been incurred as a result of the failure to serve.
- f) Definition. "Document" includes any form of documentary or rebuttal evidence as provided in Sections 1910.65 and 1910.66 ~~of this Part~~, any board of review submission required under Section 1910.40 ~~of this Part~~, and requests to intervene and resolutions required under Section 1910.60 ~~of this Part~~.

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NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 38 Ill. Reg. 19171, effective October 1, 2014)

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

<u>Section Numbers</u> :	<u>Adopted Action</u> :
205.110	Amended
205.115	Amended
205.118	Amended
205.210	Amended
205.220	Amended
205.230	Amended
205.240	Amended
205.350	Amended
205.410	Amended
205.420	Amended
205.510	Amended
205.520	Amended
205.540	Amended
205.550	New Section
205.610	Amended
205.620	Amended
205.860	Amended
205.1370	Amended
- 4) Statutory Authority: Ambulatory Surgical Treatment Center Act [210 ILCS 5]
- 5) Effective Date of Rule: September 9, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 37 Ill. Reg. 14565; September 13, 2013
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No

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- 11) Differences between Proposal and Final Version: The following changes were made in response to comments received during the first notice or public comment period:

In Section 205.110, "does not exceed" was changed to "exceeds".

In Section 205.110, "either" was added after "who" and ", education and experience or has certification" was added after "training", and "Certification is recommended but not required." was deleted.

In Section 205.115(a)(3), the following was added:

- D) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guide to Infection Prevention in Outpatient Settings: Minimum Expectations for Safe Care", July 2011, which may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, Georgia 30333.

In Section 205.210(a)(4), "who has education, training and experience, or certification in infection control, and" was deleted.

In Section 205.410(b), "the facility shall" was deleted and the following was added: "written policies and procedures shall include documentation that the facility has considered, selected and implemented nationally recognized guidelines, including".

In Section 205.520, subsection (a) was reinstated. "If a patient is medically evaluated, examined and referred" and "specific health information," were added, and "pertinent records thereof shall be" remained stricken. The rest of the subsections in Section 205.520 were re-lettered.

In Section 205.550(e), the following was added after "Settings": ", 'Guidelines for Disinfection and Sterilization in Healthcare Facilities' or 'Guide to Infection Prevention in Outpatient Settings: Minimum Expectations for Safe Care'; or the Association of periOperative Registered Nurses (AORN) publication, 'Perioperative Standards and Recommended Practices for Inpatient and Ambulatory Centers' ".

In Section 205.1370, (a) was reinstated to read, "A control station shall be located to permit visual surveillance of all traffic that enters the surgical area. Personnel who have a communicable disease shall be excluded from the surgical area. A control

## DEPARTMENT OF PUBLIC HEALTH

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station shall be located to permit visual surveillance of all traffic that enters the operating suite.

Section 205.1370(j) was deleted.

In Section 205.1380, (k) was changed to "Traffic patterns in the surgical area shall be designed to facilitate movement of the patients and personnel into, through and out of defined areas, including restricted and semi-restricted areas. Traffic flow shall be tailored to the types of procedures offered in the ASTC. Signage shall clearly delineate the traffic flow."

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

In Section 205.1370(o), "that minimally has restricted and semi-restricted areas of traffic patterns." was deleted.

In the last line of Section 205.1370(o), "Signage shall clearly delineate the traffic flow." was deleted.

In the third line of Section 205.1370(y), "restricted areas" was changed to "operating room".

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

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The amendments to Part 205 reflect changes in the U.S. Department of Health and Human Services' Centers for Medicare & Medicaid Services Ambulatory Surgery Centers Conditions for Coverage (42 CFR 416). The amendments create a governing body; expand the requirements for the ASTC's organizational plan and the standards of professional work; require the ASTC's policies and procedures manual to include a data-driven quality assessment program; and update the requirements for emergency post-operative and pre-operative care.

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A new Section, Infection Control (Section 205.550), was added, and Section 205.115 (Incorporated and Referenced Materials) was updated to reflect the requirements in the new Infection Control Section. Sections 205.350 and 205.860 were amended to clean up obsolete statutory references, and Section 205.610 was amended to require ASTCs to comply with the Pregnancy Termination Report Code (77 Ill. Adm. Code 505).

- 16) Information and questions regarding this adopted rule shall be directed to:

Susan Meister  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, 5th Floor  
Springfield IL 62761

e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

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

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NOTICE OF ADOPTED AMENDMENTS

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

PART 205  
AMBULATORY SURGICAL TREATMENT CENTER LICENSING REQUIREMENTS

SUBPART A: GENERAL PROVISIONS

Section	
205.110	Definitions
205.115	Incorporated and Referenced Materials
205.118	Conditions of Licensure
205.120	Application for Initial Licensure
205.125	Application for License Renewal
205.130	Approval of Surgical Procedures
205.135	Diagnostic Cardiac Catheterization Procedures

SUBPART B: OWNERSHIP AND MANAGEMENT

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

SUBPART C: PERSONNEL

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

SUBPART D: EQUIPMENT, SUPPLIES, AND FACILITY MAINTENANCE

Section	
205.410	Equipment

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205.420 Sanitary Facility

SUBPART E: GENERAL PATIENT CARE

Section

- 205.510 [Disaster Preparedness](#)~~Emergency Care~~
- 205.520 Preoperative Care
- 205.530 Operative Care
- 205.540 Postoperative Care
- [205.550 Infection Control](#)

SUBPART F: RECORDS AND REPORTS

Section

- 205.610 Clinical Records [and Reports](#)
- 205.620 Statistical Data

SUBPART G: LIMITED PROCEDURE SPECIALTY CENTERS

Section

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

SUBPART H: LICENSURE PROCEDURES

Section

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

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

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## Section

205.1310	Plant and Service Requirements
205.1320	General Considerations
205.1330	New Construction, Additions and Major Alterations
205.1340	Minor Alterations and Remodeling Changes
205.1350	Administration Department and Public Areas
205.1360	Clinical Facilities
205.1370	Support Service Areas
205.1380	Diagnostic Facilities
205.1390	Other Building Services
205.1400	Details and Finishes
205.1410	Construction, Including Fire-Resistive Requirements, and Life Safety

## SUBPART J: MECHANICAL

## Section

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

## SUBPART K: PLUMBING AND OTHER PIPING SYSTEMS

## Section

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

## SUBPART L: ELECTRICAL

## Section

205.1710	General
205.1720	Switchboards and Power Panels
205.1730	Panelboards
205.1740	Lighting
205.1750	Receptacles (Convenience Outlets)

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205.1760	Grounding
205.1770	Equipment Installation in Special Areas
205.1780	Emergency Electric Service
205.1790	Fire Alarm System

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

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

**SOURCE:** Amended July 18, 1974; emergency amendment at 3 Ill. Reg. 10, p. 43, effective February 23, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 30, p. 371, effective July 23, 1979; amended at 5 Ill. Reg. 12756, effective November 4, 1981; amended at 6 Ill. Reg. 6220, 6225, and 6226, effective May 17, 1982; amended at 6 Ill. Reg. 10974, effective August 30, 1982; amended at 6 Ill. Reg. 13337, effective October 20, 1982; amended at 7 Ill. Reg. 7640, effective June 14, 1983; codified at 8 Ill. Reg. 9367; amended at 9 Ill. Reg. 12014, effective July 23, 1985; amended at 10 Ill. Reg. 8806, effective June 1, 1986; amended at 10 Ill. Reg. 21906, effective January 15, 1987; amended at 11 Ill. Reg. 14786, effective October 1, 1987; amended at 12 Ill. Reg. 3743, effective February 15, 1988; amended at 12 Ill. Reg. 15573, effective October 1, 1988; amended at 13 Ill. Reg. 16025, effective November 1, 1989; emergency amendment at 14 Ill. Reg. 5596, effective March 26, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 13802, effective August 15, 1990; amended at 15 Ill. Reg. 17770, effective December 1, 1991; amended at 17 Ill. Reg. 3507, effective March 3, 1993; amended at 18 Ill. Reg. 11939, effective July 22, 1994; amended at 18 Ill. Reg. 17250, effective December 1, 1994; amended at 22 Ill. Reg. 9335, effective May 20, 1998; amended at 22 Ill. Reg. 22019, effective December 4, 1998; amended at 24 Ill. Reg. 2691, effective February 18, 2000; amended at 25 Ill. Reg. 7471, effective May 31, 2001; amended at 26 Ill. Reg. 16556, effective October 25, 2002; amended at 27 Ill. Reg. 13457, effective July 25, 2003; amended at 31 Ill. Reg. 7278, effective May 7, 2007; amended at 32 Ill. Reg. 14326, effective August 12, 2008; amended at 33 Ill. Reg. 13395, effective September 10, 2009; amended at 34 Ill. Reg. 7915, effective May 25, 2010; amended at 38 Ill. Reg. 19208, effective September 9, 2014.

SUBPART A: GENERAL PROVISIONS**Section 205.110 Definitions**

"Act" ~~for the purposes of this Part~~ means the Ambulatory Surgical Treatment Center Act ~~[210 ILCS 5]~~.

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"Ambulatory Surgical Treatment Center"

The term "Ambulatory Surgical Treatment Center" or "ASTC" or "facility", for the purposes of this Part, includes:

*Any institution or building devoted primarily to the maintenance and operation of facilities for the performance of surgical procedures, as evidenced by use of the facilities by physicians, ~~or~~ podiatrists or dentists in the performance of surgical procedures ~~that~~which constitutes more than 50 percent of the activities at that location.*

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

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

Hospitals: *Any institution, place, building or agency required to*

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*be licensed pursuant to the Hospital Licensing Act ~~[210 ILCS 85]~~.*

*Long-Term Care Facilities: Any person or institution required to be licensed pursuant to the Nursing Home Care Act ~~[210 ILCS 45]~~, the Specialized Mental Health Rehabilitation Act of 2013, or the ID/DD Community Care Act.*

*State Facilities: Hospitals or ambulatory surgical treatment centers maintained by the State or any Department or agency thereof, where such department or agency has authority under law to establish and enforce standards for the hospitals or ambulatory surgical treatment centers under its management and control.*

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

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

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

"Credentials Committee" means the qualified consulting committee, or another committee designated by the qualified consulting committee, that appraises and reviews physician credentials.

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

"Hospital" shall have the meaning ascribed to it in the Hospital Licensing Act.

"Licensed Practical Nurse" means a person licensed under the ~~Nurse~~Nursing and Advanced Practice Nursing Act ~~[225 ILCS 65]~~ to practice practical nursing.

"Overnight Stay" means the expected duration of services exceeds 24 hours following an admission.

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

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

"Qualified Consulting Surgeon, Obstetrician, Gynecologist, Anesthesiologist, Pathologist, or other Consulting Physician" means a physician who is licensed in the State of Illinois and who is a Diplomate of an appropriate specialty board or who has completed the training and experience required for specialty board certification.

~~"Qualified Dentist" means a dentist who is licensed to practice under the Illinois Dental Practice Act.~~

~~"Qualified Infection Control Professional" means an individual who either has training, education and experience or has certification in the principles and methods of infection control. The individual shall maintain his or her qualifications through ongoing education and training.~~

"Qualified Physician" means an individual who is licensed to practice medicine in all its branches in the State of Illinois under the Medical Practice Act of 1987 ~~[225 ILCS 60].~~

~~"Qualified Dentist" means a dentist who is licensed to practice under the Illinois Dental Practice Act [225 ILCS 25].~~

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"Qualified Podiatrist" means a podiatrist who is licensed to practice under the Podiatric Medical Practice Act of 1987-~~[225 ILCS 100]~~.

"Qualified Practitioner" means a licensed practitioner who is authorized within his or her scope of practice to perform a history and physical examination and who is authorized by the ASTC to conduct a history and physical examination. This may include nurse practitioners and physician assistants.

"Registered Professional Nurse" means a registered nurse or a registered professional nurse who is licensed under the ~~Nurse~~Nursing and Advanced Practice Nursing Act ~~[225 ILCS 65]~~ and practices professional nursing.

"Student Nurse" means a person enrolled in a course of instruction at an approved school of professional or practical nursing and who is supervised by a nursing instructor of the school.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

**Section 205.115 Incorporated and Referenced Materials**

- a) The following regulations and standards are incorporated in this Part:
  - 1) Private and Professional Association Standards~~professional association standards~~:
    - A) The following standards of the American Society of Heating, Refrigerating, and Air Conditioning Engineers (ASHRAE), which may be obtained from the American Society of Heating, Refrigerating, and Air Conditioning Engineers, Inc., 1791 Tullie Circle, N.E., Atlanta, Georgia 30329:
      - i) Standard No. 52.1: Gravimetric and Dust Spot Procedures for Testing Air Cleaning Devices Used in General Ventilation for Removing Particulate Matter (1992) (see Section 205.1540(i)).
      - ii) Standard No. 52.2: Method of Testing General Ventilation Air Cleaning Devices for Removal Efficiency by Particle

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Size (1999) (see Section 205.1540(i)).

- iii) Standard No. 55: Thermal Environmental Conditions for Human Occupancy and Addendum (1992) (see Section 205.1540(i)).
  - iv) Standard No. 58: Method of Testing for Rating Room Air Conditioner and Packaged Terminal Air Conditioner Heating Capacity (1986) (see Section 205.1540(i)).
  - v) Standard No. 62: Ventilation for Acceptable Indoor Air Quality (1999) (see Section 205.1540(i)).
  - vi) Standard No. 63.1: Method of Testing Liquid Line Refrigerant Driers (1995) (see Section 205.1540(i)).
  - vii) Standard No. 63.2: Methods of Testing the Filtration Capability of Refrigerant Liquid Line Filters and Filter-Driers (1996) (see Section 205.1540(i)).
  - viii) Standard No. 64: Methods of Testing Remote Mechanical-Draft Evaporative Refrigerant Condensers (1995) (see Section 205.1540(i)).
  - ix) Standard No. 68: Laboratory Method of Testing to Determine the Sound Power in a Duct (1997) (see Section 205.1540(i)).
  - x) Handbook of Fundamentals (2001) (see Section 205.1540(p)).
- B) The following National Fire Protection Association (NFPA) standards, which may be obtained from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169:
- i) No. 101: Life Safety Code (2000), Chapters 20 and 21 (New and Existing Ambulatory Health Care Occupancies).

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- ii) No. 99 (1999): Standard for Health Care Facilities. (See Section 205.1410.)
  - iii) No. 70 (1999): National Electrical Code. (See Sections 205.1760, 205.1770 and 205.1780.)
  - iv) No. 80 (1999): Standard for Fire Doors and Fire Windows. (See Section 205.1400(f).)
  - v) No. 90A (1999): Standard for the Installation of Air-Conditioning and Ventilating Systems. (See Section 205.1540.)
  - vi) No. 90B (1999): Standard for the Installation of Warm Air Heating and Air-Conditioning Systems. (See Section 205.1540.)
  - vii) No. 255 (2000): Standard Method of Test of Surface Burning Characteristics of Building Materials. (See Sections 205.1410 and 205.1520.)
  - viii) No. 701 (1999): Standard Methods of Fire Tests for Flame Propagation of Textiles and Films. (See Section 205.1400(j).)
  - ix) No. 72 (1999): National Fire Alarm Code.
  - x) No. 241 (1996): Standard for Safeguarding Construction, Alteration, and Demolition Operations.
- C) Underwriters Laboratories, Inc. (UL), Publication No. 181 (1996): Factory-Made Air Ducts and Air Connectors, which may be obtained from Underwriters Laboratories, Inc., 333 Pfingsten Road, Northbrook, Illinois 60062. (See Section 205.1710.)
- D) American College of Cardiology/Society for Cardiac Angiography and Interventions, Clinical Expert Consensus Document on Cardiac Catheterization Laboratory Standards, published in the Journal of the American College of Cardiology, 2001; 37:2170-

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2214, which may be obtained from the American College of Cardiology, Educational Services, 9111 Old Georgetown Road, Bethesda, Maryland 20814-1699.

E) Association of periOperative Registered Nurses, "Perioperative Standards and Recommended Practices for Inpatient and Ambulatory Settings" (2012), which may be obtained from the Association of periOperative Registered Nurses, 2170 South Parker Road, Suite 400, Denver, Colorado 80231.

2) Federal Regulations~~regulations~~:

A) Rules of the Centers for Medicare & Medicaid Services governing Medicare program coverage of Ambulatory Surgical Services (42 CFR 416, October 1, ~~2011~~2008) under the Social Security Act (42 USC 1395). (See definition of "Ambulatory Surgical Treatment Center" in Section 205.110 and Section 205.130(d).)

B) Rules of the Centers for Medicare & Medicaid Services governing federal certification of laboratory requirements (42 CFR 493, October 1, 2011). (See Section 205.350, Laboratory Services.)

3) Federal Government Publications:

A) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guideline for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings 2007", which may be obtained from National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

B) Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guidelines for Hand Hygiene in Health-Care Settings", October 25, 2002, which may be obtained from the National Technical Information Service (NTIS), U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

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- C) [Department of Health and Human Services, United States Public Health Service, Centers for Disease Control and Prevention, "Guidelines for Disinfection and Sterilization in Healthcare Facilities, 2008", which may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, Georgia 30333.](#)
- D) [Department of Health and Human Services, United State Public Health Service, Centers for Disease Control and Prevention, "Guide to Infection Prevention in Outpatient Settings: Minimum Expectations for Safe Care", July 2011, which may be obtained from the Centers for Disease Control and Prevention, 1600 Clifton Road, Atlanta, George 30333.](#)
- b) All incorporations by reference of federal regulations [and guidelines](#) and the standards of nationally recognized organizations refer to the regulations, [guidelines](#) and standards on the dates specified and do not include any amendments or editions subsequent to the date specified.
- c) The following statutes and State [administrative rules](#)~~regulations~~ are referenced in this Part:
- 1) State of Illinois [Statutes](#)~~statutes~~:
- A) Ambulatory Surgical Treatment Center Act [210 ILCS 5]
- B) Illinois Dental Practice Act [225 ILCS 25]
- C) Nurse Practice Act [225 ILCS 65]
- D) Podiatric Medical Practice Act of 1987 [225 ILCS 100]
- E) Safety Glazing Materials Act [430 ILCS 60]
- F) Hospital Licensing Act [210 ILCS 85]
- G) Nursing Home Care Act [210 ILCS 45]
- H) Illinois Health Facilities Planning Act [20 ILCS 3960]

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- I) Illinois Administrative Procedure Act [5 ILCS 100]
  - J) Laser System Act of 1997 [420 ILCS 56]
  - K) Illinois Clinical Laboratory and Blood Bank Act [210 ILCS 25]
  - L) Physician Assistant Practice Act of 1987 [225 ILCS 95]
  - M) Administrative Review Law [735 ILCS 5/Art. III]
  - N) [Specialized Mental Health Rehabilitation Act of 2013 \[210 ILCS 49\]](#)
  - O) [ID/DD Community Care Act \[210 ILCS 47\]](#)
- 2) State of Illinois [Administrative Rules](#):
- A) Department of Public Health, Illinois Plumbing Code (77 Ill. Adm. Code 890)
  - B) Illinois Emergency Management Agency, General Provisions for Radiation Protection (32 Ill. Adm. Code 310)
  - C) Department of Public Health, Control of Sexually Transmissible ~~Infections~~[Diseases](#) Code (77 Ill. Adm. Code 693)
  - D) [Department of Public Health, Control of Communicable Diseases Code \(77 Ill. Adm. Code 690\)](#)
  - E) [Department of Public Health, Control of Tuberculosis Code \(77 Ill. Adm. Code 696\)](#)
  - F)~~D)~~ Pollution Control Board, Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 Ill. Adm. Code 724)
  - G)~~E)~~ Pollution Control Board, Nonhazardous Special Waste Handling and the Uniform Program (35 Ill. Adm. Code 809)

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- ~~H)F)~~ Department of Public Health, ~~Rules of~~ Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)
- ~~D)G)~~ Capital Development Board, Illinois Accessibility Code (71 Ill. Adm. Code 400)
- ~~J)H)~~ Illinois Emergency Management Agency, Standards for Protection Against Radiation (32 Ill. Adm. Code 340)
- ~~K)I)~~ Illinois Emergency Management Agency, Use of X-rays in the Healing Arts Including Medical, Dental, Podiatry, and Veterinary Medicine (32 Ill. Adm. Code 360)
- L) Department of Public Health, Health Care Professional Credentials Data Collection Code (77 Ill. Adm. Code 965)
- M) Department of Public Health, Pregnancy Termination Report Code (77 Ill. Adm. Code 505)

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

**Section 205.118 Conditions of Licensure**

- a) No person shall open, conduct or maintain an ambulatory surgical treatment center without first obtaining a license from the Department. (Section 4 of the Act)
- 1) A person or facility not licensed under the Act or the Hospital Licensing Act shall not hold itself out to the public as a "surgery center" or as a "center for surgery". (Section 6 of the Act)
- 2) Any person opening, conducting or maintaining an ambulatory surgical treatment center without a license issued pursuant to the Act shall be guilty of a business offense punishable by a fine of \$10,000 and each day's violation shall constitute a separate offense.
- 3) Any person opening, conducting or maintaining an ambulatory surgical treatment center who violates any other provision of the Act shall be guilty

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of a business offense punishable by a fine of not more than \$10,000.  
(Section 12 of the Act)

4) The operation or maintenance of an ambulatory surgical treatment center in violation of the Act or this Part is declared a public nuisance inimical to the public welfare. The Director of the Department, in the name of the People of the State, through the Attorney General or the State's Attorney of the county in which the violation occurs, may, in addition to other remedies provided in the Act, bring action for an injunction to restrain such violation or to enjoin the future operation or maintenance of any such ambulatory surgical treatment center. (Section 13 of the Act)

b)a) The applicant shall file a statement of ownership as provided in Section 205.120(b)(1). The applicant shall agree to update the information required in the statement of ownership every six months from the initial date of filing. (Section 7a of the Act)

c)b) Financial Statements

1) Financial statements shall be filed annually on or before April 1~~5~~ of each year for the previous calendar year, or within three months after the close of the fiscal period of the licensee.

2) Financial statements shall be filed with the Department on forms provided by the Department or on annual financial statements prepared on forms used by the applicant or licensee. They shall include at least the following items: detailed balance sheets, statements of income, and statements of expense. (Section 7b of the Act)

d)e) Every facility licensed under ~~the~~this Act, and any premises proposed to be conducted as a facility by an applicant for a license, shall be open during its regular business hours to an inspection authorized in writing by the Director. No notice need be given to any person prior to any inspection. (Section 9 of the Act)

e)d) Any corporation operating an ambulatory surgical treatment center devoted primarily to providing facilities for abortion must have a physician who is licensed to practice medicine in all of its branches and is actively engaged in the practice of medicine at the ambulatory surgical treatment center, on the Board of Directors as a condition to licensure of the ambulatory surgical treatment center.

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(Section 6.1 of the Act)

- ~~f)e)~~ *Each license shall be issued only for the premises and persons named in the application and shall not be transferable or assignable (Section 6 of the Act). Only those facilities, services, programs and procedures included in the application shall be licensed. A new application is required for any one or more of the following:*
- 1) Change in ownership of the facility.
  - 2) Change in location of the facility.
  - 3) Any remodeling or other change in the facility's physical plant ~~that~~*which* increases or decreases the number of rooms in which surgical procedures are performed.
- ~~g)f)~~ *The license shall be valid for one year, unless sooner suspended or revoked, and shall be renewable annually upon approval by the Department and payment of a license fee of \$300 as provided in Section 205.125. (Section 6 of the Act)*
- ~~h)g)~~ *The license shall be posted in a conspicuous place on the licensed premises. A placard or registry of all physicians on staff in the facility shall be centrally located and available for inspection to any interested persons. (Section 6 of the Act)*
- ~~i)h)~~ The facility shall give written notice to the Department no later than seven days after any one or more of the following:
- 1) Any personnel changes involving the facility's administrative staff, medical director ~~staff physicians,~~ or supervising nurse.
  - 2) For a corporation, any change in any shareholders equity involving 5% or more interest.
  - 3) Any change in the Registered Agent or ~~person or persons~~*person(s)* legally authorized to receive service of process for the facility.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

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## SUBPART B: OWNERSHIP AND MANAGEMENT

**Section 205.210 Ownership, Control and Management**

- a) The ASTC shall have a governing body that assumes full responsibility for determining, implementing and monitoring policies governing the facility's operation:
- 1) The governing body shall review and approve the facility's organizational plan.
  - 2) The governing body shall ensure that ASTC policies and programs provide quality health care in a safe environment.
  - 3) The governing body shall have oversight and accountability for the facility's Quality Assessment and Performance Improvement Program; shall allocate sufficient resources for the Program; and shall, at least annually, evaluate the Program's effectiveness.
  - 4) The governing body shall approve an infection control program designed to prevent, identify and manage infections and communicable diseases. The governing body shall appoint a qualified infection control professional who will direct the infection control program. The governing body shall, at least annually, evaluate the effectiveness of the infection control program.
  - 5) The governing body shall establish, protect and promote patient rights, including respect for patients' property and privacy, patient safety, the confidentiality of clinical records, and the exercise of patient rights. The governing body shall designate a grievance officer and shall establish, subject to approval by the governing body, a documented system by which allegations will be reported, investigated and responded to. Allegations will include allegations of violations/grievances relating to, but not limited to, mistreatment, neglect, or verbal, mental, sexual or physical abuse.
  - 6) The governing body shall have oversight and accountability for developing and maintaining a written Disaster Preparedness Plan pursuant to Section 205.510 and shall review reports and recommendations at least annually.

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- 7) The governing body shall review and approve the facility's organizational plan (see Section 205.220).
- b) Ownership, control and management shall be disclosed at the time of application and upon renewal. The names and addresses of each person with financial interest in the facility shall be submitted to the Department.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

**Section 205.220 Organizational Plan**

- a) An organizational plan shall be known to the staff and available for public information in the facility. The document shall clearly set forth the organization, duties, responsibility, accountability and relationships of professional staff, including a designated qualified infection control professional, a designated grievance officer, and other personnel.
- b) The plan shall include details of a quality assessment and performance improvement program, an infection control program, a patient rights plan, and a disaster preparedness plan.
- c) The organizational plan shall be submitted to the governing body for review and approval and shall be submitted to the Department with the initial licensure application.
- d) All owners, administrators, professional staff and ancillary personnel shall act in accordance with the organizational plan, this document. ~~This document shall be submitted to the Department with the initial application and thereafter will be reviewed at regular inspections by the Department.~~
- e) The Department will review the organizational plan at regular inspections.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

**Section 205.230 Standards of Professional Work**

~~The Management and/or the~~ owner or manager of the ambulatory surgical treatment center shall maintain proper standards of professional work in the ~~licensed~~ facility.

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- a) A qualified consulting committee shall be appointed in writing by the management ~~and~~/or owner of the ambulatory surgical treatment center and shall establish and enforce standards for professional work in the facility and standards of competency for physicians. The qualified consulting committee shall meet not less than quarterly and shall document all meetings with written minutes. ~~The~~~~These written~~ minutes shall be maintained at the facility and shall be available for Department inspection ~~by the Department~~.
- 1) The membership of the qualified consulting committee shall reflect the types of procedures performed. If the facility performs more than 50 procedures per month, or more than 10% of the total procedures performed are in a specific specialty area, then ~~there shall be~~ a consulting physician of that specialty shall be on the qualified consulting committee.
  - 2) The qualified consulting committee shall review the development and content of the facility's written policies and procedures ~~of the center~~, including the details of the quality assessment and performance improvement program, the infection control program, the patient rights plan, the disaster preparedness plan, the procedures for granting privileges, and the quality of the surgical procedures performed. ~~The reviews~~~~Evidence of such review~~ shall be documented~~recorded~~ in the minutes.
  - 3) The qualified consulting committee shall establish the scope of procedures to be performed at the facility and shall periodically review and amend the scope of procedures as appropriate.
  - 4)3) ~~Physicians~~~~Credentials shall be provided by those physicians~~ seeking practice privileges at the facility shall provide their credentials. ~~The~~~~These credentials shall be reviewed by the~~ credentials committee shall periodically reappraise and review physician credentials and shall identify and record and specific practice privileges pursuant to the Health Care Professional Credentials Data Collection Code~~identified and recorded~~. A record~~Record~~ of ~~such~~ accepted practice privileges shall be available for facility staff use and for public information within the facility.
  - 5)4) Each member of the medical staff granted specific surgical practice privileges shall provide, at every re-credentialing period, a notarized

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statement or documentation indicating the name of the ~~Illinois~~ Illinois' licensed ~~hospital or hospitals~~ hospital(s) where ~~he or she has~~ they have skilled-equivalent practice privileges. ~~The~~ Such statements or documentation shall be available for ~~Department~~ inspection ~~by the Department~~. A list of privileges granted ~~to~~ each medical staff member of the ambulatory surgical treatment center shall be available at all times for ~~facility staff~~ use ~~by the staff of the center~~ and for ~~Department~~ inspection ~~by Department staff~~. As used in this subsection ~~(a)(5)~~, "skilled-equivalent" means the ability to perform similar procedures requiring the same level of training and expertise.

- ~~6)5)~~ The qualified consulting committee shall act as a tissue committee and shall review, at least quarterly, pathological reports from procedures performed by each physician on the staff, when applicable. ~~The~~ Evidence ~~of such~~ review shall be documented ~~recorded~~ in the minutes.
- b) A qualified physician shall be designated as the medical director ~~"Medical Director."~~
- 1) The medical director ~~Medical Director~~ shall secure compliance with the policies and procedures pertaining to medical and surgical procedures, approved by the qualified consulting committee.
  - 2) The medical director ~~Medical Director~~ shall implement ~~be responsible for the implementation of~~ medical policies and procedures contained in the facility's policies and procedures manual (Section 205.240) governing the professional personnel involved directly in the care of patients undergoing surgical procedures, including their preoperative and postoperative care and follow-up.
  - 3) The medical director ~~Medical Director~~ shall establish and secure compliance ~~with~~ standards for patient ~~the observation of patients~~ by nursing personnel during the postoperative period.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

**Section 205.240 Policies and Procedures Manual**

- a) In cooperation with the medical and professional staff, the ~~The~~ management/owner

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of the ambulatory surgical treatment center shall formulate a written policies and procedures manual, which. This shall be done in cooperation with the medical and professional staff and shall be submitted to approved by the qualified consulting committee and the governing body for review and approval.

- b) TheThese procedures shall provide for the acceptance, care, treatment, anesthesia services, discharge, referral, and follow-up of all patients and all incidental operations of the facility. This manual shall be available to all staff in the center and shall be followed by them at all times in the performance of their duties.
- c) The policies and procedures manual shall include an ongoing data-driven quality assessment and improvement program that addresses measurable improvements in patient health outcomes and improves patient safety by addressing quality of care indicators or performance measures, adverse events, the reduction of medical errors, and infection control. Components of the quality assessment and improvement program shall include:
- 1) The use of quality indicators or performance measures and data to document improvements in outcomes and to effect improvements in patient care, patient health outcomes, and patient safety;
  - 2) Measurement, identification and analysis of incidence, prevalence, severity and causes of the problems and tracking and implementing improvements that are sustained over time to reduce medical errors and to improve health outcomes;
  - 3) The facility-wide infection control program (Section 205.550); and
  - 4) A focus on performance improvement activities and preventive strategies that address high risk, high volume, and problem-prone areas that affect health outcomes, patient safety, and quality of care, and that address adverse patient events and ensure that improvements are sustained over time.
- d) Data, activities and outcomes of quality assessment and improvement efforts and projects are to be reviewed at least annually and submitted annually in writing to the governing body.
- e) The policies and procedures manual shall include a methodology for conducting

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an ongoing comprehensive assessment of the quality of care provided in the facility, including the medical necessity of procedures performed, the appropriateness of care, and methods to revise and implement changes in existing policies and procedures.

- f) The policies and procedures manual shall include an ongoing infection control program designed to prevent, investigate, manage, control and minimize infections and communicable diseases.
- g) The policies and procedures manual shall include a written disaster preparedness plan that provides for the emergency care of patients, staff and others in the facility in the event of a fire, natural disaster, functional failure of equipment, or other unexpected events or circumstances that are likely to threaten the health and safety of patients and staff in the facility. The plan's effectiveness shall be tested and evaluated each year by conducting and evaluating drills, and by promptly implementing any needed corrections. The plan shall be coordinated with State and local authorities, as appropriate.
- h) The policies and procedures manual shall include a written patient rights plan that includes the designation of a grievance officer, a system to protect and promote patient rights, and a system to investigate violations or incidents and grievances.
- i) The policies and procedures manual shall be available to all staff in the facility and shall be followed by the staff at all times in the performance of their duties.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

## SUBPART C: PERSONNEL

**Section 205.350 Laboratory Services**

Each ambulatory surgical treatment center shall ~~meet each of the following requirements:~~

- a) Possess a valid Clinical Laboratory Improvement Amendments (CLIA) certificate or waiver for those tests performed by the facility (~~42 CFR 49357 Fed. Reg. 40, pp. 7135-7139, February 28, 1992 Medicare, Medicaid and CLIA Programs; Regulations Implementing the Clinical Laboratory Improvement Amendments of 1988 (CLIA), no further editions or amendments included~~).

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- b) Have a written agreement with a laboratory ~~thatwhich~~ possesses a valid CLIA certificate or waiver to perform any required laboratory procedures ~~thatwhich~~ are not performed in the ASTCcenter.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

## SUBPART D: EQUIPMENT, SUPPLIES, AND FACILITY MAINTENANCE

**Section 205.410 Equipment**

Equipment shall be in good working order and shall be available in numbers sufficient to provide ~~qualitygood~~ patient care based on the types of procedures to be performed in the facility.

- a) Monitoring equipment, suction apparatus, oxygen and related items shall be available within the surgical and postoperative recovery areas. Cardiac and pulmonary resuscitation equipment shall be available in all facilities.
- b) The facility shall have written policies and procedures and shall maintain documentation governing the care, use, decontamination, sterilization, storage and disposal of all materials to ensure that an adequate supply of sterile equipment, instruments and supplies is available for each procedure. Written policies and procedures shall include documentation that the facility has considered, selected and implemented nationally recognized guidelines, including the Centers for Disease Control and Prevention publication, "Guidelines for Disinfection and Sterilization in Healthcare Facilities" or "Guide to Infection Prevention in Outpatient Settings"; or the Association of periOperative Registered Nurses (AORN) publication "Perioperative Standards and Recommended Practices for Inpatient and Ambulatory Centers". The policies, procedures and documentation shall include and address:
- 1) Staff orientation and in-service training to understand and implement facility policies and procedures for infection control, and to adhere to manufacturer's instructions for receiving, decontaminating, cleaning, preparing, sterilizing and high-level disinfection, handling, storage and quality control of equipment, supplies and instruments;
  - 2) Preventive maintenance of all central supply service equipment pursuant to manufacturer's instructions or infection control guidelines; and

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- 3) The Infection Control Program (Section 205.550), which shall be under the direction of a designated qualified health care professional with training in infection control.
- c) The facility shall have written procedures to assure safety in storage and use of inhalation anesthetics and medical gases in accordance with NFPA 99.
- d) The facility shall have written procedures to assure the safety in storage and use of all narcotics and medications in accordance with State and federal law.
- e) Facilities using laser equipment shall maintain documentation that the equipment is registered with the Illinois Emergency Management Agency as is required by the Laser System Act of 1997-~~[420 ILCS 56]~~. The facility shall also have a written safety and maintenance program related to the use of the laser equipment.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

**Section 205.420 Sanitary Facility**

- a) The ambulatory surgical treatment center shall ~~ensure~~~~insure~~ maintenance of a safe and sanitary facility by developing and adhering to an infection control program that is based on nationally recognized infection control guidelines, including the Centers for Disease Control and Prevention publication "Guidelines for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings" or "Guide to Infection Prevention in Outpatient Settings: Minimum Expectations for Safe Care", and by maintaining~~with~~ all equipment in good working order. Written procedures shall include provision for maintaining a clean and sanitary facility, including appropriate environmental cleaning, garbage and refuse removal, insect and rodent control, maintenance of water, heat, ventilation and air conditioning, and electrical service.
- b) Any blood, blood components, organs, semen, or other human tissue showing exposure to human immunodeficiency virus (HIV) as evidenced by two ~~of three~~ reactive ELISA test results (according to the package insert – product circular), or exposure to any other identified causative agent of Acquired Immunodeficiency Syndrome (AIDS), and any blood, blood components, organs, semen, or other human tissue originating from a patient diagnosed with HIV infection or AIDS ~~or ARC~~ as defined in 77 Ill. Adm. Code 693.20, shall be disposed of by the facility~~center~~ in accordance with subsection (c) ~~of this Section~~, or delivered in

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accordance with subsection (d) ~~of this Section~~ to a research facility ~~to use such blood, blood components, organs, semen, or other human tissue~~ for HIV or AIDS research.

- c) Any ~~such~~ blood, blood components, organs, semen, or other human tissue, and any other materials or ~~paraphernalia~~ paraphenalia exposed to, or contaminated by, ~~the~~ such blood, blood components, organs, semen, or other human tissue shall be completely incinerated, sterilized, or sealed ~~in order~~ to render the materials innocuous before disposal or removal from the premises.
- 1) ~~Materials shall be incinerated~~ The incineration of materials shall be done in accordance with the requirements of the Pollution Control Board concerning the operation of an incinerator ~~(35 Ill. Adm. Code 724)~~.
  - 2) ~~Materials shall be sterilized~~ The sterilization of materials shall be done by autoclaving ~~the materials~~ in accordance with the recommendations of the manufacturer of the autoclave. The effectiveness of the autoclave shall be verified and documented at least weekly with a biological spore assay containing B. stearothermophilus.
  - 3) Incinerated or sterilized materials shall be disposed of through routine waste disposal methods.
  - 4) Materials ~~that~~ which have not been incinerated or sterilized shall be disposed of by a waste hauler with a ~~proper~~ permit from the Illinois Environmental Protection Agency under rules of the Pollution Control Board ~~(35 Ill. Adm. Code 809)~~. These materials ~~shall~~ must be sealed, transported, and stored in biohazard containers. ~~The~~ These containers shall be marked "Biohazard," bear the universal biohazard symbol, and be orange, orange and black, or red. The containers shall be rigid and ~~puncture resistant~~ puncture resistant such as a secondary metal or plastic can with a lid that can be opened by a step-on pedal. ~~The~~ These containers shall be lined with one or two high density polyethylene or polypropylene plastic bags with a total ~~thickness~~ thickness of at least 2.5 mil. or equivalent material. The containers shall be sealed before being removed from the facility.
- d) When a ~~facility~~ center delivers ~~such~~ blood, blood components, organs, semen, or other human tissue to a research facility, the ~~ASTC~~ center shall file a report with

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the Department (Division of Laboratories) ~~that~~which shall include at least the following information:

- 1) A copy of the request from the research facility for the blood, blood components, organs, semen, or other human tissue;
  - 2) The quantity of blood, blood components, organs, semen, or other human tissue delivered;
  - 3) The name and location of the research facility to which the blood or other human tissue was delivered; and
  - 4) The date and time of delivery.
- e) A research facility, for the purposes of this Section, shall mean any clinical laboratory ~~or licensed under the Clinical Laboratory Act (Ill. Rev. Stat. 1987, ch. 111½, par. 621 et seq.), any~~ blood bank licensed under the Illinois Clinical Laboratory and Blood Bank Act, (Ill. Rev. Stat. 1987, ch. 111½, par. 601-101 et seq.) or any hospital licensed under the Hospital Licensing Act, ~~(Ill. Rev. Stat. 1987, ch. 111½, par. 142 et seq.)~~

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

## SUBPART E: GENERAL PATIENT CARE

**Section 205.510 Disaster Preparedness~~Emergency Care~~**

- a) Each facility shall develop and maintain a disaster preparedness plan that includes patients, staff and others in the facility. The plan shall cover~~have a written plan of procedure to be followed in case of fire, natural disasters, functional failure of equipment, explosion, and~~ non-patient medical emergencies or other unexpected events or circumstances. The plan shall be tested annually for effectiveness with drills and written evaluations. Any corrections to the plan shall be promptly implemented~~emergency~~. This plan shall specify persons to be notified and actions to be taken and shall be known by all staff of the facility.
- b) Each facility shall be prepared to manage those medical emergencies ~~that~~which may be associated with procedures performed there.

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- c) For the purposes of this Section, "emergency" means a situation, physical condition or one or more practices, methods or operations that present imminent danger of death or serious physical or mental harm to patients of an ASTC.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

**Section 205.520 Preoperative Care**

- a) If a patient is medically evaluated, examined and referred from a private physician's office, hospital, or clinic, specific health information, pertinent records thereof shall be if available, shall be ~~and~~ made part of the patient's clinical record at the time the patient is registered and admitted to the ambulatory surgical treatment center.
- b) An up-to-date~~A complete~~ medical history and complete physical examination shall be obtained before beginning any medical procedure. The history and examination shall be documented in the patient's medical record~~and the physical examination shall be complete.~~ Upon admission, each patient shall have a pre-surgical assessment completed by a physician or other qualified practitioner. If patient records are available, changes in the patient's condition since completion of the most recently documented medical history and physical assessment, including any allergies to drugs and biologicals, shall be documented. A preanesthetic evaluation shall be completed specifically identifying any patient sensitivity or contraindications to anesthesia.
- b)e) The laboratory examinations required on all admissions shall be determined by the qualified consulting committee~~Consulting Committee~~ and shall be consistent with the scope and nature of the ambulatory surgical treatment center. The required list or lists of tests shall be in written form and shall be available to all members of the medical staff.
- c)d) Prior to procedures performed to terminate pregnancy, the physician shall establish the diagnosis of pregnancy by appropriate clinical evaluation and testing. In addition, the patient's blood Rh factor shall be determined.
- d)e) A written statement indicating informed consent and a signed authorization by the patient for the performance of the specific surgical procedure shall be procured and made part of the patient's clinical record.

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- e)f) Surgical procedures shall not be performed on patients having medical, surgical, or psychiatric conditions or complications as specified by the qualified consulting committee~~Consulting Committee~~ in the ASTC's~~facility's~~ written policies.
- f)g) Prior to admission to the facility for a surgical procedure, the patient shall be informed of the following:
- 1) Patients who receive general anesthesia, intravenous sedation, spinal or epidural anesthesia, or any other specific anesthesia technique designated by the qualified consulting committee shall~~Consulting Committee must~~ not attempt to drive a motor vehicle immediately upon discharge from the facility.
  - 2) Patients shall arrange~~must make arrangements~~ prior to admission for safe transportation upon discharge from the facility ~~upon discharge to return to home or to a similar environment.~~

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

**Section 205.540 Postoperative Care**

- a) All patients' postoperative conditions~~Patients~~ shall be observed and assessed in the facility for a period of time sufficient to ensure that the patient is awake, physiologically stable, manifests no immediate postoperative complications, and is ready to return to home or to a similar environment. Overnight stays are not permissible. Before discharge from the facility, each patient shall be evaluated by a qualified practitioner for proper anesthesia recovery. No patient shall be required to leave the facility~~center~~ in less than one hour following the procedure or procedures~~procedure(s)~~. Each post-surgical patient's overall condition shall be assessed and documented in the medical record by a qualified practitioner, showing that the patient is ready for discharge or in need of further treatment or monitoring.
- b) Rh factor sensitization prophylaxis shall be provided to all Rh negative patients following procedures performed to terminate pregnancy, in accordance with standard medical procedures.
- c) Patients in whom a complication is known or suspected to have occurred during or after the performance of a surgical procedure shall be informed of the

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~~complications such condition~~, and arrangements shall be made for treatment of the complication. ~~If the patient is admitted in the event of admission~~ to a hospital, a summary of care given in the ambulatory surgical treatment center concerning the suspected ~~complication or complication~~~~complication(s)~~ shall accompany the patient.

- d) To ensure availability of follow-up care at a ~~licensed~~ hospital, the ambulatory surgical treatment center shall provide written documentation of one of the following:
- 1) A transfer agreement with a ~~licensed~~ hospital within approximately 15-~~30~~ minutes travel time of the facility~~;~~
  - 2) A statement that the medical director of the facility has full admitting privileges at a ~~licensed~~ hospital within approximately 15-~~30~~ minutes travel time and that he/she will assume responsibility for all facility patients requiring ~~such~~ follow-up care~~; or~~
  - 3) A statement that each staff physician, dentist, or podiatrist has admitting privileges in a ~~licensed~~ hospital within 15-~~30~~ minutes travel time of the facility.
- e) Written instructions shall be issued to all patients in accordance with the standards approved by the consulting committee ~~of the ambulatory surgical treatment center~~ and shall include the following:
- 1) Symptoms of complications associated with procedures performed~~;~~
  - 2) Limitations and~~or~~ restrictions of activities of the patient~~;~~
  - 3) Specific telephone number to be used by the patient, at any time, ~~if should~~ any complication or question ~~arises; and arise~~.
  - 4) A date for a follow-up or return visit after the performance of the surgical procedure, which shall be scheduled within six weeks.
- f) Patients shall be discharged only on the written signed order of a physician. The name, or relationship to the patient, of the person accompanying the patient upon discharge from the facility shall be noted in the patient's medical record.

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- g) Information on availability of family planning services shall be provided, when desired by the patient, to all patients undergoing a pregnancy termination procedure. When, in the physician's opinion, it is in the best interests of the patient and with the patient's consent, family planning services may be initiated prior to the discharge of the patient.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

**Section 205.550 Infection Control**

- a) Each ASTC shall provide a safe and healthful environment that minimizes infection exposure and risk to patients, health care workers and visitors.
- b) Each ASTC shall maintain a written, active and effective facility-wide infection control program. A system designed for the identification, surveillance, investigation, control, and prevention of infectious and communicable diseases in patients and health care workers shall be included in this program.
- c) The ASTC shall designate a person as a Qualified Infection Control Professional to develop and implement policies governing the control of infectious and communicable diseases. The means of qualification (i.e., education, training and experience; or certification) shall be documented.
- d) Policies and procedures for the reporting and care of cases of communicable diseases shall comply with the Control of Communicable Diseases Code, the Control of Sexually Transmissible Infections Code, and the Control of Tuberculosis Code.
- e) The ASTC shall consider, select and implement nationally recognized infection control guidelines in developing its infection control program, including the Centers for Disease Control and Prevention publication "Guidelines for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings", "Guidelines for Disinfection and Sterilization in Healthcare Facilities" or "Guide to Infection Prevention in Outpatient Settings: Minimum Expectations for Safe Care"; or the Association of periOperative Registered Nurses (AORN) publication "Perioperative Standards and Recommended Practices for Inpatient and Ambulatory Centers".

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- 1) When patients have a communicable disease, or present signs and symptoms suggestive of communicable disease, precautionary measures shall be taken to avoid cross-infection to personnel, other patients and the public.
  - 2) If an ASTC treats a patient who has a communicable disease, the ASTC shall provide appropriate facilities and equipment for isolation.
  - 3) Policies and procedures for handling infectious cases shall include orders to the medical, nursing and non-professional staff concerning isolation technique.
  - 4) The ASTC shall require that all persons who care for patients with or suspected of having a communicable disease, or whose work brings them in contact with materials that are potential conveyors of communicable disease, comply with the ASTC's infection control program to avoid transmission of the disease agent.
- f) The ASTC shall develop and implement comprehensive interventions to prevent and control extensively drug-resistant organisms (XDROs), including methicillin-resistant Staphylococcus aureus (MRSA), vancomycin-resistant enterococci (VRE), and certain gram-negative bacilli (GNB), that take into consideration guidelines of the Centers for Disease Control and Prevention for the management of XDROs in health care settings, including the "Guidelines for Isolation Precautions: Preventing Transmission of Infectious Agents in Healthcare Settings" and "Guidelines for Hand Hygiene in Health-Care Settings".
- g) The ASTC shall comply with 42 CFR 416.43 and 416.51 in developing and maintaining an infection control program. Documentation that the ASTC considered, selected and implemented nationally recognized infection control guidelines in developing its infection control program shall be made available to the Department upon request.
- h) The ASTC shall develop, implement, monitor and enforce a hand hygiene program.
- 1) The ASTC shall assess the current practice and compliance, assess current hand hygiene products, solicit input from clinical staff, and develop a hand hygiene program for all staff.

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- 2) All staff (including contractual and medical) shall be educated in the hand hygiene program during initial orientation and at least annually. This education shall be documented.
  - 3) The program shall have clear goals that require quantitative, time-specific improvement targets.
  - 4) The ASTC shall develop and implement ongoing measurement tools to assure compliance with the program.
  - 5) The results of the monitoring shall be incorporated in the clinical statistical data required in Section 205.620.
- i) Contaminated material shall be handled and disposed of in a manner designed to prevent the transmission of the infectious agent.
  - j) Thorough hand hygiene shall be required after touching any contaminated or infected material.
  - k) Whenever the Control of Communicable Diseases Code and the Control of Tuberculosis Code require the submission of laboratory specimens for the release of a patient from isolation or quarantine, the specimens shall be submitted to the laboratories of the Illinois Department of Public Health or other laboratory licensed by the Department for the specific tests required.
  - l) The ASTC shall establish a systematic plan of checking and recording cases of infection, known or suspected, that develop in the ASTC. The cases shall also be reported to the governing body. The ASTC shall investigate health care associated infections to determine the causative organism and its possible sources. The findings and recommendations shall be reported to the medical staff and administration for corrective action.
  - m) Policies and procedures related to this Section, and including, but not limited to, the following items, shall be developed:
    - 1) The isolation of patients with specific and suspected infectious diseases and protective isolation of appropriate patients.

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- 2) In-service education programs on the control of infectious diseases.
- 3) Policies and procedures for isolation techniques appropriate to the diagnosis of the patient, and protective routines for personnel and visitors.
- 4) The recording and reporting of all infections of clean surgical cases to the administration and procedures for the investigation of cases.

(Source: Added at 38 Ill. Reg. 19208, effective September 9, 2014)

## SUBPART F: RECORDS AND REPORTS

**Section 205.610 Clinical Records and Reports**

- a) The ASTC shall maintain accurate~~Accurate~~ and complete clinical records ~~shall be maintained~~ for each patient, and all entries in the clinical record shall be made at the time the surgical procedure is performed and when care, treatment, medications, or other medical services are given. The record shall include, but not be limited to, the following:
  - 1)a) Patient~~patient~~ identification;:-
  - 2)b) Admitting~~admitting~~ information including patient history, physical examination findings, diagnosis or need for medical services;:-
  - 3)e) Pre-counseling~~pre-counseling~~ notes;:-
  - 4)d) Signed~~signed~~ informed consent;:-
  - 5)e) Confirmation~~confirmation~~ of a pregnancy (when an abortion is performed);:-
  - 6)f) Signed~~signed~~ physician orders;:-
  - 7)g) Laboratory~~laboratory~~ test reports, pathologist's report of tissue, and radiologist's report of imaging studie~~s; x-rays~~;
  - 8)h) An anesthesia record;:-

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- 9) ~~i)~~ The operative record~~;~~:-
  - 10) ~~j)~~ Medication~~medication~~ and medical treatments~~;~~:-
  - 11) ~~k)~~ Recovery~~recovery~~ room progress notes~~;~~:-
  - 12) ~~l)~~ Physician~~physician~~ and nurse~~nurses~~' progress notes~~;~~:-
  - 13) ~~m)~~ The patient's condition at time of discharge~~;~~:-
  - 14) ~~n)~~ Patient~~patient~~ instructions~~; and~~:-
  - 15) ~~o)~~ Post-counseling~~post-counseling~~ notes.
- b) The ASTC shall comply with the Department's rules titled Pregnancy Termination Report Code.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

**Section 205.620 Statistical Data**

- a) Each ambulatory surgical treatment center shall collect, compile and maintain the following clinical statistical data at the facility to be made available to the Department during a survey or inspection, or upon the Department's request:
- 1) ~~The~~ The total number of surgical cases treated by the ~~ASTC~~center;
  - 2) ~~The~~ The number of each specific surgical procedure performed;
  - 3) ~~The~~ The number and type of complications reported, including the specific procedure associated with each complication;
  - 4) ~~The~~ The number of patients requiring transfer to a ~~licensed~~ hospital for treatment of complications. ~~The~~ List ~~the~~ procedure performed and the complication that prompted each transfer shall be listed~~; and~~
  - 5) ~~The~~ The number of deaths, including the specific procedure that was performed~~; and~~:-

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- 6) The results of the monitoring of the ASTC's hand hygiene program in Section 205.550(h).
- b) The~~This~~ clinical statistical data shall be collected, compiled and maintained quarterly, with reports completed no later than January 31, April 30, July 31 and October 31 for the preceding quarter.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

## SUBPART H: LICENSURE PROCEDURES

**Section 205.860 Hearings**

- a) Applicants and licensees may appeal certain actions of the Department under the Act and this Part. *If a facility desires to contest any Department action, it shall send a written request for a hearing to the Department within ~~10~~<sup>ten</sup> days ~~after~~<sup>of</sup> receipt of the notice of the contested action.* Following receipt of a request for a hearing, the Department shall conduct a hearing to review the contested action. (Section 10c(c) of the Act)
- b) Hearings conducted pursuant to the Act and this Part shall be conducted in accordance with the following:
- 1) Sections 10c, 10f, and 10g of the Act.
  - 2) Article 10~~Sections 10 through 18~~ of the Illinois Administrative Procedure Act (~~Ill. Rev. Stat. 1991, ch. 127, pars. 1010 through 1018 et seq.~~).
  - 3) The Department's rules titled~~of the Department entitled "Rules of Practice and Procedure in Administrative Hearings"~~ (~~77 Ill. Adm. Code 100~~).
- c) Applicants and licensees have a right to administrative review of actions and decisions of the Department by the courts under the Administrative Review Law (~~Ill. Rev. Stat. 1989, ch. 110, par. 3-101 et seq.~~).

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

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

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**Section 205.1370 Support Service Areas**

- a) ~~A control station shall be located to permit visual surveillance of all traffic that enters the surgical area. Personnel who have a communicable disease shall be excluded from the surgical area.~~ A control station shall be located to permit visual surveillance of all traffic that enters the operating suite.
- b) ~~The ASTC shall provide sterilizing~~ Sterilizing facilities with high-speed autoclaves conveniently located in a clean workroom to serve all procedure rooms ~~shall be provided. Alternate provisions, approved by the governing body.~~ Approved alternate provisions may be made for replacement of sterile instruments during surgery.
- c) A drug distribution station shall be provided for storage and preparation of medication to be administered to patients.
- d) Scrub stations with knee, foot or elbow actuated faucets or with automatic electronic actuated faucets shall be provided near the entrances to, but outside of, the procedure rooms. Scrub facilities shall be arranged to minimize splatter on nearby personnel or supply carts.
- e) A soiled workroom for the exclusive use of the surgical suite staff shall be provided. The soiled workroom shall contain a work counter, a sink equipped for ~~hand washing~~ handwashing, a waste receptacle, and a linen receptacle. This room may be used for cleaning anesthesia equipment.
- f) Fluid waste disposal facilities shall be conveniently located with respect to the general procedure rooms.
- g) ~~Clean workroom 1)~~ A clean workroom or a clean supply room is required when clean materials are assembled within the surgical suite prior to use. A clean workroom shall contain a work counter, sink equipped for hand washing ~~handwashing~~, and space for clean and sterile supplies. A clean supply room shall be provided when the narrative program defines a system for the storage and distribution of clean and sterile supplies that would not require the use of a clean workroom.
- 2) ~~An autoclave shall be incorporated into the clean workroom.~~

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- h) Anesthesia storage facilities shall be provided. Flammable anesthetics are prohibited.
- i) Medical gas supply storage with space for reserve nitrous oxide and oxygen cylinders shall be provided, with all tanks properly secured.
- j) A storage~~Storage~~ area for equipment and supplies used in the surgical suite shall be provided. The area shall provide protection against dust, moisture, insects, vermin, and temperature and humidity extremes.
- 1) Restricted area: traffic is restricted to authorized personnel and patients. No street clothing shall be worn in the restricted area. Health care workers shall wear facility-laundered surgical attire. Head and facial hair shall be contained within a protective covering. Cloth head coverings shall be laundered by the facility and changed daily. Additional garments shall be completely contained or covered within the surgical attire. Masks shall be worn in restricted areas where open sterile supplies or equipment are present or scrubbed persons are located.
- 2) Semi-restricted area: traffic is restricted to authorized personnel and patients. No street clothing shall be worn in the semi-restricted area. Health care workers wear facility-laundered surgical attire. Head and facial hair shall be contained within a protective covering. Cloth head coverings shall be laundered by the facility and changed daily. Additional undergarments shall be completely contained or covered within the surgical attire. Masks are not required in this area. Patients shall wear attire appropriate for their surgical procedure and shall wear hair covering if applicable.
- k) Staff and personnel facilities shall be provided for male and female personnel (orderlies, technicians, nurses, and doctors) working within the surgical suite. The areas shall contain a lounge area, lockers, toilets, lavatories equipped for hand washing~~handwashing~~, and space for changing clothes. These areas shall be arranged to provide a one-way traffic pattern so that personnel entering from outside the surgical~~sterile~~ area can change, ~~gown~~, and move directly into the sterile area in facility-laundered surgical attire. ~~Space for removal of scrub suits and foot covers shall be designed so that personnel using it will avoid physical contact with clean personnel.~~

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- l) The ASTC shall provide change~~Change~~ areas where patients can change from street clothes into hospital gowns in privacy, and be prepared for surgery, ~~shall be provided~~. This shall include lockers, toilets, clothing change or gowning areas, and space for the administration of medications.
- m) The stretcher storage area shall be out of the direct line of traffic.
- n) A janitor's closet containing a floor receptor or service sink, and storage space for housekeeping supplies and equipment, shall be provided exclusively for the surgical ~~area~~suite.
- o) Traffic patterns in the surgical area shall be designed to facilitate movement of the patients and personnel into, through and out of defined areas, including restricted and semi-restricted areas. Traffic flow shall be tailored to the types of procedures offered in the ASTC. Signage shall clearly delineate the traffic flow.
- p) Signage shall clearly delineate the traffic flow and surgical attire requirements.
- q) The movement of clean and sterile items shall be separated from contaminated or dirty items by space, time or traffic patterns.
- r) All jewelry shall be removed prior to the surgical scrub. Jewelry shall not be worn in the operating room, except that anesthesia personnel may wear a watch.
- s) Additional personal protective equipment shall be worn when exposure to blood or other potentially infectious material is anticipated.
- t) Whenever surgical attire or personal protective equipment is soiled, it shall be removed and discarded prior to leaving the surgical area.
- u) The sterile gown and gloves used when participating in surgical procedures shall be removed and discarded.
- v) The unsterile gloves worn when participating in surgical procedures shall be removed and discarded prior to leaving the operating room.
- w) The use of single-use coverall suits shall be determined by ASTC policy.

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- x) Shoe covers shall be worn when it can reasonably be anticipated that splashes or spills may occur. If shoe covers are worn, they shall be changed whenever they become torn, wet or soiled; or daily, whichever comes first. They shall be removed and discarded before leaving the surgical area.
  
- y) The use of cover gowns for covering the surgical attire when outside of the surgical area shall be determined by ASTC policy. Surgical attire worn into the institution from outside shall be changed before entering the operating room. Persons exiting the facility shall don facility-laundered surgical attire upon return to the surgical area.

(Source: Amended at 38 Ill. Reg. 19208, effective September 9, 2014)

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- 1) Heading of the Part: Collection, Disclosure, and Confidentiality of Health Statistics; Institutional Review Board
- 2) Code Citation: 77 Ill. Adm. Code 1005
- 3) 

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1005.10	Amended
1005.15	New Section
1005.20	Amended
1005.25	New Section
1005.30	Amended
1005.35	New Section
1005.40	Repealed
1005.50	Repealed
1005.60	Repealed
1005.100	New Section
1005.110	New Section
1005.120	New Section
1005.130	New Section
1005.140	New Section
1005.150	New Section
- 4) Statutory Authority: Illinois Health Statistics Act [410 ILCS 520]
- 5) Effective Date of Rule: September 10, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposed Amendments published in the *Illinois Register*: January 31, 2014; 38 Ill. Reg. 3315
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

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

In Section 1005.25(a)(6), change "hypothesis" to "hypotheses".

In Section 1005.30(b), add "the Department will perform an administrative review of all" after "feasibility".

In Section 1005.30(b), delete "may be reviewed" after "requests for health data".

In Section 1005.30(b) add "as required by laws and regulations specific to the data being requested," after "requests for health data".

In Section 1005.30(b), add "as described in 45 CFR 46" after "proposed analysis".

In Section 1005.30(d), delete "90" and add "120".

In Section 1005.30(e), strike out "deniable" after "~~constitute~~".

In Section 1005.30(f) delete "so that it will not result in the dissemination of health data that would result in the identification of any individual patient or provider" after "modify the request".

In Section 1005.35(a)(C)(iii), add "; and" after "experience".

In Section 1005.100(c), add "Department's" after "approval of the".

In Section 1005.100(e), add a new subsection "e) The IRB chair will solicit recommendations for IRB membership from Department Deputy Directors, IRB members, and, as needed, from other Department staff, and professional and human services agencies and organizations. Individuals who wish to be considered for IRB membership shall indicate their interest by contacting the IRB chairperson. The Director will consider the candidates and make formal appointments to fulfill the specific requirements of the IRB composition as required in this Section and 45 CFR 46."

In Section 1005.120(a), add "In accordance with 45 CFR 46," before "Research proposals".

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In Section 1005.120(b), add "After administrative review of the administrative impact, technical feasibility and human subject protection as described in 45 CFR 46" before "The".

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

In Section 1005.10 under "Indirect Identifiers", change "implicate privacy interests by increasing" to "increase".

In Section 1005.10 under "Limited Health Data Sets", after "regulations" add "(45 CFR 46)".

In Section 1005.15(a)(1), change "1991" to "2009".

In Section 1005.20(d), strike "respecting" and add "in regard to".

In Section 1005.35(a)(1)(D-E), delete "or".

In Section 1005.110(v), change "investigator" to "researcher".

In Section 1005.140, change "investigators" to "researchers".

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

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: Institutional Review Board (IRB) approval is required for the release of certain data, as required by statute (e.g., the Health Statistics Act). The amendments provide information for external stakeholders regarding submission of applications to the IRB, and explains how the IRB review process takes place.

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The Department's Director is signatory to the United States Department of Health and Human Services Federal-wide Assurance (FWA) for the Protection of Human Subjects in Research, and the IRB is responsible for ensuring that when the Department becomes engaged in research to which the FWA applies, it is compliant with federal requirements

The amendments proposed for Subpart A (General Provisions) clarify definitions, lay out an application procedure for data release, and repeal provision relating to the Data Protection Review Board (DPRB), which no longer exists.

The amendments proposed for Subpart B (Institutional Review Board) provide information regarding the IRB's role, composition and review process.

- 16) Information and questions regarding this adopted rule shall be directed to:

Susan Meister  
Division of Legal Services  
Department of Public Health  
535 West Jefferson, 5<sup>th</sup> Floor  
Springfield IL 62761

217/782-2043  
e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

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

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TITLE 77: PUBLIC HEALTH  
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH  
SUBCHAPTER x: HEALTH STATISTICS

## PART 1005

COLLECTION, DISCLOSURE, AND CONFIDENTIALITY  
OF HEALTH STATISTICS; INSTITUTIONAL REVIEW BOARDSUBPART A: GENERAL PROVISIONS

## Section

1005.10	Definitions
<u>1005.15</u>	<u>Incorporated and Referenced Materials</u>
1005.20	<del>Department</del> <u>Departmental</u> Functions
<u>1005.25</u>	<u>Requests for Release of Health Data by Researchers and Other Individuals</u>
1005.30	<del>Department</del> <u>Departmental</u> Procedures for Health Data Release
<u>1005.35</u>	<u>Department Standards for Health Data Release</u>
1005.40	Data Protection Review Board (DPRB) ( <u>Repealed</u> )
1005.50	Access to Data ( <u>Repealed</u> )
1005.60	Requests for Data ( <u>Repealed</u> )

SUBPART B: INSTITUTIONAL REVIEW BOARD

<u>1005.100</u>	<u>Institutional Review Board Authority, Role and Composition</u>
<u>1005.110</u>	<u>Institutional Review Board Procedures</u>
<u>1005.120</u>	<u>Administrative Review and Approval</u>
<u>1005.130</u>	<u>Suspension or Termination of Institutional Review Board Approval</u>
<u>1005.140</u>	<u>Documentation of Institutional Review Board Activities</u>
<u>1005.150</u>	<u>Institutional Review Board Applications</u>

AUTHORITY: Implementing and authorized by the Illinois Health Statistics Act [410 ILCS 520].

SOURCE: Adopted and codified at 7 Ill. Reg. 11293, effective August 26, 1983; amended at 38 Ill. Reg. 19251, effective September 10, 2014.

SUBPART A: GENERAL PROVISIONS**Section 1005.10 Definitions**

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"Act" means the Illinois Health Statistics Act [410 ILCS 520].

"Aggregate HealthAggregated Data" meansshall mean a statistical tabulation of one or more individualpatient records or case reports that have been combined for statistical, descriptive or analytic purposes, with no single grouping or tabulation based upon fewer than thirty patient records.

"Deniable Aggregated Data" shall mean aggregated data which includes data for a number of patient records which is less than those encompassed by the definition of aggregated data and which involves "deniable data elements".

"Deniable Data Elements", shall mean data pertaining to a particular patient record that contains one or more of the following deniable data elements: medical record number, admit date, admit or visit number, discharge date, date(s) of surgery, third party payor patient identification number, address, birthdate, individual provider identification (direct and indirect), name, social security number, recipient number and accident date. Additional data elements beyond those specified, contained in particular patient records, may be denied if their analysis in conjunction with non-deniable data elements could be used to identify individuals.

"Department" meansshall mean the Illinois Department of Public Health. (Section 2(a) of the Act)

"Director" meansshall mean the Director of the Illinois Department of Public Health.

"Disclosure" means the communication of health data to an individual or organization outside the Department.

"Health Data", for the purposes of this Partthese regulations, includes but is not limited to:

Data concerning the extent, nature and impact of illness and disability on the population of the State;

The determinants of health and health hazards;

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Health resources, including the extent of available manpower and resources;

Utilization and quality of health care; and

Health care costs and financing.

"Health Facility" ~~means~~shall mean an entity including, but not limited to, a hospital, long-term care facility or ambulatory surgical treatment center licensed by the State to provide health care.

"Health Facility Data" ~~means~~shall mean the data element of a hospital, nursing home, or other health facility identification.

"Health Insurance Portability and Accountability Act" or "HIPAA" means the federal law (Public Law 104-191) that establishes standards for the privacy and security of health information and its associated regulations (45 CFR 160, 162 and 164).

"HIPAA Covered Program" means a Department program identified by the Department as a health care component in accordance with HIPAA.

"HIPAA Identifiers" means the 18 direct identifiers listed in the Privacy Rule:

Names;

All geographical subdivisions smaller than a State, including street address, city, county, precinct, zip code, and their equivalent geocodes, except for the initial three digits of a zip code, if, according to the current publicly available data from the Bureau of the Census:

the geographic unit formed by combining all zip codes with the same three initial digits contains more than 20,000 people; and

the initial three digits of a zip code for all such geographic units containing 20,000 or fewer people is changed to 000;

All elements of dates (except year) for dates directly related to an individual, including birth date, admission date, discharge date, date of

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death; and all ages over 89 and all elements of dates (including year) indicative of age over 89, except that ages and elements may be aggregated into a single category of age 90 or older;

Phone numbers;

Fax numbers;

Electronic mail addresses;

Social Security numbers;

Medical record numbers;

Health plan beneficiary numbers;

Account numbers;

Certificate/license numbers;

Vehicle identifiers and serial numbers, including license plate numbers;

Device identifiers and serial numbers;

Web Universal Resource Locators (URLs);

Internet Protocol (IP) address numbers;

Biometric identifiers, including finger- and voice-prints;

Full face photographic images and any comparable images; and

Any other unique identifying number, characteristic, or code (not including the unique code assigned by the investigator to code the data).

"Human Subject" means a living individual about whom a researcher obtains data through intervention or interaction with the individual or individual private information.

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"Identifiable Health Facility" ~~means~~~~shall mean~~ any health facility ~~that~~~~which~~ is specified by name or precise geographical location or other precise characteristics in the data sets or analyses.

~~"Individual Data" shall mean data pertaining to individual patients which do not include any of the "deniable data elements". The following shall not constitute "deniable data elements": month and year of admission or visit, month and year of discharge, length of stay, number of pre-operative days, number of post-operative days, class of payor, zip code or census tract location of patient residence, age of patient at one-year intervals for patients one year old or older, age of patient at one-week intervals for patients less than one year old, individual provider specialty, presence or absence of an accident, and health facility identification.~~

"Indirect Identifiers" means elements in documents and records that increase the likelihood of identifying an individual, but do not involve direct identifiers. The indirect identifiers included in files or documents may vary based on whether the indirect identifier serves to increase the likelihood of identifying the individual and whether the privacy interests outweigh the public interest in releasing the indirect identifier.

~~"Individually Identifiable Health Data" means~~~~is~~ any health data that~~which~~ can be used to identify the individual supplying or described in the health data. Specifically included ~~are~~~~is~~ data elements, alone or in combination with other elements in the health data, containing unique patient or individual provider identifiers. Any health data pertaining to fewer than six individual providers at any single identifiable health facility constitutes individually identifiable health data.

"Individually Identifiable Health Information" means information that:

is a subset of individually identifiable health data that is created or received by the Department;

relates to the past, present or future physical or mental health or condition of an individual, the provision of health care to an individual, or the past, present or future payment for the provision of health care to an individual;  
and

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identifies the individual or there is a reasonable basis to believe the information can be used to identify the individual.

Individual Provider" ~~means~~~~shall mean~~ any physician, dentist, podiatrist, chiropractic physician or other individual licensed or otherwise authorized in this State to furnish health care services.

"Institutional Review Board" or "IRB" means a body established in accordance with applicable federal regulations for human research protections as set forth in 45 CFR 46. The IRB chairperson may act on behalf of the IRB as specified in 45 CFR 46.

"Limited Health Data Sets" means confidential information that excludes specific direct identifiers of the individual, or of relatives, employers or household members of the individual, as described in federal regulations (45 CFR 46), that may be disclosed for research, public health or operations purposes, at the discretion of the Department, if approved by the Department's IRB as authorized under Section 1005.120. Indirect identifiers in limited health data sets may include, but are not limited to: admission, discharge, service, or incident dates; dates of birth or death, ages in years, months or days or hours; and five digit or more zip code or any other geographic subdivision, except for street name and number, four digit zip code extension, latitude and longitude, or census block.

"Patient" ~~means~~~~shall mean~~ an individual who receives health care from an individual provider or who receives care while in a health facility; this includes residents of licensed long-term care facilities.

"Privacy Rule" means the Health Insurance Portability and Accountability Act regulations.

"Public Use Health Data File" means a Department health data file designated as de-identified by the IRB that is available to anyone. Health data elements are limited and health data values are aggregated in the files so that the proportion of unique records is below thresholds as determined by the IRB and consistent with common practice for developing the files.

"Safe Harbor De-identification Method" means a method of de-identification so that the Department staff member who discloses the de-identified information does not have actual knowledge that the information could be used alone or in

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combination with other information to identify an individual who is the subject of the information, and that the 18 HIPAA identifiers of the individual, or of relatives, employers or household members, are removed.

"Statistical De-identification" means that, upon the request of the Department, a qualified statistician using accepted analytic techniques concludes that the risk is very small that the individual level health data could be used alone or in combination with other reasonably available information to identify the subject of the health data. For the purposes of this procedure, a qualified statistician shall be a member of the Department's staff who is identified by the IRB for this purpose.

(Source: Amended at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.15 Incorporated and Referenced Materials**

- a) The following federal regulations are incorporated by reference in this Part:
- 1) 45 CFR 46 – Protection of Human Subjects (2009)
  - 2) 21 CFR 50 – Protection of Human Subjects (2011)
  - 3) 21 CFR 56 – Institutional Review Boards (2009)
  - 4) 45 CFR 160, 162 and Subparts A and E of 164 – HIPAA Privacy Rule (2006)
- b) The following Illinois statutes are referenced in this Part:
- 1) Illinois Health Statistics Act [410 ILCS 520]
  - 2) Open Meetings Act [5 ILCS 120]
  - 3) Freedom of Information Act [5 ILCS 140]
- c) All incorporations by reference of federal regulations or guidelines refer to the regulations or guidelines on the date specified and do not include any amendments or editions subsequent to the date specified.

(Source: Added at 38 Ill. Reg. 19251, effective September 10, 2014)

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**Section 1005.20 Department~~Departmental~~ Functions**

The Department ~~will~~shall:

- a) Publish, make available and disseminate health statistics on as wide a basis as practicable;
- b) Coordinate~~Take action to coordinate~~ its efforts with all public and private agencies and their representative co-operative groups to effect ~~a~~ sharing of health data ~~with the State~~;
- c) Participate with public and private agencies in the design and implementation of cooperative health data systems; ~~and~~
- d) Undertake and support research, development, demonstrations, and evaluations in regard to respecting the~~such~~ cooperative system, with particular emphasis on health data consortium activities in Illinois; ~~and~~;
- e) Evaluate confidentiality requirements and concerns when making determinations regarding release of health data.

(Source: Amended at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.25 Requests for Release of Health Data by Researchers and Other Individuals**

- a) Requests to the Department for health data shall be submitted in a standard format specified by the Department. All requests for data shall contain the following information:
  - 1) The specific purpose for which the health data is requested, including testable research hypotheses;
  - 2) The justification for requested health data elements;
  - 3) The particular file-format desired;
  - 4) The time period within which the health data is desired;

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- 5) For health data to be supplied more than once, the frequency with which health data is to be supplied; and
  - 6) Any other information the Department may reasonably require, including, but not limited to, an explanation of how the study design can be reasonably expected to answer the proposed hypotheses.
- b) Requests for non-individually identifiable data and limited health data sets shall contain an assurance that no attempt will be made to identify any specific individuals, physicians or individual providers of services about whom health data is supplied, unless approved by the Department.
  - c) Any applicant who includes specific individual provider identification numbers in the request for health data shall furnish, as part of the application, proof of notification of the request to all individual providers, if the request requires IRB approval. Any individual provider shall have the right to submit comments to the Department. Comments shall be included with any health data pertaining to the individual provider that is disclosed to the applicant.

(Source: Added at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.30 Departmental Procedures for Health Data Release**

- a) ~~Where groupings of data are based upon fewer than twelve patient records containing deniable data elements, such groupings will be eliminated or combined with other groupings.~~
- a) ~~b)~~ The Department ~~will~~shall review all requests for health data to determine whether the request is technically feasible in terms of the ability of the Department to ~~provide~~produce the required health data:
  - 1) ~~From~~from a known data base; and
  - 2) ~~Under statutes, rules and~~under agreements by which the health data came into ~~the Department's possession~~State hands.
- b) In addition to technical feasibility, the Department will perform an administrative review of all requests for health data as required by laws and regulations specific to the data being requested, based on factors including an assessment of the

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potential benefit and public health utility to be derived from the proposed analysis as described in 45 CFR 46; the necessity for identifiable health data, if requested; feasibility of the study design; the applicability of the requested health data to the stated purposes; and the ability of Department staff to provide the requested health data, including an estimation of the staff time and costs involved.

- c) All requests for data ~~that~~which are ~~denied will not technically feasible shall~~ be returned to the applicant within 90 days ~~to the applicant~~ with a statement containing the reason why the request is being ~~denied~~returned.
- d) All requests for ~~individual data that are approved will or aggregated data which do not constitute or involve deniable data elements, health facility data or deniable aggregated data and which are technically feasible shall~~ be processed within 120 days after approval by the Department's IRB and execution of a health data use agreement.
- e) ~~Any data pertaining to deniable data elements or fewer than twelve patients shall be deemed to constitute individual identifiable data. In no instance may this data be disseminated except pursuant to Section 1005.30(h) of this Part.~~
- e~~f~~) Any health data pertaining to ~~deniable data elements and/or~~ fewer than six individual providers at any single identifiable health facility or serving a specified or identifiable geographic area ~~constitutes~~shall be deemed to constitute deniable individual identifiable health data. This health data shall not~~In no instance may this data~~ be disseminated except pursuant to Section 1005.35(a)~~30(h)~~ of this Part.
- f~~g~~) The Department and the IRB will each review requests for health data containing direct identifiers and requests for limited health data sets that have not been previously released. After the review by the Department and the IRB, and upon making the determination that the request is not approved, the person making the request shall be instructed to modify the request.~~The Department shall review all requests involving deniable individual data, health facility data and deniable aggregated data in order to determine:~~
  - 1) ~~whether the purpose of the request is consistent with the purposes for which data from the Department may be used and purposes for which the data was collected.~~
  - 2) ~~the utility of each study for which data is requested.~~

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- g) The Department will not approve any release of health data unless all provisions of Section 5 of the Act, this Section, and applicable requirements of 45 CFR 46 have been complied with.
- h) ~~The department may make no disclosure of any item, collection or grouping of health data which makes the individual supplying or described in such data identifiable unless:~~
- 1) ~~The person requesting the data secures the written consent of the individual described in the data permitting the disclosure;~~
  - 2) ~~The individual described in the data has consented in writing to the disclosure; and~~
  - 3) ~~If the disclosure is to a governmental entity in this state, in another state or to the federal government, provided that:~~
    - A) ~~The data will be used for a purpose for which the data was collected by the department; and~~
    - B) ~~the applicant is qualified to undertake the intended study as determined by the Director based upon the advice of the Data Protection Review Board. The Director shall use, but is not limited to, the following criteria to determine if an applicant is qualified:~~
      - i) ~~credentials or experience,~~
      - ii) ~~complexity of request.~~
    - C) ~~The recipient of the data has entered into a written agreement satisfactory to the department, that it will protect such data in accordance with the requirements of this act and will not permit further disclosure without written authorization from the director.~~
  - 4) ~~If The disclosure is to an individual or organization, for a specified time period as set forth in the written agreement and as determined by the department, solely for bona fide research and statistical purposes, as~~

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~~determined in accordance with guidelines adopted by the department, and the department determines that: (1) the disclosures of the data to the requesting individual or organization is required for the research and statistical purposes proposed; and (2) the requesting individual or organization has entered into a written agreement satisfactory to the department that it will protect such data in accordance with the requirements of this Act and will not permit further disclosure without written authorization from the Director. In no event, however, may the name, address, social security number, recipient number, or other unique personal identifier or an individual supplying the data or described in it be disclosed under the subparagraph to the requesting individual or organization.~~

- 5) ~~If the disclosure is to a governmental entity for the purpose of conducting an audit, evaluation or investigation of the department and such governmental entity agrees not to use such data for making any determination to whom the health data relates.~~
- i) ~~Any disclosure provided for in paragraph (h) of this Section shall be made at the discretion of the department except that the disclosure provided for in subparagraph (5) of paragraph (h) of this Section must be made when the requirements of that subparagraph have been met.~~
- j) ~~No identifiable health data obtained in the course of activities undertaken or supported under this act shall be subject to subpoena, or similar compulsory process in any civil or criminal, judicial, administrative or legislative proceeding, nor shall any individual or organization with lawful access to identifiable health data under the provisions of this Act be compelled to testify with regard to such health data, except that data pertaining to a party litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of such individual to enforce any liability arising under this Act.~~
- k) ~~The Department, after completing its review, shall forward all requests for deniable aggregated data, health facility data and deniable data elements and, the results of its review and all supporting data to the Data Protection Review Board for its review. After the review of the Data Protection Review Board and Department, and upon finding that such request of deniable data is not required and is inappropriate, the Department will instruct the person making the request for deniable aggregated data or deniable data elements to modify their request in~~

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~~such a way that it will not, in order to be complied with, result in the dissemination of deniable data, or which would result in the identification of any individual patient or provider.~~

(Source: Amended at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.35 Department Standards for Health Data Release**

- a) Disclosure of Individually Identifiable Health Data
- 1) The Department may make no disclosure of any item, collection or grouping of health data that makes the individual supplying or described in the health data identifiable unless:
- A) The individual described in the health data, or the parent or legal guardian if the individual is a minor or mentally incompetent or a person holding a power of attorney covering the matters on behalf of the individual, has consented to the disclosure;
- B) The disclosure is to a governmental entity in this State or in another state or to the federal government, provided that:
- i) The health data will be used for a purpose for which the health data was collected by the Department;
- ii) The recipient of the health data has entered into a written agreement, satisfactory to the Department, that it will protect the health data in accordance with the requirements of the Act and this Part and will not permit further disclosure without prior approval of the Department (Section 5(a)(2) of the Act);
- C) The disclosure is to an individual or organization, for a specified time period as set forth in the written agreement and as determined by the Department, solely for bona fide research or statistical purposes, as determined in accordance with guidelines and procedures adopted by the Department, and the Department determines that:

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- i) *the disclosure of the health data to the requesting individual or organization is required for the research or statistical purposes proposed;*
  - ii) *the requesting individual or organization has entered into a written agreement satisfactory to the Department that it will protect the health data in accordance with the requirements of the Act and this Part and will not permit further disclosure without prior approval of the Department. In no event, however, may the name, address, social security number, recipient number, or other unique personal identifier of an individual supplying the health data to the Department or described in it be disclosed under this Part to the requesting individual or organization, unless a Department-approved Institutional Review Board or its equivalent on the protection of human subjects in research has reviewed and approved the health data request. (Section 5(a)(3) of the Act); and*
  - iii) *The applicant is qualified to undertake the intended activity or study, as determined by the Department, based upon the IRB's assessment. In making its determination, the Department will consider, but is not limited to, the applicant's credentials and experience; and complexity of the health data request;*
- D) *The disclosure is to a governmental entity for the purpose of conducting an audit, evaluation or investigation of the Department and the governmental entity agrees not to use the health data for making any determination to whom the health data relates (Section 5(a)(4) of the Act);*
- E) *The disclosure is of specific medical or epidemiological information to authorized personnel in this or another state or the federal government, or agencies responsible to enforce quarantine, when necessary to continue patient services or to undertake public health efforts to control communicable, infectious, acute, chronic, or any other disease or health hazard that the Department considers to be dangerous or important or that may affect public health;*

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- F) The disclosure is of specific medical or epidemiologic information to a health care provider, health care personnel, or public health personnel who has a legitimate need to have access to the information in order to assist the patient or protect the patient. This does not create a duty to warn third parties; or
- G) The disclosure is necessary to obtain payment from an insurer or other third party payor in order for the Department to obtain payment or coordinate benefits for a patient.
- b) Any disclosure provided for in subsection (a) of this Section shall be made at the discretion of the Department except that the disclosure provided for in subsection (a)(1)(D) of this Section must be made when the requirements of that subsection have been met. (Section 5(b) of the Act)
- c) No identifiable health data obtained in the course of activities undertaken or supported under the Act or this Part shall be subject to subpoena, or similar compulsory process in any civil or criminal, judicial, administrative or legislative proceeding, nor shall any individual or organization with lawful access to identifiable health data under the provisions of the Act or this Part be compelled to testify with regard to the health data, except that data pertaining to a party in litigation may be subject to subpoena or similar compulsory process in an action brought by or on behalf of the individual to enforce any liability arising under the Act or this Part. (Section 5(c) of the Act)
- d) Standards for Disclosure of De-Identified Health Data
- 1) De-identification Standard: Individual health data is sufficiently de-identified and does not constitute confidential information if a statistical or a safe harbor de-identification method is used. Public use data files approved for publication by the Department also meet the de-identification standard.
- 2) Re-identification of De-identified Health Data: The Department may assign a code or other means of health data identification to allow information that has been de-identified to be re-identified, provided that the Department does not disclose the code or other means of health data identification for any other purpose and does not disclose the mechanism

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for re-identification of the individual, and that the code or other means of data identification is not derived from or related to information about the individual and cannot otherwise be translated to identify the individual.

- e) Standards for Disclosure of Aggregate Health Data
- 1) Any disclosure of aggregate health data shall ensure that there is no reasonable basis to believe that the identity of an individual could be derived from disclosure of aggregate health data, unless the Director determines that the public health benefit of the disclosure is warranted or that conditions specified in subsection (a) are met.
  - 2) When releasing de-identified aggregate health data, Department programs will use accepted methods for de-identification of aggregate health data and will take into account whether values should be suppressed in situations in which numbers are too small to produce reliable statistics.

(Source: Added at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.40 Data Protection Review Board (DPRB) (Repealed)**

- a) ~~The Director shall appoint a Data Protection Review Board which shall be an advisory board used by the Department to review requests for deniable aggregated data, health facility data and deniable data elements and to offer to the Department any comments and/or recommendations relative to the requests.~~
- b) ~~The DPRB shall consist of 13 members to be appointed by the Director for terms of three years, except that the initial appointments to the DPRB shall be made for the terms as follows:~~
  - 1) ~~five members shall be appointed for a term of two years;~~
  - 2) ~~four members shall be appointed for a term of three years; and~~
  - 3) ~~four members shall be appointed for a term of four years.~~
- e) ~~In making appointments to the DPRB, the Director shall consider recommendations submitted by statewide constituencies.~~

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- d) ~~Members shall serve without remuneration.~~
- e) ~~The DPRB shall be associated with the following groups:~~
  - 1) ~~State government (1 member);~~
  - 2) ~~commercial insurers (1 member);~~
  - 3) ~~hospital providers (2 members);~~
  - 4) ~~local health planning agencies (1 member);~~
  - 5) ~~professional review organizations (1 member);~~
  - 6) ~~business, industry and labor (1 member);~~
  - 7) ~~medical societies (2 members);~~
  - 8) ~~Long term Care provider (1 member);~~
  - 9) ~~Ambulatory Surgical Treatment Center provider (1 member); and~~
  - 10) ~~health care academic researchers (2 members).~~
- f) ~~The DPRB will have ninety (90) days to prepare its comments and respond to the Department's request for advice concerning data requests. The Director, prior to rendering a final determination, shall give consideration to the comments of the DPRB.~~

(Source: Repealed at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.50 Access to Data (Repealed)**

- a) ~~The Director shall not approve any request for deniable data elements, health facility data or deniable aggregated data unless he is satisfied that all provisions of Section 5 of the Act and of this Part have been complied with. (See Section 1005.30(h))~~
- b) ~~The Director shall not permit the dissemination of any of the aforesaid data unless~~

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~~the person requesting such data has shown in written format that the data is to be utilized for research and statistical purposes likely to assist in the delivery of health care services and that the data shall not in any way be utilized to determine the identification of any health care provider or recipient.~~

(Source: Repealed at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.60 Requests for Data (Repealed)**

- a) ~~All requests for deniable aggregated data, deniable data elements, or data requiring special handling due to their complexity or need to consult unpublished source materials shall be submitted in writing to the Department.~~
- b) ~~Requests for health data shall not be approved for purposes other than the purpose for which they were supplied or for which the individual or organization described in the data has otherwise consented in writing.~~
- e) ~~Written requests to the Department for data shall be submitted in a standard format specified by the Department. All written requests for data must contain the following information:~~
  - 1) ~~the specific nature of data requested;~~
  - 2) ~~the particular tape format or report format desired;~~
  - 3) ~~the time period within which the data are desired;~~
  - 4) ~~for data to be supplied more than once, the frequency with which data are to be supplied; and~~
  - 5) ~~any other information the Department may reasonably require.~~
- d) ~~Requests for individual data or aggregated data which do not constitute deniable data elements, identifiable health facility data or deniable aggregated data shall contain an assurance that no attempt will be made to identify any specific individuals, physicians or individual providers of services about whom data is supplied.~~
- e) ~~An applicant must also submit a written agreement to be entered into with the~~

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~~Department pursuant to Section 5(a)(3)(ii) of the Act.~~

- ~~f) Any applicant who includes specific individual provider identification numbers in his request for data must furnish, as part of his application, proof of notification to all such individual providers of his request. Any individual provider so notified shall have the right to submit comments to the Department. Such comments must be included with any data pertaining to the individual provider which is disclosed to the applicant.~~

(Source: Repealed at 38 Ill. Reg. 19251, effective September 10, 2014)

SUBPART B: INSTITUTIONAL REVIEW BOARDSection 1005.100 Institutional Review Board Authority, Role and Composition

- a) The IRB is established by the authority of the Department to protect the health and lives of the people of the State and to fulfill its duty to comply with all applicable requirements of 45 CFR 46 and 21 CFR 50 and 56.
- b) An IRB approved by the Director shall review requests for health data disclosure for which IRB review is required by statute or rule, and proposals for research involving human subjects that is conducted by the Department or individuals working on behalf of the Department.
- c) The Director may require that proposals submitted to the Department that have been approved by another IRB be subject to review and approval of the Department's IRB.
- d) The IRB shall be qualified through the experience, expertise and diversity of its members, including race, gender, cultural backgrounds and sensitivity to community perspectives. The IRB shall review proposed research in light of existing Department commitments, existing laws, regulations and guidelines, and standards of professional conduct and practice. The IRB will include persons with expertise in these areas.
- e) The IRB chairperson will solicit recommendations for IRB membership from Department Deputy Directors, IRB members, and, as needed, from other Department staff, and professional and human services agencies and organizations. Individuals who wish to be considered for IRB membership shall

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indicate their interest by contacting the IRB chairperson. The Director will consider the candidates and make formal appointments to fulfill the specific requirements of the IRB composition as required in this Section and 45 CFR 46.

- f) The Director will appoint the IRB members, alternate IRB members, IRB Chair, and IRB Vice-Chairs. The IRB will consist of at least five members with varying backgrounds. Composition of the IRB will reflect the anticipated scope and complexity of review activities, the types of populations involved, and the size and availability of Department resources.
- g) IRB Membership
- 1) The IRB will not consist entirely of men or entirely of women.
  - 2) The IRB will not consist solely of members of one profession.
  - 3) The IRB will include at least one member whose primary concerns are in scientific areas.
  - 4) The IRB will include at least one member who is a non-scientist.
  - 5) The IRB will include at least one member who is not otherwise affiliated with, or part of the immediate family of, a person who is affiliated with the Department. The non-scientist and the member who is not affiliated with the Department may be the same individual.
  - 6) An IRB member shall not participate in the initial or continuing review of any project in which the member has a conflict of interest, except to provide information requested by the IRB. The IRB Chair shall ensure that IRB members with a conflict of interest are not present during IRB votes subject to their conflict of interest.
  - 7) The IRB may invite individuals with special expertise to assist in the review of issues requiring expertise beyond or in addition to that available on the IRB. These individuals may not vote with the IRB.

(Source: Added at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.110 Institutional Review Board Procedures**

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- a) The IRB review of applications that are deemed not exempt or not eligible for expedited review will occur at convened meetings subject to the Open Meetings Act. IRB meetings will include a majority of IRB members who are present at the meeting in person or by electronic means, including at least one member whose expertise is in non-scientific areas.
- b) The IRB has the authority to approve or disapprove, require modification to, or observe research, and to suspend or terminate approval (see Section 1005.130). Reliance on another institution's IRB or an independent IRB for review of research shall be documented by a written agreement that is available for review by federal Office of Human Research Protections upon request.
- c) The IRB will provide written notification to researchers of approval or disapproval of, or required modifications to, proposed research.
- d) The IRB Chair will review all research applications involving human subjects to determine whether the application involves exempt research.
- e) The IRB has the authority to allow repeat release of designated limited data sets that are not from a HIPAA covered program without individualized IRB review.
- f) Requests for approval of disclosure of health data and approval of research that involves no more than minimal risk to human subjects and their privacy and confidentiality are eligible for an expedited review procedure. Research projects that are eligible for expedited review include those projects found in the list of research categories published as eligible for expedited review by the Department of Health and Human Services (45 CFR 46) and previously approved projects for which minor changes are proposed during the period for which the IRB has already given approval, when those projects or changes involve minimal risk.
- g) If a request is eligible for an expedited review procedure, the review may be carried out by the IRB Chair or by one or more experienced reviewers designated by the Chair from among members of the IRB.
- h) In reviewing the request under an expedited review procedure, the reviewers may approve, but not disapprove, the research application. A research application may be disapproved only after review in accordance with the non-expedited review

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procedure. Research applications that have been reviewed under, but not approved through, the expedited review procedure will be subject to further IRB review at a convened meeting.

- i) Prior to approval, the IRB will determine that all of the following requirements are satisfied:
- 1) Risks to subjects shall be minimized; researchers shall use procedures that are consistent with sound research design and do not unnecessarily expose subjects to risk;
  - 2) Risks to subjects shall be reasonable in relation to the expected benefits to subjects and the knowledge that may reasonably be expected to result from the research;
  - 3) The selection of subjects shall be equitable;
  - 4) Unless otherwise authorized or permitted by law or regulation, informed consent shall be obtained and appropriately documented from each participating subject or the subject's legally authorized representative. When the IRB determines that the research project must include procedures for obtaining informed consent, the IRB shall ensure that informed consent is to be obtained under circumstances and through procedures that adhere to all applicable laws and regulations, and minimize any coercion or undue influence upon the subject or representative. Unless otherwise authorized or permitted by law or regulation, the following elements of informed consent shall be provided to each human subject:
    - A) An explanation of the purposes of, and procedures involved in, the research and the expected duration of the subject's participation;
    - B) A description of any reasonably foreseeable risks or discomforts to the subject;
    - C) A description of any benefits to the subject or to others that may reasonably be expected from the research;

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- D) A statement describing how the confidentiality of records identifying the subject will be maintained;
- E) Information regarding who should be contacted for answers to questions about the research and research subjects' rights and in the event of a research-related injury to the subject;
- F) A statement that participation is voluntary, refusal to participate will involve no penalty or loss of benefits to which the subject is otherwise entitled, and the subject may discontinue participation at any time without penalty or loss of those benefits; and
- G) Any additional information that the IRB determines would further protect the rights and welfare of the subject;
- 5) The research shall make any necessary provisions for data monitoring to ensure the safety of subjects;
- 6) The privacy of subjects and confidentiality of data shall be assured;
- 7) When the research involves subjects likely to be vulnerable to coercion or undue influence, additional safeguards shall be included to protect the rights and welfare of these subjects.
- j) The IRB may deny requests to conduct the research for reasons including, but not limited to, that the risks posed to human subjects are too great and for noncompliance with applicable laws and regulations. A notice of disapproval shall include the reasons for denial in sufficient detail that allows the researcher to respond. The researcher will be given the opportunity to respond to the denial in person or in writing to the IRB.
- k) Any research proposal approved by the IRB shall include a provision that any subject who is participating or has participated in the research project who has a complaint shall be referred to the IRB to determine whether a protocol has been violated.
- l) The IRB will review and approve changes to previously approved research projects and requests to continue projects beyond the expiration date of the current IRB approval. Changes shall not be initiated without IRB review and

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approval except when necessary to eliminate apparent immediate hazards to the subjects.

- m) The IRB will perform continuing, periodic reviews at intervals commensurate with the degree of risk the research poses.
- n) The IRB will require a report for each approved research project at its conclusion.
- o) For research to be approved at a convened meeting, a majority of members present at the meeting must vote in favor.
- p) For reviews under expedited review authority, the majority also prevails, if expedited review is performed by more than one individual.
- q) A quorum must be present at IRB meetings to do business.
- r) A quorum is a simple majority of full members of the IRB, except that at least one member whose primary concerns are in non-scientific areas must be present.
- s) Alternate members of the IRB are counted in the quorum when they are attending all or part of a convened meeting on behalf of full members.
- t) Members who are eligible to vote but abstain from voting are counted toward the quorum.
- u) Members who must recuse themselves from consideration of a proposal due to conflict of interest shall leave the room during consideration of the proposal and are not counted in the quorum.
- v) The researcher has the right to appeal IRB decisions, including disapprovals, terminations of approval, restrictions on study design or study procedures, and approval conditions. Appeals shall be submitted in writing to the IRB within 60 days after the written notice to the researchers of the IRB's decision. Appeals shall provide a rationale for why the researcher believes that the IRB's decision is in error. All written appeals, including those of decisions made through the expedited review process, will be placed on the agenda of the next convened meeting of the IRB.

(Source: Added at 38 Ill. Reg. 19251, effective September 10, 2014)

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**Section 1005.120 Administrative Review and Approval**

- a) In accordance with 45 CFR 46, research proposals and requests for health data that have been approved by the IRB are also subject to administrative review and approval by the Department.
- b) After administrative review of the administrative impact, technical feasibility and human subject protection as described in 45 CFR 46, the Director may disapprove research that has been approved by the IRB; however, the Director will not approve a request if it has not been approved by the IRB.

(Source: Added at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.130 Suspension or Termination of Institutional Review Board Approval**

- a) The IRB chairperson has the authority to suspend or terminate approval of activities that are not being conducted in accordance with the IRB's requirements or that have been associated with unexpected serious harm to subjects.
- b) Any suspension or termination of approval will include a statement of the reasons for the IRB's action and will be reported promptly to the investigator and the Director.

(Source: Added at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.140 Documentation of Institutional Review Board Activities**

- a) Documentation of IRB activities will be prepared and maintained and will include the following:
  - 1) Copies of all research proposals reviewed, scientific evaluations that may accompany the proposals, approved sample consent documents, progress reports submitted by researchers, and reports of injuries to participants;
  - 2) Minutes of IRB meetings, which will be in sufficient detail to show attendance at the meetings; actions taken by the IRB; the vote on these actions, including the number of members voting for, against and abstaining; the basis for requiring changes in or disapproving research;

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and a written summary of the discussion of controversial issues and their resolution;

- 3) Records of continuing review activities;
  - 4) Copies of all correspondence between the IRB and investigators;
  - 5) A list of IRB members; and
  - 6) Statements of significant new findings provided to IRB members.
- b) A log of approved human research projects will be made public on the Department's website unless otherwise exempt from disclosure under the Freedom of Information Act.

(Source: Added at 38 Ill. Reg. 19251, effective September 10, 2014)

**Section 1005.150 Institutional Review Board Applications**

- a) Applications for IRB review shall be submitted to the Department electronically unless otherwise requested by the IRB.
- b) Applications involving human subjects research shall include the following documentation:
  - 1) A proposal including, but not limited to, the following:
    - A) The names and curriculum vitae of the principal investigator and co-principal investigators;
    - B) An abstract of the project;
    - C) A full description of the project's purpose, methodology, protocol and duration;
    - D) The number of subjects, the amount of time required for each subject's participation, and a detailed description of the interaction with the subjects;

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- E) The procedures for obtaining informed consent and the informed consent forms;
  - F) The questionnaires, testing and measurement instruments;
  - G) Letters, scripts, posters, notices, flyers, written materials and advertisements to be used for subject recruitment;
  - H) A duly executed unaffiliated investigator agreement for each investigator who is not an employee or who is not working on behalf of the Department;
  - I) Proof that each investigator has completed required training in the protection of human research subjects; and
  - J) The Department resources to be used;
- 2) Identification of funding resources for the research proposal;
  - 3) Any certifications and assurances regarding the protection of human research subjects, privacy and confidentiality that are required by law or regulation; and
  - 4) Any other information necessary to the IRB review procedure.
- c) The IRB will review the application, in accordance with Section 1005.110 and 45 CFR 46.

(Source: Added at 38 Ill. Reg. 19251, effective September 10, 2014)

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- 1) Heading of the Part: Firearm Concealed Carry Act Procedures
- 2) Code Citation: 20 Ill. Adm. Code 1231
- 3) 

<u>Section Numbers</u> :	<u>Proposed Action</u> :
1231.20	Amend
1231.30	Amend
1231.50	Amend
1231.Appendix B	Amend
1231.Appendix C	Repeal
- 4) Statutory Authority: Implementing and authorized by the Firearm Concealed Carry Act [430 ILCS 66] and authorized by Section 95 of that Act
- 5) Effective Date of Rule: September 12, 2014
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 38 Ill. Reg. 9205; May 2, 2014
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

In Section 1231.20(a)(1), after "resident," add "the applicant must meet all of the"; after "eligibility" add "requirements"; and after "Card" add "other than Illinois residency".

In Section 1231.20(a)(2), change the period to a comma.

In Section 1231.20(a)(2), change "Such persons" to "that person" and "provided" to "provide".

In Section 1231.20(a)(2), change "they are" to "he or she is".

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In Section 1231.20(a)(2), change "their" to "his or her".

In Section 1231.20(c), change "@" to "at".

In Section 1231.30(a), delete ",as provided in Section 1231.20,".

In Section 1231.30(c)(1)(A), after "students;" add "and"

In Section 1231.30(c)(1)(B), change "training rosters:" to "written training rosters that shall include:

- i) instructor's name and CCT number;
- ii) curriculum name and CCC number;
- iii) student's full legal name;
- iv) student's date of birth;
- v) student's address;
- vi) student's phone number;
- vii) total hours attended, broken down to identify hours per topic covered as approved in Section 1231.40;
- viii) pass/fail live fire qualification; and
- ix) an indication of yes/no on issuance of ISP CCL training certificate, which shall serve as proof of completion of training."

In Sections 1231.30(c), delete items 1231.30(c)(1)(C), 1231.30(c)(1)(D), 1231.30(c)(1)(E), and 1231.30(c)(2).

In Section 1231.30(d), change "@" to "at".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The proposed rulemaking will update out-of-state instructor requirements, establish auditing procedures for instructors, provide for the confidentiality of training records provided by students, and allow for the approval of new curriculum consistent with the Act.

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- 16) Information and questions regarding this adopted rule shall be directed to:

Suzanne L. Y. Bond  
Chief Legal Counsel  
Illinois State Police  
801 South 7th Street, Suite 1000-S  
Springfield IL 62703

217/782-7658

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

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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT  
CHAPTER II: DEPARTMENT OF STATE POLICEPART 1231  
FIREARM CONCEALED CARRY ACT PROCEDURES

## SUBPART A: DEFINITIONS

## Section

1231.10 Definitions

## SUBPART B: INSTRUCTOR AND CURRICULUM APPROVAL

1231.20 Instructor Approval  
1231.30 Instructor Approval Revocation  
1231.40 Curriculum Approval  
1231.50 Training Certification

## SUBPART C: FIREARM CONCEALED CARRY LICENSURE

1231.60 Issuance of License  
1231.70 Objections  
1231.80 Review Board  
1231.90 Qualifications for License  
1231.100 Application  
1231.110 Non-Resident Application  
1231.120 Renewal  
1231.130 Change Requests  
1231.140 Fees  
1231.150 Prohibited Areas  
1231.160 FCCL Suspension, Revocation and Invalidation  
1231.170 Appeals

## SUBPART D: MISCELLANEOUS

1231.180 Law Enforcement Fingerprinting Registration  
  
1231.APPENDIX A Prohibited Area Posting  
1231.APPENDIX B Prior Training Credit

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1231.APPENDIX C Concealed Carry Firearm Training Certification Form [\(Repealed\)](#)

**AUTHORITY:** Implements the Firearm Concealed Carry Act [430 ILCS 66] and authorized by Section 95 of that Act.

**SOURCE:** Adopted by emergency rulemaking at 37 Ill. Reg. 15146, effective August 30, 2013, for a maximum of 150 days; adopted at 38 Ill. Reg. 2322, effective December 31, 2013; emergency amendment at 38 Ill. Reg. 9703, effective April 16, 2014, for a maximum of 150 days; emergency rule modified in response to JCAR Objection at 38 Ill. Reg. 13410, effective June 10, 2014, for the remainder of the 150 days; emergency amendment at 38 Ill. Reg. 16010, effective July 10, 2014, for a maximum of 150 days; amended at 38 Ill. Reg. 19282, effective September 12, 2014.

## SUBPART B: INSTRUCTOR AND CURRICULUM APPROVAL

**Section 1231.20 Instructor Approval**

- a) Applicants for Concealed Carry Firearm Instructor (Instructor) approval shall meet the requirements of Section 80 of the Act and shall maintain:
  - 1) A valid Firearm Owner's Identification (FOID) Card or, if an out-of-state resident, [the applicant must meet all of the eligibility requirements to obtain a FOID Card other than Illinois residency](#) (see 20 Ill. Adm. Code 1230); and
  - 2) After April 16, 2014, a valid FCCL, unless the applicant is not required to possess an FCCL to conceal and carry handguns in Illinois, [or, if the applicant is an out-of-state resident not from a substantially similar state, that person shall provide proof to the Department upon request that he or she is not required to possess an FCCL to conceal and carry handguns in Illinois, or that he or she is eligible to carry under the laws of his or her state or territory of residence.](#)
- b) Application to be a Concealed Carry Firearms Instructor shall be made by first submitting a full set of fingerprints to the Department in an electronic format using a Live Scan Vendor licensed by the Department of Financial and Professional Regulation or a law enforcement agency registered by the Department. Manual fingerprints will not be accepted.

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- c) Upon receiving a Live Scan Fingerprint Transaction Control Number (TCN) from the Licensed Live Scan Vendor or law enforcement agency registered by the Department, the applicant shall electronically complete and submit the Department's Concealed Carry Firearms Instructor Approval Application (Application), available on the Department's website [at @www.isp.state.il.us/eel4illinois.com](http://www.isp.state.il.us/eel4illinois.com).
- d) The Application must be complete and accurate. Incomplete Applications will not be accepted or processed. Upon receipt of an incomplete Application, the Department shall notify the instructor applicant and advise what information is missing. If an instructor applicant has not provided the missing information in response to the Department's notification within 60 days after notice from the Department, the Application shall be denied.
- e) Applicants must have read the Act in its entirety ~~and~~, understand the rules and requirements of this Part ~~, and, after April 16, 2014, hold an Illinois Firearms Concealed Carry License, unless the applicant is not required to possess an FCCL to conceal and carry handguns in Illinois, and:~~
- 1) ~~If the applicant is an Illinois resident, possess a valid FOID Card.~~
  - 2) ~~If not an Illinois resident, be eligible to obtain a valid FOID Card if the applicant were an Illinois resident.~~
- f) Applicants must meet all of the requirements of Section 30 of the Act.
- g) Upon completing and submitting the Application electronically, the applicant must print the Application Verification Document, sign it, have it notarized, attach the required Valid Firearms Instructor Certifications, and submit the Certification documents to:

Illinois State Police  
Concealed Carry Firearms Instructor Approval  
P.O. Box 19333  
Springfield IL 62724

(Source: Amended at 38 Ill. Reg. 19282, effective September 12, 2014)

**Section 1231.30 Instructor Approval Revocation**

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- a) Revocation or expiration of either the FOID Card or FCCL shall result in the immediate revocation of the Instructor's approval.
- b) The Department may revoke an Instructor's approval upon receiving substantiated information that the Instructor is not teaching the curriculum in a manner consistent with Section 75 of the Act.
- c) The Department may, without providing prior notice, audit an Instructor's scheduled training for purposes of investigating allegations that an Instructor and/or curriculum is not in compliance with the Act and this Part. ~~Complaints regarding Instructors may be made by calling the Illinois State Police Academy at (217)786-0284.~~
  - 1) To facilitate an adequate audit trail, instructors shall maintain all records to support any training certification as required by Section 75(f) of the Act, which shall include:
    - A) copies of training certificates currently accepted to satisfy the prior training credit submitted by students; and
    - B) written training rosters that shall include:
      - i) instructor's name and CCT number;
      - ii) curriculum name and CCC number;
      - iii) student's full legal name;
      - iv) student's date of birth;
      - v) student's address;
      - vi) student's phone number;
      - vii) total hours attended, broken down to identify hours per topic covered as approved in Section 1231.40;
      - viii) pass/fail live fire qualification; and

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- ix) an indication of yes/no on issuance of ISP CCL training certificate, which shall serve as proof of completion of training.
- d) Complaints regarding Instructors may be made by contacting the Department (see the Department's website at [www.isp.state.il.us](http://www.isp.state.il.us)).
- e)ⓓ Upon revocation of an Instructor's approval, the Instructor's name and information shall be removed from the registry of approved Instructors maintained by the Department and available on its website.
- f)ⓔ Once an Instructor's approval is revoked and the Department issues a letter of revocation to the Instructor, the Instructor may appeal the revocation to the Director of the Department and present evidence that the factors resulting in the revocation have been resolved. If the Director determines that the revocation of approval was not warranted, or that the issues that resulted in revocation have been remedied, the Instructor's approval shall be reinstated, the Instructor shall be notified and the name of the Instructor shall be restored to the registry of approved Instructors.

(Source: Amended at 38 Ill. Reg. 19282, effective September 12, 2014)

**Section 1231.50 Training Certification**

- a) Approved Instructors shall complete for FCCL applicants the Department's Concealed Carry Firearms Training Certification form (~~see Appendix C~~), which is available on the Department's website.
- b) The Certification form shall only be completed for those FCCL applicants who the Instructor trained in person for whom the Instructor can verify:

  - 1) successful completion of the appropriate Department approved curriculum; or
  - 2) that the FCCL applicant has already successfully completed training through a Department approved curriculum.
- c) On the Certification form (~~see Appendix C~~), the Instructor shall:

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- 1) certify the number of hours the FCCL applicant successfully completed; and
  - 2) provide the unique identification number assigned by the Department to the approved curriculum and the Instructor.
- d) For those [FCCL](#) applicants who provided proof of up to 8 hours of training already completed toward the 16 hours training, the Instructor shall:
- 1) verify the aggregate number of hours for which the [FCCL](#) applicant provided proof of instruction in Firearms Safety, Basic Principles of Marksmanship, and Care, Cleaning, Loading and Unloading of a Concealable Firearm, based upon a list provided by the Department of accepted training courses, and provide the necessary additional hours of training to equal 16 hours total;
  - 2) certify whether the [FCCL](#) applicant successfully completed the 8 hours training required by Section 1231.40; and
  - 3) identify which prior training credits the Instructor verified, as identified on the Department's Concealed Carry Firearm Training Certification form ([see Appendix C](#)).
- e) The Instructor may certify up to 8 hours of prior training, consistent with Section 75 of the Act. The prior training may be substituted for no more than the following number of hours in any of the topics required by Section 1231.40(d)(2):
- 1) Firearms Safety – a maximum of 2 classroom hours;
  - 2) Basic Principles of Marksmanship – a maximum of 3 classroom and range hours; and
  - 3) Care, Cleaning, Loading and Unloading of a Concealable Firearm – a maximum of 3 classroom and range hours.

(Source: Amended at 38 Ill. Reg. 19282, effective September 12, 2014)

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**Section 1231. Appendix B Prior Training Credit**

- a) Section 75(g) and (i) of the Act provides that prior handgun training can be substituted for a portion of the training required for an FCCL. The following is a list of training courses that qualify for prior training credit and the amount of credit awarded for each.
- b) It is the responsibility of the Instructor to verify successful completion of prior training and apply credit as listed. Once this credit is combined with additional training hours provided by the Instructor, the Instructor will certify that the 16 hour training requirement was met.
- c) Instructors should inform applicants how much credit they will receive for their prior training and remind them the prior training certificates must be submitted with the FCCL Training Certificate (~~see Appendix C~~) when they apply.
- d) The following are courses for which prior training credit can be awarded. This list will be updated as additional courses are submitted and approved by the Department.

<u>Course Title</u>	<u>Acceptable Credit</u>
Illinois Hunter Safety Course.....	4 hours
Utah Concealed Carry .....	4 hours
Florida Concealed Carry .....	4 hours
Nevada Concealed Carry .....	4 hours
Missouri Concealed Carry .....	4 hours
Kentucky Concealed Carry .....	4 hours
Michigan Concealed Carry .....	4 hours
Chicago Firearms Safety Course .....	4 hours
NRA Basic Pistol .....	8 hours
NRA Personal Protection in the Home .....	8 hours
NRA Personal Protection Outside the Home.....	8 hours
Active, Retired or Honorably Discharged member of the United States Armed Forces .....	8 hours
Prior Law Enforcement or Corrections Officer Training (see Section 75(j) of the Act) .....	8 hours

- e) Section 75(g) of the Act requires that any hours remaining after the credit has

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been granted must at least cover the classroom subject matter and range qualifications listed in Section 1231.40(d) and (e)(2).

- f) To submit training for recognition by the Department, mail the following items to Illinois State Police, FCCL Prior Credit, Post Office Box 19333, Springfield IL 62794:
- 1) Basic course outline of the training submitted; and
  - 2) A letter from another state indicating it recognizes the course.

(Source: Amended at 38 Ill. Reg. 19282, effective September 12, 2014)

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Section 1231. Appendix C Concealed Carry Firearm Training Certification Form (Repealed)



Illinois State Police

CONCEALED CARRY FIREARM TRAINING CERTIFICATE

I, \_\_\_\_\_ certify that \_\_\_\_\_ has successfully completed training for an Illinois Concealed Carry Firearms License on \_\_\_\_\_ pursuant to the Illinois Firearm Concealed Carry Act (the Act). (Instructor Name Printed) (Applicant Name—First, Middle, Last) (Date)

I provided \_\_\_\_\_ hours of training required by Section 75(b) and (c) of the Act. \_\_\_\_\_ (CURRICULUM ID#: CCC)

I verified \_\_\_\_\_ hours of prior training and provided the additional required training to be counted towards the 16 hour requirement pursuant to Section 75(g) of the Act. The Applicant provided documentation of the following courses for prior training credit. (CHECK ALL THAT APPLY)

- Illinois Hunter Safety Course ..... 4 hours
Utah Concealed Carry ..... 4 hours
Florida Concealed Carry ..... 4 hours
Nevada Concealed Carry ..... 4 hours
Missouri Concealed Carry ..... 4 hours
Kentucky Concealed Carry ..... 4 hours
Michigan Concealed Carry ..... 4 hours
Chicago Firearms Safety Course ..... 4 hours
NRA Basic Pistol ..... 8 hours
NRA Personal Protection in the Home ..... 8 hours
NRA Personal Protection Outside the Home ..... 8 hours
Active, Retired or Honorably Discharged member of the US Armed Forces ..... 8 hours
Previously qualified law enforcement or corrections officer (see 430 ILCS 75(j)) ..... 8 hours

I hereby certify that the above applicant has demonstrated a total of 16 hours of approved training curriculum as required by Section 75(b) and (c) of the Act.

INSTRUCTOR ID NUMBER: CCT

INSTRUCTOR BUSINESS NAME:

DEPARTMENT OF STATE POLICE

NOTICE OF ADOPTED AMENDMENTS

<p><del>INSTRUCTOR SIGNATURE:</del> _____</p> <p><del>APPLICANT SIGNATURE:</del> _____</p> <p style="text-align: right;"><del>12/20/13</del></p>
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(Source: Repealed at 38 Ill. Reg. 19282, effective September 12, 2014)

## DEPARTMENT OF REVENUE

## NOTICE OF REQUEST FOR EXPIDITED CORRECTION

- 1) Heading of the Part: Regional Transportation Authority Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 320
- 3) Section Number: 320.115
- 4) Date Proposal published in Illinois Register: March 21, 2014; 38 Ill. Reg. 6575
- 5) Date Adoption published in Illinois Register: July 11, 2014; 38 Ill. Reg. 14322
- 6) Summary and Purpose of Expedited Correction: In Section 320.115(c)(1)(A), the spelling of personnel is being corrected.
- 7) Information and questions regarding this request shall be directed to:

Paul Berks  
Deputy General Counsel  
Illinois Department of Revenue  
100 W. Randolph Street, 7<sup>th</sup> Floor  
Chicago IL 60601

312/814-4680

## DEPARTMENT OF REVENUE

## NOTICE OF REQUEST FOR EXPIDITED CORRECTION

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 320

## REGIONAL TRANSPORTATION AUTHORITY

## RETAILERS' OCCUPATION TAX

## Section

320.101	Nature of the Regional Transportation Authority Retailers' Occupation Tax
320.105	Registration and Returns
320.110	Claims to Recover Erroneously Paid Tax
320.115	Jurisdictional Questions
320.120	Incorporation of the Retailers' Occupation Tax Regulations by Reference
320.125	Penalties, Interest and Procedures
320.130	Effective Date

**AUTHORITY:** Authorized by and implementing Section 4.03 of the Regional Transportation Authority Act [70 ILCS 3615/4.03].

**SOURCE:** Adopted at 4 Ill. Reg. 28, p. 542, effective July 1, 1980; codified at 6 Ill. Reg. 9681; amended at 15 Ill. Reg. 6316, effective April 11, 1991; amended at 24 Ill. Reg. 18370, effective December 1, 2000; amended at 34 Ill. Reg. 11444, effective July 26, 2010; emergency amendment at 38 Ill. Reg. 4073, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14322, effective June 25, 2014; expedited correction at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 320.115 Jurisdictional Questions**

## a) Definitions

When used in this Part, "Metropolitan Region" means all territory included within the Regional Transportation Authority as provided in the Regional Transportation Authority Act, and such territory as may be annexed to the Regional Transportation Authority.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final

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consummation of the sale by the passing of title and payment of the purchase price". *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321 (1943).

- b) Retailer's Selling Activities Determine Taxing Jurisdiction
- 1) Occupation of Selling. The Regional Transportation Authority Act [70 ILCS 3615] authorizes the Authority to impose a tax on those engaged in the business of selling tangible personal property at retail in the metropolitan region. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the Regional Transportation Authority Retailers' Occupation Tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. *Automatic Voting Machs. v. Daley*, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing *Mahon v. Nudelman*, 377 Ill. 331 (1941) and *Standard Oil Co. v. Dep't of Finance*, 383 Ill. 136 (1943)); see also *Young v. Hulman*, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax . . . imposes liability upon the occupation of selling at retail and not on the sale itself").
  - 2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 32 (citing *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321-22 (1943)).
  - 3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321 (1943). Consequently, "it is...not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction]....[I]t is

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necessary to determine each case according to the facts which reveal the method by which the business was conducted". *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321-22 (1943); see also *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 36.

- 4) **Statutory Intent.** It is the intent of Regional Transportation Authority Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 34 (quoting *Svithiod Singing Club v. McKibbin*, 381 Ill. 194, 197 (1942)). By allowing the Regional Transportation Authority to impose tax on retailers who conduct business in the Metropolitan Region, the Regional Transportation Authority Act links the retailer's tax liability to where it principally enjoys the benefits of government services. *Svithiod Singing Club v. McKibbin*, 381 Ill. 194, 199 (1942).
- 5) **Determination of Taxing Jurisdiction.** Applying the provisions in subsections (b)(1) and (b)(4), the seller incurs Regional Transportation Authority Retailers' Occupation Tax in a particular jurisdiction within the Metropolitan Region if its predominant and most important selling activities take place in that jurisdiction. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 322-23 (1943); *Harney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraphs 30-35.
- 6) **Substance over Form.** The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. *Marshall & Huschart Mach. Co. v. Dep't of Revenue*, 18 Ill. 2d 496, 501 (1960); *Fed. Bryant Mach. Co. v. Dep't of Revenue*, 41 Ill. 2d 64, 67 (1968); *Int'l-Stanley Corp. v. Dep't of Revenue*, 40 Ill. App. 3d 397, 406 (1<sup>st</sup> Dist. 1976); *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that

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party does not, in substance, conduct the selling activities related to the sales.

- 7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316 (1943); *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls..."). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing *Automatic Voting Machs. v. Daley*, 409 Ill. 438, 447 (1951)).

- 8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.

- c) **Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions**  
Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

- 1) **Primary Selling Activities.** Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among

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personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

- A) Location of sales ~~personnel~~personal exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;
  - B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;
  - C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;
  - D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and
  - E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.
- 2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the retailers' occupation tax imposed by the taxing bodies with authority to impose retailers' occupation tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).
  - 3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the

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primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

- A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailer's occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.
- B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:
  - i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;
  - ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and
  - iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.
- C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

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- 4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.
  - A) Location where marketing and solicitation occur;
  - B) Location where the seller engages in activities necessary to procure goods for sale;
  - C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);
  - D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;
  - E) Location where title passes; and
  - F) Location where the retailer displays goods to prospective customers, such as a showroom.
- 5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.
- 6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

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- d) Presumption Applying to Certain Selling Operations
- 1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.
  - 2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. *Chemed Corp., Inc. v. Department of Revenue*, 186 Ill. App. 3d 402 (4<sup>th</sup> Dist. 1989).
  - 3) Sales over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes, but is not limited to, the following circumstances:
    - A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

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- B) the customer takes possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in the business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.
- 4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a)). Persons selling tangible personal property to a nominal lessee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.
- 5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.
- A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.
- B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.
- C) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be

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taxable. The taxable sale (the retail sale) is the final sale to the user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

(Amended at 38 Ill. Reg. 14398, effective June 25, 2014; expedited correction at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

- 1) Heading of the Part: Salem Civic Center Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 690
- 3) Section Number: 690.115
- 4) Date Proposal published in *Illinois Register*: March 21, 2014; 38 Ill. Reg. 6640
- 5) Date Adoption published in *Illinois Register*: July 11, 2014; 38 Ill. Reg. 14398
- 6) Summary and Purpose of Expedited Correction: In Section 690.115(c)(2), the article "a" is being added in the first sentence (should have read "for a particular sale"). The expedited correction will serve the public interest and not create a public hardship because it promptly corrects a typographical error. Making this expedited correction does not unduly circumvent the public notice considerations of the Act because the error is only typographical in nature. The Department of Revenue will make corresponding corrections to its copy of these rules available to the public on its website.
- 7) Information and questions regarding this request shall be directed to:

Paul Berks  
Deputy General Counsel  
Illinois Department of Revenue  
100 W. Randolph Street, 7<sup>th</sup> Floor  
Chicago IL 60601

312/814-4680

## DEPARTMENT OF REVENUE

## NOTICE OF REQUEST FOR EXPEDITED CORRECTION

TITLE 86: REVENUE  
CHAPTER I: DEPARTMENT OF REVENUEPART 690  
SALEM CIVIC CENTER RETAILERS' OCCUPATION TAX

## Section

690.101	Nature of the Salem Civic Center Retailers' Occupation Tax
690.105	Registration and Returns
690.110	Claims to Recover Erroneously Paid Tax
690.115	Jurisdictional Questions
690.120	Incorporation of Retailers' Occupation Tax Regulations by Reference
690.125	Penalties, Interest and Procedures
690.130	Effective Date

**AUTHORITY:** Implementing Section 245-12 of the Salem Civic Center Law of 1997 [70 ILCS 200/245-12] and authorized by Section 2505-95 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-95].

**SOURCE:** Adopted at 21 Ill. Reg. 2390, effective February 3, 1997; amended at 25 Ill. Reg. 8260, effective June 22, 2001; emergency amendment at 38 Ill. Reg. 4138, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14398, effective June 25, 2014; expedited correction at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 690.115 Jurisdictional Questions**

## a) Definitions

When used in this Part, "Metropolitan Area" means all territory in the State of Illinois lying within the corporate boundaries of the City of Salem in Marion County.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O-Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

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- b) Retailer's Selling Activities Determine Taxing Jurisdiction
- 1) Occupation of Selling. The Salem Civic Center Use and Occupation Tax Law [70 ILCS 200/245-12] authorizes the Salem Civic Center Authority to impose a Salem Civic Center Retailers' Occupation Tax on those engaged in the business of selling tangible personal property at retail within the metropolitan area. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the local retailers' occupation tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. *Automatic Voting Machs. v. Daley*, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing *Mahon v. Nudelman*, 377 Ill. 331 (1941) and *Standard Oil Co. v. Dep't of Finance*, 383 Ill. 136 (1943)); see also *Young v. Hulman*, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax . . . imposes liability upon the occupation of selling at retail and not on the sale itself").
  - 2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 32 (citing *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321-22 (1943)).
  - 3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321 (1943). Consequently, "it is...not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction].... [I]t is necessary to determine each case according to the facts which reveal the

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method by which the business was conducted". *Ex-Cell-O Co. v. McKibbin*, 383 Ill. 316, 321-22 (1943); see also *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 36.

- 4) **Statutory Intent.** It is the intent of the Salem Civic Center Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 34 (quoting *Svithiod Singing Club v. McKibbin*, 381 Ill. 194, 197 (1942)). By allowing the Salem Civic Center Authority to impose tax on retailers who conduct business in the Metropolitan Area, the Salem Civic Center Law of 1997 [70 ILCS 200/Art. 245] links the retailer's tax liability to where it principally enjoys the benefits of government services. *Svithiod Singing Club v. McKibbin*, 381 Ill. 194, 199 (1942).
- 5) **Determination of Taxing Jurisdiction.** Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs Salem Civic Center Retailers' Occupation Tax in a particular jurisdiction within the Metropolitan Area if its predominant and most important selling activities take place in that jurisdiction. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 322-23 (1943); *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraphs 30 through 35.
- 6) **Substance over Form.** The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. *Marshall & Huschart Mach. Co. v. Dep't of Revenue*, 18 Ill. 2d 496, 501 (1960); *Fed. Bryant Mach. Co. v. Dep't of Revenue*, 41 Ill. 2d 64, 67 (1968); *Int'l-Stanley Corp. v. Dep't of Revenue*, 40 Ill. App. 3d 397, 406 (1<sup>st</sup> Dist. 1976); *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that

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party does not, in substance, conduct the selling activities related to the sales.

- 7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316 (1943); *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls..."). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing *Automatic Voting Machs. v. Daley*, 409 Ill. 438, 447 (1951)).
- 8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions

Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.

- 1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among

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personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

- A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;
  - B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;
  - C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;
  - D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and
  - E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.
- 2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the retailers' occupation tax imposed by the taxing bodies with authority to impose retailers' occupation tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).
- 3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the

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primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

- A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailers' sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailers' occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.
- B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:
  - i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;
  - ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and
  - iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.
- C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

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- 4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.
  - A) Location where marketing and solicitation occur;
  - B) Location where the seller engages in activities necessary to procure goods for sale;
  - C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);
  - D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;
  - E) Location where title passes; and
  - F) Location where the retailer displays goods to prospective customers, such as a showroom.
- 5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.
- 6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5), is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

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## d) Presumptions Applying to Certain Selling Operations

- 1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.
- 2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activity takes place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. *Chemed Corp., Inc. v. Department of Revenue*, 186 Ill. App. 3d 402 (4<sup>th</sup> Dist. 1989).
- 3) Sale over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes but is not limited to, the following circumstances:
  - A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

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- B) the customer takes possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in the business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.
- 4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a)). Persons selling tangible personal property to a nominal lessee or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.
- 5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.
- A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.
  - B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under the Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.
  - C) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be

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taxable. The taxable sale (the retail sale) is the final sale to the user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

(Amended at 38 Ill. Reg. 14398, effective June 25, 2014; expedited correction at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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## REQUEST FOR EXPEDITED CORRECTION

- 1) Heading of the Part: Non-Home Rule Municipal Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 693
- 3) Section Number: 693.115
- 4) Date Proposal published in *Illinois Register*: March 21, 2014; 38 Ill. Reg. 6653
- 5) Date Adoption published in *Illinois Register*: July 11, 2014; 38 Ill. Reg. 14413
- 6) Summary and Purpose of Expedited Correction: In subsection (d)(4), "lessee" is being changed to "lessee" to correct a typographical error. The expedited correction will serve the public interest and not create a public hardship because it promptly corrects a typographical error. Making this expedited correction does not unduly circumvent the public notice considerations of the Act because the error is only typographical in nature. The Department of Revenue will make corresponding corrections to its copy of these rules available to the public on its website.
- 7) Information and questions regarding this request shall be directed to:

Paul Berks  
Deputy General Counsel  
Illinois Department of Revenue  
100 W. Randolph Street, 7<sup>th</sup> Floor  
Chicago IL 60601

312/814-4680

## DEPARTMENT OF REVENUE

## REQUEST FOR EXPEDITED CORRECTION

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 693

## NON-HOME RULE MUNICIPAL RETAILERS' OCCUPATION TAX

## Section

693.101	Nature of the Non-Home Rule Municipal Retailers' Occupation Tax
693.105	Registration and Returns
693.110	Claims to Recover Erroneously Paid Tax
693.115	Jurisdictional Questions
693.120	Retailers' Occupation Tax Regulations
693.125	Penalties, Interest and Procedures
693.130	Ordinance Filing Deadlines; When Tax Rate Change Applies

**AUTHORITY:** Implementing the Non-Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1.3] and authorized by Section 2505-15 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-15].

**SOURCE:** Adopted at 24 Ill. Reg. 17831, effective November 28, 2000; amended at 32 Ill. Reg. 2829, effective February 8, 2008; emergency amendment at 38 Ill. Reg. 4151, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14413, effective June 25, 2014; expedited correction at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 693.115 Jurisdictional Questions**

## a) Definitions

When used in this Part, "municipal" and "municipality" mean a city, village or incorporated town, including an incorporated town that has superseded a civil township.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O-Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

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- b) Retailer's Selling Activities Determine Taxing Jurisdiction
- 1) Occupation of Selling. The Non-Home Rule Municipal Retailers' Occupation Tax Act [65 ILCS 5/8-11-1.3] authorizes non-home rule municipalities to impose a tax on those engaged in the business of selling tangible personal property at retail within the municipality. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the local retailers' occupation tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. *Automatic Voting Machs. v. Daley*, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales" as such.") (citing *Mahon v. Nudelman*, 377 Ill. 331 (1941) and *Standard Oil Co. v. Dep't of Finance*, 383 Ill. 136 (1943)); see also *Young v. Hulman*, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax...imposes liability upon the occupation of selling at retail and not on the sale itself").
  - 2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 32 (citing *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321-22 (1943)).
  - 3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 321 (1943). Consequently, "it is...not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction].... [I]t is necessary to determine each case according to the facts which reveal the method by which the business was conducted". *Ex-Cell-O Corp. v.*

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McKinnin, 383 Ill. 316, 321-22 (1943); see also *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 36.

- 4) **Statutory Intent.** It is the intent of the Non-Home Rule Municipal Retailers' Occupation Tax that retailers will incur local retailers' occupation tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 34 (quoting *Svithiod Singing Club v. McKibbin*, 381 Ill. 194, 197 (1942)). By allowing the municipality to impose tax on retailers who conduct business in the municipality, the Non-Home Rule Municipal Retailers' Occupation Tax Act links the retailer's tax liability to where it principally enjoys the benefits of government services. *Svithiod Singing Club v. McKibbin*, 381 Ill. 194, 199 (1942).
- 5) **Determination of Taxing Jurisdiction.** Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs Non-Home Rule Municipal Retailers' Occupation Tax in the municipality if its predominant and most important selling activities take place in the municipality. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316, 322-23 (1943); *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraphs 30 through 35.
- 6) **Substance over Form.** The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. *Marshall & Huschart Mach. Co. v. Dep't of Revenue*, 18 Ill. 2d 496, 501 (1960); *Fed. Bryant Mach. Co. v. Dep't of Revenue*, 41 Ill. 2d 64, 67 (1968); *Int'l-Stanley Corp. v. Dep't of Revenue*, 40 Ill. App 3d 397, 406 (1<sup>st</sup> Dist. 1976); *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that party does not, in substance, conduct the selling activities related to the sales.

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- 7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. *Ex-Cell-O Corp. v. McKibbin*, 383 Ill. 316 (1943); *Hartney Fuel Oil Co. v. Hamer* 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls..."). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of business in the State"); *Hartney Fuel Oil Co. v. Hamer*, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing *Automatic Voting Machs. v. Daley*, 409 Ill. 438, 447 (1951)).
  - 8) Because it is not practicable for retailers to divide retailers' occupation tax among competing jurisdictions, a retailer subject to the retailers' occupation tax is engaged in the business of selling in only one location in Illinois for each sale.
- c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions. Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit retailers' occupation tax. These retailers shall remit retailers' occupation tax as directed by statute, notwithstanding anything in this Part to the contrary.
- 1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of

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selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

- A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;
  - B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;
  - C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;
  - D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery; and
  - E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.
- 2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the retailers' occupation tax imposed by the taxing bodies with authority to impose retailers' occupation tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).
- 3) Application of primary selling activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) through (c)(3)(C) apply the

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primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

- A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the retailers' occupation tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.
- B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:
  - i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;
  - ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and
  - iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.
- C) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

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- 4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.
    - A) Location where marketing and solicitation occur;
    - B) Location where the seller engages in activities necessary to procure goods for sale;
    - C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);
    - D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed or fulfilled in a location or locations different from where they are received;
    - E) Location where title passes; and
    - F) Location where the retailer displays goods to prospective customers, such as a showroom.
  - 5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.
  - 6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.
- d) Presumptions Applying to Certain Selling Operations

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- 1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsections (d)(2) through (d)(5) provide administrative "short cuts" that balance the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.
- 2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. *Chemed Corp., Inc. v. Department of Revenue*, 186 Ill. App. 3d 402 (4<sup>th</sup> Dist. 1989).
- 3) Sales over the Internet. When a customer places an order for the purchase of tangible personal property through a consumer-based retailer website available without limitation on the world wide web and the retailer ships the property to the customer in this State, the Department will presume that the retailer's predominant selling activities take place outside of this State. Therefore, such a sale will be subject to the Illinois Use Tax Act unless there is clear and convincing evidence the retailer's predominant and most important selling activities take place in this State. Clear and convincing evidence sufficient to overcome the presumption provided for in this subsection (d)(3) includes, but is not limited to, the following circumstances:
  - A) the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), in which case the retailer is engaged in the business of selling in the jurisdiction where the property is located at the time of the sale with respect to that sale;

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- B) the customer take possession of the tangible personal property at a place of business owned or leased by the retailer in the State, in which case the retailer is engaged in business of selling in the jurisdiction where the customer takes possession of the property with respect to that sale.
- 4) Leases with an Option to Purchase. A lease with a dollar or other nominal option to purchase is considered to be a conditional sale subject to retailers' occupation tax. (See 86 Ill. Adm. Code 130.2010(a)). Persons selling tangible personal property to a nominal ~~lessee~~ ~~leasee~~ or bailee for use or consumption under a conditional sales agreement are presumed to be engaged in the business of selling at the physical location of the property at the time the parties enter into the conditional sales agreement.
- 5) Sales of Coal or Other Minerals. A retail sale by a producer of coal or other mineral mined in Illinois is a sale at retail in the jurisdiction where the coal or other mineral mined in Illinois is extracted from the earth. For purposes of this subsection (d)(5), "extracted from the earth" means the location at which the coal or other mineral is extracted from the mouth of the mine.
- A) A retail sale is a sale to a user, such as a railroad, public utility or other industrial company, for use. "Mineral" includes not only coal, but also oil, sand, stone taken from a quarry, gravel and any other thing commonly regarded as a mineral and extracted from the earth.
- B) A mineral produced in Illinois, but shipped out of Illinois by the seller for use outside Illinois, will generally be tax exempt under Commerce Clause of the Federal Constitution (i.e., as a sale in interstate commerce). This exemption does not extend, however, to sales to carriers, other than common carriers by rail or motor, for their own use outside Illinois if the purchasing carrier takes delivery of the property in the jurisdiction and transports it over its own line to an out-of-state destination.
- C) A sale by a mineral producer to a wholesaler or retailer for resale would not be a retail sale by the producer and so would not be taxable. The taxable sale (the retail sale) is the final sale to the

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user, and local retailers' occupation tax on that sale will go to the jurisdiction where the retailer is engaged in the business of selling, as provided in this subsection (d)(5).

(Source: Amended at 38 Ill. Reg. 14413, effective June 25, 2014; expedited correction at 38 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF CORRECTION TO NOTICE ONLY

- 1) Heading of the Part: Grade A Pasteurized Milk and Milk Products
- 2) Code Citation: 77 Ill. Adm. Code 775
- 3) The Notice of Proposed Amendments being corrected appeared at: 38 Ill. Reg. 18346; dated September 5, 2014
- 4) The information being corrected is as follows: The e-mail address for submitting comments on the rules is incorrect. The correct e-mail address is [dph.rule@illinois.gov](mailto:dph.rule@illinois.gov).

## DEPARTMENT OF REVENUE

AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

Date: September 12, 2014

Agency: Illinois Department of Revenue

Heading of the Part: Home Rule County Retailer's Occupation Tax

Code Citation: 86 Ill. Adm. Code 220

Register Citation: 38 Ill. Reg. 6549, March 21, 2014

Agency Response to Specific Joint Committee Recommendation:

On June 17, 2014, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and issued a certificate of no objection. The Committee also recommended to the Department of Revenue that it "continue to work with the affected taxpayers and local governments in an attempt to mitigate remaining concerns with the proposed language."

- In response to this recommendation, the Department of Revenue undertook the following actions:
- On July 25, 2014, representatives of the Department met with representatives of Cook County to discuss the final sourcing rules. The following individuals attended the meeting on behalf of Cook County: Zahra Ali, Kenneth Harris, Allison Davidson, Laura Lechowicz, Kent Ray, Jeffery McCutchan, and Joseph Clary. The Department was represented by Director Brian Hamer, Jim Nichelson, and Paul Berks. Representatives of the County expressed concern that the final sourcing rules did not go far enough to disincentive manipulation of sales tax sourcing. The Department assured the County that it was monitoring sales tax distributions and would continue to do so to assess whether retailers were complying with the sourcing rules, and would initiate a new rulemaking if there was evidence that the new rules were not effective.
- On July 30, 2014, the Department received a request for a General Information Letter from the Equipment Leasing and Financing Association (ELFA) regarding application of the sourcing rules to certain financing transactions. The Department is drafting a response to the request, which it intends to complete by October 31, 2014.
- On July 31, 2014, a representative of the Department attended a meeting organized by the Metropolitan Mayors Conference (MMC). The MMC is an organization comprised of

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AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

local governments in and around Chicago. Some of the members of MMC had expressed concerns about the Department's sourcing rules. Representatives of the following taxing jurisdictions attended the meeting: Village of Orland Park, Village of Woodridge, Village of Carol Stream, Village of Robbins, Village of Addison, Village of Glenview, City of Aurora, Village of Clarendon Hills, Village of Homer Glen, City of Geneva, City of Countryside, City of Batavia, City of Rolling Meadows, Village of Lemont, Village of Orland Park, Village of Oak Park, Village of Schaumburg, City of Blue Island, City of Lake Forest, Village of Morton Grove, Village of Hinsdale, City of Chicago, Village of Vernon Hills, Village of Fox Lake, Village of Westchester, Village of Barrington, Village of Hoffman Estates, City of Waukegan, Village of Roselle, Village of Romeoville, Village of Burr Ridge, Village of Schiller Park, Village of Itasca, Village of Pingree Grove, and the City of Aurora. The Department responded to questions and engaged in discussion on numerous subjects related to sourcing. The MMC subsequently submitted proposed modifications to the rules on August 14, 2014. The Department reviewed the proposals and submitted follow-up questions to MMC on September 5, 2014. The Department proposed a follow-up meeting to discuss MMC's proposal. Representatives of the Department are scheduled to meet with representatives of MMC to discuss the MMC proposal on September 15, 2014.

- One of the concerns identified in the comments on the final rulemaking submitted jointly by the Illinois Chamber of Commerce, Illinois Retail Merchants' Association, Taxpayers' Federation of Illinois, and the Illinois Manufacturers' Association, and in the comments submitted by the City of Kankakee was that the final sourcing rules conflict with another Department regulation, 86 Ill. Admin. Code 130.610. The Department addressed this concern by initiating a rulemaking to repeal Section 130.610. The First Notice on this rulemaking appeared in the Illinois Register on June 27, 2014. The Department filed the Second Notice on August 18, 2014. The rulemaking is on the agenda for JCAR's meeting on September 16, 2014.
- On June 27, 2014, the Regional Transportation Authority (RTA) sued the Department in the Circuit Court of Cook County seeking a declaration that the Department's sourcing rules are invalid, and requesting that the court enjoin their enforcement. The parties filed cross motions for summary judgment on August 15, 2014. Because of the ongoing litigation, the Department has not engaged in further discussions with the RTA about the sourcing rules.

As noted above, in response to JCAR's recommendation, the Department has continued to work

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AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

with taxing jurisdictions and taxpayers to mitigate their concerns about the application of the Department's rules, and will continue to do so.

Respectfully Submitted,

Paul Berks, Deputy General Counsel  
Illinois Department of Revenue

## DEPARTMENT OF REVENUE

AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

Date: September 12, 2014

Agency: Illinois Department of Revenue

Heading of the Part: Home Rule Municipal Retailer's Occupation Tax

Code Citation: 86 Ill. Adm. Code 270

Register Citation: 38 Ill. Reg. 6562, March 21, 2014

Agency Response to Specific Joint Committee Recommendation:

On June 17, 2014, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and issued a certificate of no objection. The Committee also recommended to the Department of Revenue that it "continue to work with the affected taxpayers and local governments in an attempt to mitigate remaining concerns with the proposed language."

In response to this recommendation, the Department of Revenue undertook the following actions:

- On July 25, 2014, representatives of the Department met with representatives of Cook County to discuss the final sourcing rules. The following individuals attended the meeting on behalf of Cook County: Zahra Ali, Kenneth Harris, Allison Davidson, Laura Lechowicz, Kent Ray, Jeffery McCutchan, and Joseph Clary. The Department was represented by Director Brian Hamer, Jim Nichelson, and Paul Berks. Representatives of the County expressed concern that the final sourcing rules did not go far enough to disincentive manipulation of sales tax sourcing. The Department assured the County that it was monitoring sales tax distributions and would continue to do so to assess whether retailers were complying with the sourcing rules, and would initiate a new rulemaking if there was evidence that the new rules were not effective.
- On July 30, 2014, the Department received a request for a General Information Letter from the Equipment Leasing and Financing Association (ELFA) regarding application of the sourcing rules to certain financing transactions. The Department is drafting a response to the request, which it intends to complete by October 31, 2014.
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- One of the concerns identified in the comments on the final rulemaking submitted jointly by the Illinois Chamber of Commerce, Illinois Retail Merchants' Association, Taxpayers' Federation of Illinois, and the Illinois Manufacturers' Association, and in the comments submitted by the City of Kankakee was that the final sourcing rules conflict with another Department regulation, 86 Ill. Admin. Code § 130.610. The Department addressed this concern by initiating a rulemaking to repeal section 130.610. The First Notice on this rulemaking appeared in the Illinois Register on June 27, 2014. The Department filed the Second Notice on August 18, 2014. The rulemaking is on the agenda for JCAR's meeting on September 16, 2014.
- On June 27, 2014, the Regional Transportation Authority (RTA) sued the Department in the Circuit Court of Cook County seeking a declaration that the Department's sourcing rules are invalid, and requesting that the court enjoin their enforcement. The parties filed cross motions for summary judgment on August 15, 2014. Because of the ongoing litigation, the Department has not engaged in further discussions with the RTA about the sourcing rules.

As noted above, in response to JCAR's recommendation, the Department has continued to work with taxing jurisdictions and taxpayers to mitigate their concerns about the application of the Department's rules, and will continue to do so.

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## DEPARTMENT OF REVENUE

AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

Date: September 12, 2014

Agency: Illinois Department of Revenue

Heading of the Part: Regional Transportation Authority Retailers' Occupation Tax

Code Citation: 86 Ill. Adm. Code 320

Register Citation: 38 Ill. Reg. 6575, March 21, 2014

Agency Response to Specific Joint Committee Recommendation:

On June 17, 2014, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and issued a certificate of no objection. The Committee also recommended to the Department of Revenue that it "continue to work with the affected taxpayers and local governments in an attempt to mitigate remaining concerns with the proposed language."

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AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
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Date: September 12, 2014

Agency: Illinois Department of Revenue

Heading of the Part: Metro East Mass Transit District Retailers' Occupation Tax

Code Citation: 86 Ill. Adm. Code 370

Register Citation: 38 Ill. Reg. 6588, March 21, 2014

Agency Response to Specific Joint Committee Recommendation:

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AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
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AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
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Date: September 12, 2014

Agency: Illinois Department of Revenue

Heading of the Part: Metro-East Park and Recreation District Retailers' Occupation Tax

Code Citation: 86 Ill. Adm. Code 395

Register Citation: 38 Ill. Reg. 6601, March 21, 2014

Agency Response to Specific Joint Committee Recommendation:

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AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
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Date: September 12, 2014

Agency: Illinois Department of Revenue

Heading of the Part: County Water Commission Retailers' Occupation Tax

Code Citation: 86 Ill. Adm. Code 630

Register Citation: 38 Ill. Reg. 6614, March 21, 2014

Agency Response to Specific Joint Committee Recommendation:

On June 17, 2014, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and issued a certificate of no objection. The Committee also recommended to the Department of Revenue that it "continue to work with the affected taxpayers and local governments in an attempt to mitigate remaining concerns with the proposed language."

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AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

Date: September 12, 2014

Agency: Illinois Department of Revenue

Heading of the Part: Special County Retailers' Occupation Tax for Public Safety

Code Citation: 86 Ill. Adm. Code 670

Register Citation: 38 Ill. Reg. 6627, March 21, 2014

Agency Response to Specific Joint Committee Recommendation:

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Date: September 12, 2014

Agency: Illinois Department of Revenue

Heading of the Part: Salem Civic Center Retailers' Occupation Tax

Code Citation: 86 Ill. Adm. Code 690

Register Citation: 38 Ill. Reg. 6640, March 21, 2014

Agency Response to Specific Joint Committee Recommendation:

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As noted above, in response to JCAR's recommendation, the Department has continued to work with taxing jurisdictions and taxpayers to mitigate their concerns about the application of the Department's rules, and will continue to do so.

Respectfully Submitted,

DEPARTMENT OF REVENUE

AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

Paul Berks, Deputy General Counsel  
Illinois Department of Revenue

## DEPARTMENT OF REVENUE

AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

Date: September 12, 2014

Agency: Illinois Department of Revenue

Heading of the Part: Non-Home Rule County Retailers' Occupation Tax

Code Citation: 86 Ill. Adm. Code 693

Register Citation: 38 Ill. Reg. 6653, March 21, 2014

Agency Response to Specific Joint Committee Recommendation:

On June 17, 2014, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and issued a certificate of no objection. The Committee also recommended to the Department of Revenue that it "continue to work with the affected taxpayers and local governments in an attempt to mitigate remaining concerns with the proposed language."

In response to this recommendation, the Department of Revenue undertook the following actions:

- On July 25, 2014, representatives of the Department met with representatives of Cook County to discuss the final sourcing rules. The following individuals attended the meeting on behalf of Cook County: Zahra Ali, Kenneth Harris, Allison Davidson, Laura Lechowicz, Kent Ray, Jeffery McCutchan, and Joseph Clary. The Department was represented by Director Brian Hamer, Jim Nichelson, and Paul Berks. Representatives of the County expressed concern that the final sourcing rules did not go far enough to disincentive manipulation of sales tax sourcing. The Department assured the County that it was monitoring sales tax distributions and would continue to do so to assess whether retailers were complying with the sourcing rules, and would initiate a new rulemaking if there was evidence that the new rules were not effective.
- On July 30, 2014, the Department received a request for a General Information Letter from the Equipment Leasing and Financing Association (ELFA) regarding application of the sourcing rules to certain financing transactions. The Department is drafting a response to the request, which it intends to complete by October 31, 2014.
- On July 31, 2014, a representative of the Department attended a meeting organized by the Metropolitan Mayors Conference (MMC). The MMC is an organization comprised of

## DEPARTMENT OF REVENUE

AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

local governments in and around Chicago. Some of the members of MMC had expressed concerns about the Department's sourcing rules. Representatives of the following taxing jurisdictions attended the meeting: Village of Orland Park, Village of Woodridge, Village of Carol Stream, Village of Robbins, Village of Addison, Village of Glenview, City of Aurora, Village of Clarendon Hills, Village of Homer Glen, City of Geneva, City of Countryside, City of Batavia, City of Rolling Meadows, Village of Lemont, Village of Orland Park, Village of Oak Park, Village of Schaumburg, City of Blue Island, City of Lake Forest, Village of Morton Grove, Village of Hinsdale, City of Chicago, Village of Vernon Hills, Village of Fox Lake, Village of Westchester, Village of Barrington, Village of Hoffman Estates, City of Waukegan, Village of Roselle, Village of Romeoville, Village of Burr Ridge, Village of Schiller Park, Village of Itasca, Village of Pingree Grove, and the City of Aurora. The Department responded to questions and engaged in discussion on numerous subjects related to sourcing. The MMC subsequently submitted proposed modifications to the rules on August 14, 2014. The Department reviewed the proposals and submitted follow-up questions to MMC on September 5, 2014. The Department proposed a follow-up meeting to discuss MMC's proposal. Representatives of the Department are scheduled to meet with representatives of MMC to discuss the MMC proposal on September 15, 2014.

- One of the concerns identified in the comments on the final rulemaking submitted jointly by the Illinois Chamber of Commerce, Illinois Retail Merchants' Association, Taxpayers' Federation of Illinois, and the Illinois Manufacturers' Association, and in the comments submitted by the City of Kankakee was that the final sourcing rules conflict with another Department regulation, 86 Ill. Admin. Code 130.610. The Department addressed this concern by initiating a rulemaking to repeal Section 130.610. The First Notice on this rulemaking appeared in the Illinois Register on June 27, 2014. The Department filed the Second Notice on August 18, 2014. The rulemaking is on the agenda for JCAR's meeting on September 16, 2014.
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DEPARTMENT OF REVENUE

AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

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Illinois Department of Revenue

## DEPARTMENT OF REVENUE

AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

Date: September 12, 2014

Agency: Illinois Department of Revenue

Heading of the Part: County Motor Fuel Tax

Code Citation: 86 Ill. Adm. Code 695

Register Citation: 38 Ill. Reg. 6666, March 21, 2014

Agency Response to Specific Joint Committee Recommendation:

On June 17, 2014, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and issued a certificate of no objection. The Committee also recommended to the Department of Revenue that it "continue to work with the affected taxpayers and local governments in an attempt to mitigate remaining concerns with the proposed language."

In response to this recommendation, the Department of Revenue undertook the following actions:

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DEPARTMENT OF REVENUE

AGENCY RESPONSE TO JOINT COMMITTEE RECOMMENDATION  
TO PROPOSED RULEMAKING

Respectfully Submitted,

Paul Berks, Deputy General Counsel  
Illinois Department of Revenue

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
NOTICE OF PUBLICATION ERROR

DEPARTMENT OF REVENUE

- 1) Heading of the Part: Medical Cannabis Cultivation Privilege Tax Law
- 2) Code Citation: 86 Ill. Adm. Code 429
- 3) Register citation of adopted rulemaking and other pertinent action: 38 Ill. Reg. 17084; effective July 15, 2014
- 4) Explanation: When published, the Notice page listed an effective date of July 15, 2014. The correct effective date is July 25, 2014.

JCAR regrets this error.

## CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

## NOTICE OF PUBLIC INFORMATION

## NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code, 30 ILCS 500/50-37, prohibits business entities with contracts and solicitations worth in excess of \$50,000 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the Illinois Register.
2. Name of Contributor: Halden W. Schinzler, President, Christy-Foltz, Inc.
3. Date of Violation: February 7, 2014.
4. Description of Violation: Halden W. Schinzler, an affiliated person of the business entity Christy-Foltz, Inc., made a contribution of \$200.00 to Citizens for Rauner, Inc., a campaign committee established to support the election of Bruce Rauner to Governor. At the time of the contribution, Bruce Rauner was a declared candidate for the office of Governor, and Christy-Foltz, Inc. submitted a bid for a Capital Development Board contract whose advertisement was first issued on January 22, 2014. The bid, submitted on March 6, 2014 in the amount of \$62,936.00, resulted in the award of the contract to Christy-Foltz, Inc.
5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violates the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officer for the Capital Development Board has notified the entities of the apparent violation, reviewed responsive material provided by their counsel, and has considered the value, status, and necessity of the contracts. In addition, the Chief Procurement Officer has taken into consideration the recognition by the entities of the violation and their understanding of the necessity to avoid such situations in the future. Additionally, the bidding was pursuant to competitive sealed bidding procedures and Christy-Foltz, Inc. submitted the lowest priced bid. The Chief Procurement Officer finds that voiding affected contracts, bids or proposals would not be in the best interest of the State.

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CHIEF PROCUREMENT OFFICER FOR CAPITAL DEVELOPMENT BOARD

NOTICE OF PUBLIC INFORMATION

As required by Section 50-37(e) of the Procurement Code, Citizens for Rauner, Inc., is required to pay to the State an amount equal to the value of the contribution within 30 days of the publication of this notice.

## CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

## NOTICE OF PUBLIC INFORMATION

## NOTICE OF CAMPAIGN CONTRIBUTION VIOLATION OF PROCUREMENT CODE

1. Statutory Authority: Section 50-37 of the Illinois Procurement Code, 30 ILCS 500/50-37, prohibits business entities with contracts and solicitations worth in excess of \$50,000.00 in combined annual value pending with a given officeholder responsible for awarding the contracts from making campaign contributions to campaign committees established to promote the candidacy of the officeholder or any other declared candidate for that office. The prohibition also extends to contributions made by various affiliated persons and businesses of a business entity that is subject to the prohibition. Section 50-37 requires that notice of violation of the prohibition and the penalty imposed is to be published in the *Illinois Register*.
2. Name of Contributor: Dennis E. Kruepke, President/CEO, McCann Industries, Inc.
3. Date of Violation: April 25, 2014
4. Description of Violation: Dennis E. Kruepke, an affiliated person of the business entity McCann Industries, Inc., made a contribution of \$250.00 to the Citizens for Rauner, Inc. political fund, a campaign committee established to support the gubernatorial candidacy of Bruce Rauner. At the time of the contribution, Bruce Rauner was and is currently the Republican candidate for the office of Governor of the State of Illinois in the 2014 general election, and McCann Industries, Inc. had in place an active contract with the Illinois State Toll Highway Authority, the total annual value of which was in excess of \$50,000.00.
5. Summary of Action Taken by the Agency: Section 50-37 provides that State contracts with a business entity that violates the campaign contribution prohibition are voidable at the discretion of the chief procurement officer. The Chief Procurement Officer for General Services has notified McCann Industries, Inc. of the apparent violation, reviewed responsive material provided by McCann Industries, Inc., and has considered the value, status, and necessity of the contracts. In addition, the Chief Procurement Officer has taken into consideration the recognition by McCann Industries, Inc. of the violation and its understanding of the necessity to avoid such situations in the future. The Chief Procurement Officer finds that voiding affected contracts, bids or proposals would not be in the best interest of the State.

As required by Section 50-37(e) of the Procurement Code, Citizens for Rauner, Inc. is required to pay to the State an amount equal to the value of the contribution within 30 days of the publication of this notice.

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of September 9, 2014 through September 15, 2014. The rulemakings are scheduled for review at the Committee's October 14, 2014 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
10/23/14	<u>Department of Public Health</u> , Lawn Irrigation Contractor and Lawn Sprinkler System Registration Code (77 Ill. Adm. Code 892)	4/25/14 38 Ill. Reg. 8756	10/14/14
10/25/14	<u>Illinois Gaming Board</u> , Prohibited Conduct (11 Ill. Adm. Code 423)	7/18/14 38 Ill. Reg. 14811	10/14/14
10/25/14	<u>Illinois Gaming Board</u> , Riverboat Gambling (86 Ill. Adm. Code 3000)	7/18/14 38 Ill. Reg. 14641	10/14/14
10/25/14	<u>Illinois Gaming Board</u> , Fines, Suspension, and Expulsion (11 Ill. Adm. Code 1322)	7/18/14 38 Ill. Reg. 14815	10/14/14
10/29/14	<u>Environmental Protection Agency</u> , Collection of Out-of-Service Mercury Thermostats (35 Ill. Adm. Code 190)	7/25/14 38 Ill. Reg. 15811	10/14/14
10/29/14	<u>Teachers' Retirement System of the State of Illinois</u> , The Administration and Operation of the Teachers' Retirement System (80 Ill. Adm. Code 1650)	6/27/14 38 Ill. Reg. 13203	10/14/14

**ILLINOIS ADMINISTRATIVE CODE**  
**Issue Index - With Effective Dates**

Rules acted upon in Volume 38, Issue 39 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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