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March 3, 2017 Volume 41, Issue 9

PROPOSED RULES

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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 2017

Issue#	Rules Due Date	Date of Issue
1	December 27, 2016	January 6, 2017
2	January 3, 2017	January 13, 2017
3	January 9, 2017	January 20, 2017
4	January 17, 2017	January 27, 2017
5	January 23, 2017	February 3, 2017
6	January 30, 2017	February 10, 2017
7	February 6, 2017	February 17, 2017
8	February 14, 2017	February 24, 2017
9	February 21, 2017	March 3, 2017
10	February 27, 2017	March 10, 2017
11	March 6, 2017	March 17, 2017
12	March 13, 2017	March 24, 2017
13	March 20, 2017	March 31, 2017
14	March 27, 2017	April 7, 2017
15	April 3, 2017	April 14, 2017
16	April 10, 2017	April 21, 2017
17	April 17, 2017	April 28, 2017
18	April 24, 2017	May 5, 2017
19	May 1, 2017	May 12, 2017
20	May 8, 2017	May 19, 2017

21	May 15, 2017	May 26, 2017
22	May 22, 2017	June 2, 2017
23	May 30, 2017	June 9, 2017
24	June 5, 2017	June 16, 2017
25	June 12, 2017	June 23, 2017
26	June 19, 2017	June 30, 2017
27	June 26, 2017	July 7, 2017
28	July 3, 2017	July 14, 2017
29	July 10, 2017	July 21, 2017
30	July 17, 2017	July 28, 2017
31	July 24, 2017	August 4, 2017
32	July 31, 2017	August 11, 2017
33	August 7, 2017	August 18, 2017
34	August 14, 2017	August 25, 2017
35	August 21, 2017	September 1, 2017
36	August 28, 2017	September 8, 2017
37	September 5, 2017	September 15, 2017
38	September 11, 2017	September 22, 2017
39	September 18, 2017	September 29, 2017
40	September 25, 2017	October 6, 2017
41	October 2, 2017	October 13, 2017
42	October 10, 2017	October 20, 2017
43	October 16, 2017	October 27, 2017
44	October 23, 2017	November 3, 2017
45	October 30, 2017	November 13, 2017
46	November 6, 2017	November 17, 2017
47	November 13, 2017	November 27, 2017
48	November 20, 2017	December 1, 2017
49	November 27, 2017	December 8, 2017
50	December 4, 2017	December 15, 2017
51	December 11, 2017	December 26, 2017
52	December 18, 2017	December 29, 2017

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Services Delivered by the Department of Children and Family Services
- 2) Code Citation: 89 Ill. Adm. Code 302
- 3) Section Number: 302.410 Proposed Action: Amendment
- 4) Statutory Authority: 20 ILCS 505/4 and 5
- 5) A Complete Description of the Subjects and Issues Involved: The following amendments satisfy BH consent decree requirements and include an additional permanency option for the youth in care of the Department of Children and Family Services. The amendments include lowering the age from 14 to 12 years of age to be eligible for the State funded option of Subsidized Guardianship. As proposed, children who are 12 years of age or older and their younger siblings, placed with an unlicensed relative caregiver, or licensed non-relative would now be eligible for the State Funded Option of Subsidized Guardianship when ineligible for KinGAP.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
302.20	Amendment	41 Ill. Reg. 1863; February 17, 2017
- 11) Statement of Statewide Policy Objective: The amended rule does not expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a

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period of 45 days following publication of this Notice. Comments should be submitted to:

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

217/524-1983
TDD: 217/524-3715
fax: 217/557-0692
cfpolicy@idcfs.state.il.us

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

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

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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TITLE 89: SOCIAL SERVICES
CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES
SUBCHAPTER a: SERVICE DELIVERYPART 302
SERVICES DELIVERED BY THE
DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBPART A: GENERAL PROVISIONS

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

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

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

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

Section	Purpose
302.300	Adoptive Placement Services (Repealed)
302.305	Adoption Listing Service for Hard-to-Place Children or Children with Disabilities for Whom the Department is Not Legally Responsible

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302.310	Adoption Assistance
302.311	Nonrecurring Adoption Expenses (Repealed)
302.315	Adoption Registry (Repealed)
302.320	Counseling or Casework Services
302.330	Day Care Services
302.340	Emergency Caretaker Services
302.350	Family Planning Services
302.360	Health Care Services
302.365	Mental Health Services (Repealed)
302.370	Homemaker Services
302.380	Information and Referral Services
302.390	Behavioral Health Services
302.400	Successor Guardianship (Repealed)
302.405	Subsidized Guardianship Program
302.410	Subsidized Guardianship (KinGap)

SUBPART D: INTENSIVE FAMILY PRESERVATION SERVICES

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

302.APPENDIX A	Acknowledgement of Mandated Reporter Status (Recodified)
302.APPENDIX B	Calculating the Amount of Adoption Assistance (Repealed)

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

SOURCE: Adopted and codified at 5 Ill. Reg. 13188, effective November 30, 1981; amended at 6 Ill. Reg. 15529, effective January 1, 1983; recodified at 8 Ill. Reg. 992; peremptory amendment at 8 Ill. Reg. 5373, effective April 12, 1984; amended at 8 Ill. Reg. 12143, effective July 9, 1984; amended at 9 Ill. Reg. 2467, effective March 1, 1985; amended at 9 Ill. Reg. 9104, effective June 14, 1985; amended at 9 Ill. Reg. 15820, effective November 1, 1985; amended at 10 Ill. Reg.

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5557, effective April 15, 1986; amended at 11 Ill. Reg. 1390, effective January 13, 1987; amended at 11 Ill. Reg. 1551, effective January 14, 1987; amended at 11 Ill. Reg. 1829, effective January 15, 1987; recodified to 89 Ill. Adm. Code 300 at 11 Ill. Reg. 3492, Sections 302.20, 302.100, 302.110, 302.120, 302.130, 302.140, 302.150, 302.160, 302.170, 302.180, 302.190, Appendix A; amended at 13 Ill. Reg. 18847, effective November 15, 1989; amended at 14 Ill. Reg. 3438, effective March 1, 1990; amended at 14 Ill. Reg. 16430, effective September 25, 1990; amended at 14 Ill. Reg. 19010, effective November 15, 1990; amended at 16 Ill. Reg. 274, effective December 31, 1992; emergency amendment at 17 Ill. Reg. 2513, effective February 10, 1993, for a maximum of 150 days; emergency expired July 9, 1993; amended at 17 Ill. Reg. 13438, effective July 31, 1993; amended at 19 Ill. Reg. 9107, effective June 30, 1995; amended at 19 Ill. Reg. 9485, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10746, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; emergency amendment at 19 Ill. Reg. 16735, effective November 28, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4606, effective March 15, 1996; amended at 20 Ill. Reg. 6670, effective May 1, 1996; emergency amendment at 21 Ill. Reg. 1033, effective January 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3265, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 6204, effective May 15, 1997; amended at 21 Ill. Reg. 10912, effective July 29, 1997; amended at 22 Ill. Reg. 7140, effective April 13, 1998; emergency amendment at 22 Ill. Reg. 7289, effective April 13, 1998, for a maximum of 150 days; emergency expired September 10, 1998; amended at 22 Ill. Reg. 8803, effective May 15, 1998; amended at 22 Ill. Reg. 21314, effective December 1, 1998; emergency amendment at 25 Ill. Reg. 4292, effective March 15, 2001, for a maximum of 150 days; emergency expired August 11, 2001; amended at 25 Ill. Reg. 11821, effective August 31, 2001; amended at 25 Ill. Reg. 16243, effective December 15, 2001; amended at 26 Ill. Reg. 11747, effective August 1, 2002; amended at 26 Ill. Reg. 16434, effective October 22, 2002; amended at 28 Ill. Reg. 2155, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 10405, effective July 8, 2004, for a maximum of 150 days; emergency expired December 4, 2004; amended at 29 Ill. Reg. 20354, effective November 30, 2005; amended at 30 Ill. Reg. 2323, effective February 2, 2006; amended at 32 Ill. Reg. 11611, effective July 10, 2008; emergency amendment at 33 Ill. Reg. 14310, effective October 1, 2009, for a maximum of 150 days; amended at 34 Ill. Reg. 3248, effective February 26, 2010; emergency amendment at 34 Ill. Reg. 13182, effective September 1, 2010, for a maximum of 150 days; emergency expired January 28, 2011; amended at 35 Ill. Reg. 2899, effective February 8, 2011; amended at 35 Ill. Reg. 8204, effective May 15, 2011; amended at 36 Ill. Reg. 4048, effective March 5, 2012; expedited correction at 37 Ill. Reg. 19427, effective March 5, 2012; amended at 40 Ill. Reg. 693, effective December 31, 2015; amended at 40 Ill. Reg. 7721, effective May 16, 2016; amended at 41 Ill. Reg. _____, effective _____.

SUBPART C: DEPARTMENT CHILD WELFARE SERVICES

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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Section 302.410 Subsidized Guardianship (KinGap)

- a) **General Provisions**
The subsidized guardianship program (KinGap) implements provisions of 42 USC 673 that allow the State to enter into guardianship agreements to provide assistance payments to grandparents and other relatives who have assumed the legal guardianship of children for whom they have cared as a licensed foster parent and for whom they have committed to care on a permanent basis. The program offers a subsidized private guardianship arrangement for children for whom the permanency goals of return home and adoption have been ruled out. Guardianship is governed by the Illinois Probate Act [755 ILCS 5] and the Illinois Juvenile Court Act [705 ILCS 405]. A licensed relative foster parent caring for a child determined to be eligible for the subsidized guardianship program shall be made aware of the availability of subsidized guardianship and the types of assistance available. The subsidized guardianship agreement must be signed prior to the transfer of guardianship.
- b) **Subsidized Guardianship Agreement**
The type, amount and duration of subsidized guardianship shall be agreed to in writing by the Department and the subsidized guardian prior to the transfer of guardianship and shall be set forth in the subsidized guardianship agreement, which shall be binding on the parties to the agreement. The agreement shall also stipulate that the agreement shall remain in effect regardless of the state where the subsidized guardian resides currently or in the future and shall contain provisions for the protection of the interests of the child in cases in which the subsidized guardian and child move to another state while the agreement is in effect. The amounts of ongoing subsidized guardianship payments are subject to change based on changes in State or federal law regarding adoption assistance payments. Subsidized guardians may refuse any or all payments offered by the Department. The child for whom guardianship is transferred and for whom the guardian is receiving a subsidy shall receive only those services and/or payments specified in the subsidized guardianship agreement. The child may require services in the future that are not currently being provided for pre-existing physical, emotional or mental health needs or risk factors. Any pre-existing conditions must be described in the subsidized guardianship agreement to be eligible for assistance through the Adoption Assistance Program at a future date. Assistance cannot be granted for services for pre-existing conditions if the conditions are not listed in the subsidized guardianship agreement. The subsidized guardianship agreement

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must be signed, and a copy of the signed agreement must be provided to the prospective guardian, prior to the transfer of guardianship.

c) Eligibility Criteria

1) Eligibility for Subsidized Guardianship under KinGap

A) For a child to qualify for subsidized guardianship under KinGap, the following criteria must be met:

- i) the child must have been removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare and the best interest of the child; and
- ii) the child must be eligible for foster care maintenance payments while residing for at least 6 consecutive months in the home of a licensed prospective relative guardian immediately prior to the establishment of the guardianship; and
- iii) the prospective relative guardian must have been a licensed foster parent for at least the consecutive 6 month period that the child has been in his/her home immediately prior to the establishment of the guardianship; and
- iv) ~~return~~~~being returned~~ home or ~~adoption~~~~adopted~~ are not appropriate permanency options for the child; and
- v) the child demonstrates a strong attachment to the prospective relative guardian and the relative guardian has a strong commitment to caring permanently for the child; and
- vi) with respect to a child who has attained 14 years of age, the child has been consulted and the child has agreed to the guardianship arrangement.

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- B) A sibling of an eligible child, who is placed with the same relative as the eligible child under a kinship guardianship agreement, when DCFS and the relative guardian agree that the placement is appropriate, also qualifies for subsidized guardianship under KinGap.
- 2) Eligibility for the State Funded Option of Subsidized Guardianship
- A) The child does not qualify for subsidized guardianship under KinGap; and
- B) the child is 12+4 years of age or older; and
- CB) the child has lived with an unlicensed relative caregiver or a licensed non-relative for at least the 6 consecutive month period prior to the establishment of the guardianship and meets the following:
- i) the child was removed from his or her home pursuant to a voluntary placement agreement or as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare and best interest of the child; and
- ii) the child was eligible for foster care maintenance payments while residing for at least 6 consecutive months in the unlicensed home of relative or licensed non-relative home immediately prior to establishing guardianship; and
- iii) the prospective non-relative guardian has been a licensed foster parent for at least the consecutive 6 month period immediately prior to the establishment of the guardianship; and
- iv) return/being returned home or adoption/adopted are not appropriate permanency options for the child; and

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- v) the child demonstrates a strong attachment to the prospective guardian and the prospective guardian has a strong commitment to caring permanently for the child; and
- vi) the child has been consulted and has agreed to the guardianship arrangement.

D) A younger sibling of a child eligible for the State funded option of subsidized guardianship who is placed with the same unlicensed relative or licensed non-relative as the eligible child, when DCFS and the unlicensed relative or licensed non-relative guardian agree that the placement is appropriate, also qualifies for the State funded option of subsidized guardianship.

- d) Determination Whether Subsidized Guardianship under ~~the KinGap Program~~ is in the Best Interests of the Child
 - 1) Prior to approving a subsidized guardianship arrangement for a child, the Department shall determine whether subsidized guardianship is in the best interests of the child. In making this determination, the Department shall consider all relevant factors, including but not limited to:
 - A) the wishes of the child's prospective subsidized guardian and the guardian's demonstrated ability to provide care that meets the special needs of the child, if any;
 - B) the wishes of the child under the age of 14 or the consent of the child, if over age 14;
 - C) the interaction and interrelationship between the child and the prospective subsidized guardian;
 - D) the child's adjustment to the present home, school and community;
 - E) the child's need for stability and continuity of relationship with the prospective subsidized guardian; and
 - F) the mental and physical health of all individuals involved.

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- 2) The Department shall ensure that the subsidized guardianship arrangement is safe and suitable placement by means of a safety checks, which shall include a CANTS/SACWIS and LEADS check.
- e) Types of Assistance
A child meeting the eligibility criteria for subsidized guardianship is entitled to the following types of assistance:
- 1) Non-recurring Expenses
Payment for non-recurring expenses associated with obtaining legal guardianship for the child subject to the maximum of up to \$2000 per child.
 - 2) Ongoing Monthly Payments
 - A) An ongoing monthly payment to be determined through the discussion and negotiation process between the prospective guardian and the Department based on the needs of the child and the circumstances of the family. This payment should combine with the guardian's resources to cover the ordinary and special needs of the child. This payment shall not exceed the amount the child receives in his or her current foster family home upon transfer of guardianship. The ongoing monthly payment shall only be issued to one custodial caregiver identified as payee in the assistance agreement, and this person shall be the designated authority for the purpose of service provision. In the event that there is a change in the custodial status of the child, the Department shall be notified. If a change in payee is necessary, notification shall be sent to the Department in writing with the supporting legal documentation attached. The ongoing monthly payment may be adjusted for any benefits the child will continue to receive, such as Social Security, Veteran's benefits, railroad retirement or black lung benefits. Supplemental Security Income (SSI) benefits shall not be considered in determining the ongoing monthly payment amount. When the child is SSI-eligible following the transfer of guardianship, the guardian shall tell the Social Security Administration the amount of the ongoing monthly payment that they are receiving. The Social Security

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Administration may reduce the SSI payment dollar for dollar as the receipt of SSI is based on income.

- B) Although eligibility for a subsidy under the subsidized guardianship program shall be determined regardless of the financial circumstances of the prospective subsidized guardian, the types and amounts of assistance under each subsidized guardianship agreement shall be determined by the Department in the same manner as described for adoption assistance in Section 302.310(c) ~~of this Part~~.
- 3) A Medicaid card.
- 4) Needs Not Payable through Other Sources
A child meeting the eligibility criteria for subsidized guardianship entitled to the types of assistance outlined in subsections (e)(1), (2) and (3) may also apply for the following types of assistance:
- A) Physical, emotional and mental health needs not payable through insurance or public resources (e.g., other State or community funded programs) that are associated with, or result from, a condition whose onset has been established as occurring prior to the transfer of guardianship. Payment shall not be made until the Department has been notified in writing that the services will begin and has approved the requested services, and a contract (when applicable) has been executed. The Department's reimbursement shall be limited to what is usual, customary and reasonable based on Medicaid-eligible service rates in the community as determined by the Department.
- B) The Department will not pay for physical, emotional, medical, mental health or psychological services or treatment for a pre-existing condition or risk factors unless the pre-existing condition, service or risk factor is included in the subsidized guardianship agreement.
- 5) Therapeutic Day Care
Therapeutic day care is available only for children who are determined to have a disability that requires special education services through an

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Individualized Education Plan (IEP), an Individual Family Service Plan (IFSP), or a 504 Educational Special Needs Plan and is not fundable through another source. Specific therapeutic interventions must be provided as an integral part of the day care programming. Payment for therapeutic day care shall not be made until the Department has been notified in writing that those services will begin and has approved the requested services, and a contract has been executed (when applicable).

- 6) **Employment Related Day Care**
Payment may be made for day care for children under the age of 3 years if the guardian is employed or in a training program that will lead to employment. Payment for day care services shall end on the child's third birthday. This day care payment cannot be used in addition to therapeutic day care.
- 7) **College Scholarships and the Education and Training Voucher Program**
Children who are receiving subsidized guardianship assistance may apply for a 4-year college scholarship awarded by the Department on a competitive basis. A limited number of scholarships is awarded by the Department each year to high school or high school equivalent graduates. Youth who enter into subsidized guardianship or are adopted from foster care after attaining age 16 are eligible to enter the Education and Training Voucher (ETV) Program.
- f) **Responsibilities of the Subsidized Guardian**
Subsidized guardians are responsible for the following:
 - 1) ensuring that parents have the opportunity to visit their children in accordance with the provisions/orders of the court; and
 - 2) notifying the Department no later than 30 days after any one of the following occurrences:
 - A) the child is no longer the legal responsibility of the guardian;
 - B) the guardian no longer financially supports the child;
 - C) the child graduates from high school or equivalent;

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- D) there is a change of residential address or mailing address of the guardian or the child;
 - E) the child dies;
 - F) the child becomes an emancipated minor;
 - G) the child marries;
 - H) the child enlists in the military;
 - I) the mental or physical incapacity of the guardian prevents the guardian from discharging the responsibilities necessary to protect and care for the child;
 - J) the custodial status of the child changes; or
 - K) the guardianship is vacated.
- g) Department Responsibilities
- 1) The Department shall ensure that members of sibling groups are placed together, unless there is an explicit determination that they should not be placed together for the reasons described in 89 Ill. Adm. Code 301 (Placement and Visitation Services).
 - 2) The Department shall explain in the child's service plan the following:
 - A) the steps that the agency has taken to determine that it is not appropriate for the child to be returned home or adopted;
 - B) the reasons for any separation of siblings during placement;
 - C) the reasons why a permanent placement with a fit and willing relative through a subsidized guardianship assistance arrangement is in the child's best interests;
 - D) the ways in which the child meets the eligibility requirements for a subsidized guardianship assistance payment;

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- E) the efforts the agency has made to discuss adoption with the child's relative foster parent as a more permanent alternative to legal guardianship and, in the case of a relative foster parent who has chosen not to pursue adoption, documentation of the reasons not to pursue; and
 - F) the efforts made by the Department to discuss with the child's parent or parents the subsidized guardianship assistance arrangement, or the reasons why the efforts were not made.
- 3) The Department shall offer short-term support services for foster care and relative home providers prior to and during subsidized guardianship. Services will include preliminary screening, assessment, assistance in applying for subsidized guardianship, and payment of one time only court costs and legal fees, if required.
 - 4) The Department shall ensure that an orientation is provided to the caregiver's family to ensure that all family members understand the benefits and responsibilities of all the participants in the subsidized guardianship arrangement.
 - 5) The Department shall ensure that each guardian has access to post-guardianship staff to respond to requests for information and assistance.
 - 6) The Department shall ensure that all guardians are aware of their right to appeal service decisions with which they may disagree under 89 Ill. Adm. Code 337 (Service Appeal Process).
 - 7) The Department shall accept custody of the child in accordance with the Abused and Neglected Child Reporting Act [325 ILCS 5] if the guardian does not care for the child to the extent the child's health or well-being is endangered.
- h) **Periodic Reviews**
Periodic reviews are annual re-certifications that are required for children in guardianship homes to maintain their eligibility for the Title XIX Medicaid Program. The Department shall conduct periodic reviews to confirm that the

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child remains eligible for a Medicaid card. The guardians will receive written notice of the review, and response from the guardians to this notice is a requirement.

- i) Termination of Payments
Payments for subsidized guardianship assistance shall terminate when the Department has determined that any one of the following has occurred:
- 1) when the terms of the subsidized guardianship agreement are fulfilled;
 - 2) the guardian has requested that the payment permanently stop;
 - 3) the guardian is no longer financially supporting the child;
 - 4) the child becomes an emancipated minor;
 - 5) the child marries;
 - 6) the child enlists in the military;
 - 7) the child reaches age 18; a child 18 years of age graduates from high school or equivalent or reaches age 19, whichever occurs first; or a child who has a physical, mental or emotional disability that was documented prior to the 18th birthday reaches age 21;
 - 8) the guardian dies;
 - 9) the guardianship is vacated; or
 - 10) the child dies.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Acupuncture Practice Act
- 2) Code Citation: 68 Ill. Adm. Code 1140
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1140.10	Amendment
1140.30	Amendment
1140.35	Amendment
1140.40	Amendment
1140.50	Amendment
1140.70	Amendment
1140.80	Amendment
1140.90	Amendment
1140.100	Amendment
- 4) Statutory Authority: Implementing the Acupuncture Practice Act [225 ILCS 2] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rule/amendments updates and adds definitions of commonly used terms. It clarifies the examinations required for an acupuncturist licensure, provides technical clean-up throughout and corrects the number of acupuncture curriculum hours required pursuant to the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) standards. It amends continuing education requirements to update approved continuing education standards and provides that a maximum of 23 hours of continuing education (CE) credit may be earned for completion of self-study courses. It adds the National Certification Commission for Acupuncture and Oriental Medicine and the American Society of Acupuncturists (NCCAOM) as approved CE sponsors and also updates unprofessional conduct standards.
- 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

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- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking has no impact on local governments.
- 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.

Department of Financial and Professional Regulation
Attention: Craig Cellini
320 West Washington, 3rd Floor
Springfield IL 62786

217/785-0813
fax: 217/557-4451

All written comments received within 45 days after this issue of the *Illinois Register* will be considered.

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Acupuncturists regulated under the Act may be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Acupuncture skills are required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2016

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

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TITLE 68: PROFESSIONS AND OCCUPATIONS
CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONSPART 1140
ACUPUNCTURE PRACTICE ACT

Section	
1140.10	Definitions
1140.20	Fees
1140.30	Application for Licensure
1140.35	Guest Instructor
1140.40	Acupuncture ProgramsCurriculum
1140.50	Endorsement
1140.60	Renewals
1140.70	Inactive Status
1140.80	Restoration
1140.90	Continuing Education
1140.100	Unprofessional Conduct
1140.110	Granting Variances

AUTHORITY: Implementing the Acupuncture Practice Act [225 ILCS 2] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 23 Ill. Reg. 5705, effective April 30, 1999; amended at 25 Ill. Reg. 10893, effective August 13, 2001; amended at 26 Ill. Reg. 11938, effective July 18, 2002; amended at 27 Ill. Reg. 10103, effective June 20, 2003; amended at 30 Ill. Reg. 2512, effective February 8, 2006; amended at 34 Ill. Reg. 11759, effective July 28, 2010; amended at 41 Ill. Reg. _____, effective _____.

Section 1140.10 Definitions

"Act" means the Acupuncture Practice Act [225 ILCS 2].

["ACAOM" means the Accreditation Commission for Acupuncture and Oriental Medicine.](#)

"Acupuncturist" means a person [licensed under the Acupuncture Practice Act to practice](#)~~who practices~~ acupuncture ~~and is licensed by the Division.~~

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"Board" means the Board of Acupuncture.

"CCAOM" means the Council of Colleges of Acupuncture and Oriental Medicine.

"CE" means continuing education.

"CNT Course" means a clean needle technique course as administered by CCAOM.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Professional Regulation.

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

"Evaluation in Acupuncture" means the use of diagnostic~~Oriental diagnosis~~ and therapeutic techniques and theories rooted in East-Asian medicine but including classical and modern methods taught in accredited programs of acupuncture and oriental medicine, for the purpose of determining a pattern discrimination and corresponding to determine the treatment plan.

"NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1140.30 Application for Licensure

- a) An applicant for licensure as an acupuncturist shall file an application with the~~The~~ Division that includes~~shall issue a license to an applicant who submits with the application proof of~~ the following:

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- 1) Acupuncture Program Education
 - A) An official transcript certifying that the applicant has graduated~~Graduation~~ from a school accredited by ACAOM~~the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM)~~ or a similar accrediting body approved by Division; or
 - B) An official transcript certifying that the applicant has graduated from~~Completion of~~ a comprehensive educational program approved by the Division in accordance with Section 1140.40 ~~by the Division; and~~
 - 2) Proof of successful completion of the Acupuncture with Point Location examination, Biomedicine examination, and Foundations of Oriental Medicine examination of NCCAOM~~Passing the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) acupuncture examination~~ or a substantially equivalent examination approved by the Division; ~~and~~
 - 3) Proof of successful completion of the CNT course administered~~Clean Needle Technique (CNT) course offered by CCAOM~~the Council of Colleges of Acupuncture and Oriental Medicine; and
 - 4) The required fee specified in Section 1140.20.
- b) All documents shall be submitted to the Division in English.
- c) If the applicant has ever been licensed as an acupuncturist in another state jurisdiction, he/she shall also submit a certification, ~~on forms provided by the Division~~, from the state jurisdiction in which the applicant was originally licensed and in which the applicant is currently licensed, stating:
- 1) The time during which the applicant was licensed as an acupuncturist in that jurisdiction, including the date of the original issuance of the license;
 - 2) A description of the examination in that jurisdiction; and
 - 3) Whether the file on the applicant contains any record of disciplinary actions taken or pending.

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- d) When the accuracy of any submitted documentation or experience is questioned by the Division or the Board because of lack of information, discrepancies or conflicts in information given or a need for clarification, the applicant seeking licensure shall be requested to:
- 1) Provide such information as may be necessary; and/or
 - 2) Appear for an interview before the Board to explain such relevance or sufficiency, clarify information, or clear up any discrepancies or conflicts in information.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1140.35 Guest Instructor

- a) Any person not licensed in this State to practice acupuncture who is an invited guest of a professional acupuncture association, scientific acupuncture foundation, acupuncture training program or Division approved continuing education provider may provide professional education through lectures, clinics or demonstrations as set forth in Section 20.1 of the Act.
- b) Any ~~individual~~**individuals** providing services pursuant to this Section shall, upon written request of the Division, provide the following:
- 1) One of the following:
 - A) Current certification ~~in good standing as an~~ active Diplomate of Acupuncture or an active Diplomate of Oriental Medicine ~~acupuncturist from NCCAOM the National Certification Commission for Acupuncture and Oriental Medicine;~~ or
 - B) Current certification of active licensure as an acupuncturist in another state jurisdiction; or country.
 - ~~C) Equivalent education and training set forth in this Part;~~
 - 2) Certification from an acupuncture association, scientific acupuncture foundation, acupuncture training program or approved continuing

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education sponsor indicating:

- A) That the person has received an invitation or appointment to teach acupuncture technique in conjunction with lecture, clinics or demonstrations;
 - B) The nature of the educational services to be provided by the applicant; and
 - C) The term of the invitation or contract;
- 3) A copy of the applicant's current curriculum vitae.
- c) A guest instructor may engage in the application of acupuncture techniques in conjunction with the lecture, clinics or demonstration, but may not open an office, appoint a place to meet private patients, consult with private patients, or otherwise engage in the practice of acupuncture beyond what is required in conjunction with these lectures, clinics or demonstrations.
- d) If an individual providing services under the provisions of this Section desires to remain in the State and practice or teach his/her profession, he/she must apply for and receive a license to practice acupuncture. Nothing shall prohibit individuals providing services pursuant to this Section from applying for and receiving a license to practice acupuncture in this State while providing services as allowed by this Section.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1140.40 Acupuncture ~~Programs~~Curriculum

The Division shall, upon the recommendation of the Board of Acupuncture, approve an applicant's acupuncture ~~program~~curriculum if it meets the following minimum criteria:

- a) The school from which the applicant ~~has~~was graduated:
 - 1) Is legally recognized and authorized by the jurisdiction in which it is located to confer an acupuncture degree; and
 - 2) Has a faculty that comprises a sufficient number of full-time instructors to

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make certain that the educational obligations to the student are fulfilled. The faculty must have demonstrated competence as evidenced by appropriate degrees in their areas of teaching from professional colleges or institutions; and

- 3) Maintains permanent student records that summarize the credentials for admission, attendance and grades and other records of performance.
- b) Has a core curriculum that includes~~Curriculum shall be~~ a minimum of at least 3 academic years (a minimum of 1905 hours or its equivalent) within~~and~~ no less than 27 calendar months ~~(a minimum of 1950 hours or its equivalent)~~. This must be composed of at least:
- 1) ~~795~~890 hours (or its equivalent) in theory and treatment techniques in acupuncture and related studies.
 - A) Topics shall include, but not be limited to, the following:
 - i) History of Acupuncture;
 - ii) Basic Theory. Topics shall include, but ~~are not~~ be limited to, basic Yin-Yang theory, 8 principles and 5 elements; Zang (viscera) organs and Fu (bowels) organs and extraordinary organs; theory and function of channels (meridians) and collaterals; Qi, blood and body fluids; Qi tonification (supplementation) and sedation (reducing); etiology (the causes of diseases) such as 6 exogenous, 7 emotional factors and non-internal or non-external reasons; pathology;
 - iii) Point Location and Channel (Meridian) Theory. Topics shall include, but ~~are not~~ be limited to, nomenclature and distribution of the 14 channels on the body surface – 12 regular channels, Ren (conception) channel and Du (governing) channel; classification of points; points study should include the method of locating the points, anatomic structures, classification of points, functions and indications, and contraindications; knowledge of~~know~~ the specific point categories~~points~~, such as the Five Shu points,

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Yuan (source) points, Luo (connecting) points, Xi (cleft) points, Back-Shu points, Front-Mu points, Crossing points; [knowledge of the](#) 8 extraordinary channels and [their corresponding](#) points;

- iv) Acupuncture Treatment. Topics [shall](#) include, but ~~are~~ not [be](#) limited to, [the various evaluation methods utilized in acupuncture practice](#)~~use of the special evaluation method~~, differentiation of syndromes according to 8 principles, Qi and blood, Zang-Fu organs and theory of meridians and collaterals; case review, based on history of the patient and charting; the four-examination methods; measuring and recording vital signs and symptoms, to make treatment plans and future prognosis; contraindications of treatment; indications of potential risk to the patient; the need to modify standard therapeutic approach (e.g., infants and children, pregnancy) and apparently benign presentations that may have a more serious cause (hypertension, headaches);
- v) Treatment Techniques. Topics [shall](#) include, but ~~are~~ not [be](#) limited to, needle insertion: depth, duration, manipulation and withdrawal; the appearance of Qi; Moxa: application, direct and indirect, etc.; other techniques (e.g., bleeding, moxibustion, cupping, Gua Sha, 7 star); tonification and sedation techniques; knowledge relating to the treatment of acute and chronic conditions, first aid, analgesia, anesthesia, and electrical stimulation; safety issues; Oriental bodywork therapy (e.g., Tui Na, Shiatsu, Amma, acupressure, etc.); contraindication for certain conditions; and
- vi) Ethics and Practice Management. Topics [shall](#) include, [but not be limited to](#), confidentiality; informed consent; ~~HIPAA~~[HIPPA](#) guidelines; understanding the scope of practice; recordkeeping: legal requirements, release of data; ethical and legal aspects of referring patients to another practitioner; professional conduct and appropriate interpersonal behavior; laws and regulations governing the

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practice of acupuncture; recognition and clarification of patient expectations; general liability insurance; legal requirements; professional liability insurance: risk management and quality assurance; building and managing a practice, including ethical and legal aspects of third party reimbursement; professional development.

- B) No more than 90 hours may count towards history and ethics and practice management.
- 2) 660 hours (or its equivalent) in clinical training.
- A) The program must assure that each student participates in a minimum of ~~510~~500 hours in the supervised care of patients using acupuncture. This portion of the clinical training, conducted under the supervision of program-approved supervisors, must consist of at least 250 student-performed treatments where students conduct patient interviews, perform diagnosis and~~participate in~~ treatment planning, perform appropriate acupuncture treatments, and follow-up on patients' responses to treatment.
 - B) The supervised clinical practice must be an internship that provides the student training in all phases of patient care and must be conducted in a teaching clinic operated by the institution or in a clinical facility with a formal affiliation with the institution where the institution exercises academic oversight substantially equivalent to the academic oversight exercised for teaching clinics operated by the institution, where:
 - i) Clinical instructors' qualifications meet school requirements for clinical instruction;
 - ii) Regular, systematic evaluation of the clinical experience takes place; and
 - iii) Clinical training supervision procedures are substantially equivalent to those within the teaching clinic operated by the institution. Student interns must receive training from a variety of clinical faculty in order to ensure that interns are

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exposed to different practice styles and instructional methods.

C) The program must assure that each student acquires a minimum of~~Of the remaining 160 hours,~~ 150 hours ~~must be acquired in~~ observation.

3) ~~450400~~ hours (or its equivalent) in biomedical clinical sciences.

A) Biomedical Clinical Sciences. Topics shall include, but ~~are not~~ be limited to, basic science courses; biomedical and clinical concepts and terms; human anatomy and physiology; pathology and the biomedical disease model; pharmacology; the nature of the biomedical clinical process, including history taking, diagnosis, treatment and follow-up; the clinical relevance of laboratory and diagnostic tests and procedures, as well as biomedical physical examination findings; the basis and need for referral and/or consultation; the range of biomedical referral resources and the modalities they employ; and

B) Clean Needle Technique. Topics shall include infectious diseases, sterilization procedures, needle handling and disposal, and other issues relevant to bloodborne and surface pathogens; ~~the basis and need for referral and/or consultation; the range of biomedical referral resources and the modalities they employ.~~

c) An individual who is deficient in course work may complete the required courses at a regionally accredited college or university or a school of acupuncture accredited by ACAOM. The individual will be required to submit a transcript from the program indicating successful completion of the course and a course description.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1140.50 Endorsement

a) An applicant who is currently licensed ~~as an acupuncturist/registered~~ under the laws of another state or territory of the United States who wishes to be licensed in Illinois as an acupuncturist shall file an application with the Division, together

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~~with~~ on forms provided by the Division, that includes:

- 1) One of the following:
 - A) For applicants licensed in another state on or before December 31, 2001, proof of one of the following:~~Proof of passage of the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination or another examination that has been approved by the Division for individuals licensed in another jurisdiction prior to January 1, 2002; or~~
 - i) Successful completion of the NCCAOM comprehensive acupuncture examination or a substantially equivalent examination approved by the Division; or
 - ii) Current certification as an active Diplomate of Acupuncture or an active Diplomate of Oriental Medicine from NCCAOM; or
 - B) For applicants licensed in another state on or before December 31, 2001, proof of:~~Current certification from the National Certification Commission for Acupuncture and Oriental Medicine for individuals licensed in another jurisdiction prior to January 1, 2002; or~~
 - i) Either:
 - An official transcript certifying that the applicant has graduated from a school accredited by the ACAOM or a similar accrediting body approved by the Division; or
 - An official transcript certifying that the applicant has graduated from a comprehensive educational program approved by the Division in accordance with Section 1140.40; and
 - ii) Proof of successful completion of the NCCAOM comprehensive acupuncture examination or a substantially

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equivalent examination approved by the Division;

- ~~C) Verification of meeting examination, education, apprenticeship or experience requirements as set forth in Section 1140.30 for individuals licensed in another jurisdiction prior to January 1, 2000; or~~
 - ~~D) For applicants licensed after January 1, 2002, proof of:~~
 - ~~i) Graduation from a school accredited by the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM) or a similar accrediting body approved by the Division; or~~
 - ~~ii) Completion of a comprehensive educational program approved in accordance with Section 1140.40 by the Division and proof of passage of the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination or another examination that has been approved by the Division;~~
 - 2) Proof of successful completion of the CNT course as administered~~Clean Needle Technique (CNT) Course offered by CCAOM~~the Council of Colleges of Acupuncture and Oriental Medicine;
 - 3) Certification from the state jurisdiction of original licensure and the state jurisdiction in which the applicant is currently licensed and practicing as an acupuncturist, if other than original, stating the applicant's license number, the time during which the applicant was licensed in that state, a description of the licensure examination in that jurisdiction, and whether the file on the applicant contains any disciplinary actions taken or pending, ~~and the applicant's license number;~~ and
 - 4) The required fee specified in Section 1140.20.
- b) The Division shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination of the Act or whether the applicant possesses individual qualifications that were substantially

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equivalent to the requirements of the Act.

- c) The Division shall either issue a license by endorsement to the applicant or notify the applicant in writing of the reasons for the denial of the application.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1140.70 Inactive Status

- a) ~~A licensed acupuncturist~~ Licensed acupuncturists who ~~notifies~~ notify the Division ~~in writing, on forms provided by the Division,~~ may place ~~his or her license~~ their licenses on inactive status and shall be excused from paying renewal fees until ~~he or she notifies~~ they notify the Division in writing of the intention to resume active ~~status~~ practice.
- b) ~~A person~~ Any licensed acupuncturist seeking restoration ~~of an acupuncturist license that has been placed on~~ from inactive status shall do so in accordance with Section ~~1140.80~~ 1140.90 of this Part.
- c) ~~A person~~ Any acupuncturist whose acupuncturist license is on inactive status shall not use the title "acupuncturist" or any of the other designations listed in Section 50 of the Act in the State of Illinois. Any person violating this subsection shall be considered to be practicing without a license and shall be subject to ~~discipline pursuant to Section 110~~ the disciplinary provisions of the Act.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1140.80 Restoration

- a) ~~A person seeking restoration of an acupuncturist~~ Any acupuncturist whose license ~~after it has been~~ expired or ~~has been~~ placed on inactive status for 5 years or less ~~shall file an application with the Division, together with~~ may have the license restored by paying the fee specified ~~in~~ fees required by Section 1140.20 of this Part and proof of ~~having completed~~ completion of 30 continuing education (CE) hours ~~not more than~~ during the 2 years prior to submitting the restoration application. ~~The CE hours must have been completed and documented~~ in accordance with Section 1140.90 of this Part. ~~Acceptable proof of completion shall be in the form of certificates of attendance provided by sponsors of approved continuing education programs.~~

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- b) Any person seeking restoration of an acupuncturist's license after it that has been expired or placed on inactive status for more than 5 years shall file an application with the Division, on forms supplied by the Division, for review by the Board, together with the fee specified in ~~required by~~ Section 1140.20 and proof of having completed 30 CE hours not more than 2 years prior to submitting the restoration application. The CE hours must have been completed and documented in accordance with Section 1140.90 of this Part. In addition, the applicant shall submit:
- 1) One of the following:
 - A) Sworn evidence of active practice as a licensed acupuncturist in another state or territory of the United States within 2 years prior to submitting the restoration application ~~jurisdiction. The~~ Such evidence shall include a statement from ~~the~~ appropriate licensing board or licensing authority in the other jurisdiction that the licensee was authorized to practice during the term of active practice; or
 - B) An affidavit attesting to military service as provided in Section 70 of the Act; or
 - C) Proof of having successfully completed the Acupuncture with Point Location examination, Biomedicine examination, and Foundations of Oriental Medicine examination of NCCAOM ~~passage of the National Certification Commission for Acupuncture and Oriental Medicine (NCCAOM) examination~~ or a substantially equivalent ~~another~~ examination ~~that has been~~ approved by the Division not more than ~~within~~ 2 years prior to submitting the restoration application; or
 - D) Proof of having completed ~~Evidence of recent attendance at~~ educational programs or post-graduate courses related to the clinical aspects of ~~an~~ acupuncture, including attendance at college level courses at a school of acupuncture accredited by ACAOM or a similar accrediting body approved by the Division, professionally oriented continuing education classes, special seminars, or any other similar program approved by the Board. The programs or courses shall not be completed more than 2 years prior to

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submitting the restoration application. ~~The Division will accept, for example:~~

- i) An applicant whose license has been expired or placed on inactive status for 5 to 10 years shall submit proof of 90 hours of educational programs or courses relating to the clinical aspects of acupuncture; ~~or for an applicant whose license has lapsed 5 to 10 years, 160 contact hours of clinical training under the supervision of a licensed acupuncturist or 90 hours of continuing education relating to the clinical aspects of acupuncture, or a combination thereof, approved by the Board within 2 years prior to the restoration application. Clinical training shall be approved by the Board prior to an applicant starting the training.~~
 - ii) An applicant whose license has been expired or placed on inactive status for more than 10 years shall submit proof of 120 hours of educational programs or courses relating to the clinical aspects of acupuncture. ~~for an applicant whose license has lapsed for 10 years or more, 320 contact hours of clinical training under the supervision of an acupuncturist or 120 hours of continuing education relating to the clinical aspects of acupuncture, or any combination thereof approved by the Board within 2 years prior to the restoration application. Clinical training shall be approved by the Board prior to an applicant starting the training.~~
- 2) Proof of having successfully completed the CNT course administered successful completion of the Clean Needle Technique (CNT) Course offered by CCAOM not more than the Council of Colleges of Acupuncture and Oriental Medicine within the last 5 years prior to submitting the restoration application.
- c) When the accuracy of any submitted documentation or the relevance or sufficiency of the course work or experience is questioned by the Division because of lack of information, discrepancies or conflicts in information given, or a need for clarification, the licensee seeking restoration shall be requested to:

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- 1) Provide such information as may be necessary; and/or
- 2) Appear for an interview before the Board to explain the relevance or sufficiency, clarify information or clear up any discrepancies or conflicts in information.
- d) ~~Upon recommendation of the Board and approval by the Director, an applicant shall have the license restored or be notified in writing of the reason for denying the application.~~(Source: Amended at 41 Ill. Reg. _____, effective _____)

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1140.90 Continuing Education

- a) Continuing Education Hours Requirements
 - 1) Every licensee who applies for renewal ~~or restoration of a license as~~ an acupuncturist ~~license~~ shall complete 30 hours of ~~continuing education (CE)~~ relevant to the ~~professional skills and scientific knowledge of the licensee in the practice of acupuncture.~~
 - 2) A pre-renewal period is the 24 months preceding June 30 of each odd-numbered year.
 - 3) One CE hour shall equal one 60 minute clock hour ~~with not less than 50 minutes of instructional content within the hour. 30 to 49 minutes of instructional content would be reported be as 0.5 CE hour and 50 to 60 minutes of instructional content would reported as 1.0 CE hour.~~
 - 4) ~~Courses that are part of the curriculum of an accredited university, college or other educational institution shall be allotted CE credit at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded.~~
 - 4)5) A renewal applicant shall not be required to comply with CE requirements for the first renewal of an Illinois acupuncturist license.
 - 5)6) Acupuncturists licensed in Illinois but residing and practicing in other states shall comply with the CE requirements set forth in this Section.

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~~6)7)~~ ~~CE~~Continuing education credit hours used to satisfy the CE requirements of another ~~state jurisdiction~~ may be applied to fulfill the CE requirements of the State of Illinois if they meet the requirements for CE in Illinois.

b) Approved Continuing Education (~~CE~~)

- 1) ~~Except for those activities listed in subsections (b)(3), (4), (5) and (6), all CE hours must be earned through sponsors approved under subsection (c) and must comply with program requirements set forth in subsection (c)~~CE hours shall be earned by verified attendance (e.g., certificate of attendance or certificate of completion) at or participation in a program or course that is offered or sponsored by an approved continuing education sponsor who meets the requirements set forth in subsection (c), except for those activities provided in subsections (b)(2), (3), (4), (5) and (6).
- 2) A maximum of ~~235~~ hours of CE credit ~~per renewal~~ may be earned in a pre-renewal period for completion of self-study (including online, correspondence, audio or video) courses that are ~~provided~~offered by ~~an approved sponsor approved by the Division pursuant to who meets the requirements set forth in~~ subsection (c). Each self-study course shall include an examination that the licensee must pass to obtain credit.
- 3) A maximum of ~~30~~15 hours of CE credit ~~per renewal~~ may be earned in a pre-renewal period for successful completion of post-graduate courses related to the clinical aspects of acupuncture at a school of acupuncture accredited by ACAOM or a similar accrediting body approved by the Division. CE credit will be allotted at the rate of 15 CE hours for each semester hour or 10 CE hours for each quarter hour of school credit awarded through postgraduate training programs (e.g., extern, residency or fellowship programs) or completion of acupuncture related courses that are a part of the curriculum of an approved acupuncture program or a college, university or graduate school.
- 4) A maximum of 15 hours of CE credit ~~per renewal~~ may be earned in a pre-renewal period for verified teaching ~~in a college, university or school of coursework that is part of the curriculum of an acupuncture program accredited by ACAOM or a similar accrediting body approved by the Division~~approved in accordance with Section 1140.40 and/or as an

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instructor of ~~CE~~continuing education programs provided by a sponsor approved by the Division pursuant to subsection (c) given by approved sponsors. Credit will be applied at the rate of 1.5 hours for ~~each~~every hour of teaching or presenting the course or program material taught and only for the first presentation of the course or program (i.e., credit shall not be allowed for repetitious presentations of the same program).

- 5) A maximum of 5 hours of CE credit ~~per renewal~~ may be earned in a pre-renewal period for completion of coursework that is part of the curriculum of an accredited college or university and/or for completion of CE programs in Illinois approved by the Division but not approved under this Part. The course or program material must be relevant to the professional skills and scientific knowledge of the licensee in the practice of acupuncture~~authoring papers published in refereed professional journals or books.~~
- 6) A maximum of 5 hours of CE credit may be earned in a pre-renewal period for authoring papers published in refereed professional journals or books~~may be for attendance at or participation in a program in Illinois related to the practice of acupuncture.~~

c) Approved CE Sponsors and Programs

- 1) Approved sponsor, as used in this Section, shall mean:
- A) ~~The~~ American Association of Acupuncture and Oriental Medicine or its affiliates;
 - B) Asian American Acupuncture Association, or its affiliates;
 - C) Illinois Association of Acupuncture and Oriental Medicine, or its affiliates;
 - D) Korean American Acupuncture Association of Illinois, or its affiliates;
 - E) Chicago Korean American Acupuncture Association, or its affiliates; ~~or~~

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- F) The National Certification Commission for Acupuncture and Oriental Medicine and individuals and organizations approved by NCCAOM to provide acupuncture CE programs; Alliance, or its affiliates;
- G) American Society of Acupuncturists, or its affiliates; or
- H)G) Any other person, firm, association, corporation, or group that has been approved and authorized by the Division pursuant to subsection (c)(2) ~~of this Section~~ upon the recommendation of the Board to coordinate and present CE continuing education courses or programs.
- 2) Entities seeking registrationa license as a CE sponsor pursuant to subsection (c)(1) ~~(H)(F)~~ shall file a CE sponsor application, a sample CE program in accordance with subsection (c)(3), a sample evaluation in accordance with subsection (c)(4), and a sample certificate of attendance in accordance with subsection (c)(5) along with the fee specified in Section 1140.20 ~~required fee of \$250~~. (State agencies, State colleges and State universities in Illinois shall be exempt from paying this fee.) The applicant shall also certify to the following:
- A) That all programs offered by the sponsor for CE credit will comply with the criteria in subsection (c)(3) and all other criteria in this Section. ~~A sponsor shall be required to submit a CE program with course materials for review prior to being approved as a CE sponsor;~~
- B) That the sponsor will be responsible for verifying attendance at each program and provide a certificate of attendance as set forth in subsection (c) ~~(5)(9)~~;
- C) That, upon request by the Division, the sponsor will submit evidence ~~(e.g., certificate of attendance or course materials)~~ as is necessary to establish compliance with this Section. Evidence shall be required when the Division has reason to believe that there is not full compliance with the statute and this Part and that this information is necessary to ensure compliance.
- 3) All programs shall:

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- A) Contribute to the advancement, extension and enhancement of the professional skills and scientific knowledge of the licensee in the practice of acupuncture that includes direct and indirect patient care, acupuncture treatment, treatment techniques, point location and theory, and ethics, but does not include herbal therapy or preparation;
 - B) Foster the enhancement of general or specialized acupuncture practice and values;
 - C) Be developed and presented by persons with education and/or experience in the subject matter of the program;
 - D) Specify the course objectives, course content and teaching methods to be used; and
 - E) Specify the number of CE hours that may be applied to fulfilling the Illinois CE requirements for acupuncturist license renewal.
- 4) Each CE program shall provide a mechanism for participants to evaluate~~evaluation~~ of the program and the instructor~~by the participants~~.
- 5) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance to verify completion of the program. The sponsor's certificate of attendance shall contain:~~An approved sponsor may subcontract with individuals and organizations to provide approved programs.~~
- A) The sponsor's name, address and Illinois CE sponsor registration number;
 - B) The participant's name and Illinois acupuncturist license number;
 - C) The title of the program and a brief description of the subject matter;
 - D) The number of hours attended by the participant;

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- E) The date and location of the program; and
 - F) The signature of the sponsor.
- 6) The sponsor shall be responsible for assuring that each participant receives CE credit only for time spent attending the program.~~All programs given by approved sponsors shall be open to all licensed acupuncturists and not be limited to members of a single organization or group.~~
- 7) The sponsor shall maintain attendance records for not less than 5 years.~~To maintain approval as a licensed sponsor, each sponsor shall submit to the Division by each odd-numbered year a renewal application, the renewal fee specified in Section 1140.20 of this Part and a list of courses and programs offered within the last 24 months. The list shall include a brief description, location, date and time of each course given.~~
- 8) All programs given by approved sponsors shall be open to all licensed acupuncturists and not be limited to members of a single organization or group.~~It shall be the responsibility of a sponsor to provide each participant in a program with a certificate of attendance or participation. The sponsor's certificate of attendance shall contain:~~
- A) The name, address and license number of the sponsor;
 - B) The name and address of the participant;
 - C) A brief statement of the subject matter;
 - D) The number of hours attended in each program;
 - E) The date and place of the program; and
 - F) The signature of the sponsor.
- 9) An approved sponsor may subcontract with individuals and organizations to provide programs in accordance with the criteria set forth in this Section.~~The sponsor shall maintain attendance records for not less than 5 years.~~

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- 10) To maintain approval as a registered CE sponsor, each sponsor shall submit a renewal application in accordance with Section 1140.60, along with the renewal fee specified in Section 1140.20. Upon the Department's request, the sponsor shall provide a list of each program provided by the sponsor in the pre-renewal period, including the name of the program, a brief description of the subject matter, the number of credit hours available, the program date, and the location of the program~~The sponsor shall be responsible for assuring that no renewal applicant shall receive CE credit for time not actually spent attending the program.~~
 - 11) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Division receives assurances of compliance with this Section.
 - 12) Notwithstanding any other provision of this Section, the Division or Board may evaluate any sponsor of any approved CE program at any time to ensure compliance with the requirements of this Section.
- d) Certification of Compliance with CE Requirements
- 1) Each renewal applicant shall certify, on the renewal application, full compliance with the CE requirements set forth in subsections (a) and (b).
 - 2) The Division may require additional evidence demonstrating compliance with the CE requirements (e.g., certificate of attendance). This additional evidence may be required in the context of the Division's random audit. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of compliance.
 - 3) When there appears to be a lack of compliance with CE requirements, a renewal~~an~~ applicant shall be notified in writing, which shall include electronic communication~~and may request an interview with the Board~~. At that time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].

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- e) Continuing Education Earned in Other Jurisdictions
- 1) If a licensee ~~will be earning or~~ has earned CE hours ~~offered~~ in another state or territory ~~not given by an approved sponsor~~ for which the licensee will be claiming credit toward full compliance in Illinois ~~and the sponsor is not approved by the Division pursuant to subsection (c),~~ the applicant shall submit an out-of-state ~~CE continuing education~~ approval form, ~~a description and schedule of the CE program, a description of the instructor's qualifications, proof of registration or attendance, and~~ along with a \$25 processing fee, prior to participation in the program or 90 days prior to ~~the~~ expiration of ~~his or her acupuncture~~ the license. The Board ~~or division~~ shall review and recommend approval or disapproval of the program using the criteria set forth in ~~subsection (c)(3) of~~ this Section.
 - 2) If a licensee fails to submit an out of state CE approval form within the ~~required~~ time frame ~~specified in subsection (e)(1),~~ late approval may be obtained by submitting ~~an out-of-state CE~~ the approval form, ~~a description and schedule of the CE program, a description of the instructor's qualifications, and proof of attendance, along with the required \$25 processing fee.~~ The required fee shall be a \$25 processing fee plus a late fee of \$10 for each CE hour for which late approval is requested. ~~The late fee shall not plus a \$10 per hour late fee not to exceed \$150.~~ The Board ~~or Division~~ shall review and recommend approval or disapproval of the program using the criteria set forth in ~~subsection (c)(3) of~~ this Section.
- f) ~~Restoration of Nonrenewed License. Upon satisfactory evidence of compliance with CE requirements, the Division shall restore the license upon payment of the required fee as provided in Section 1470.55 of this Part.~~
- ~~f)g)~~ Waiver of CE Requirements
- 1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application along with the required fee set forth in Section ~~1140.20~~ 1470.55 ~~of this Part,~~ a statement setting forth the facts concerning non-compliance, and ~~a~~ request for waiver of all or part of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the ~~expiration~~ renewal date ~~of the license.~~ If the Division, upon the written recommendation of the Board, finds from such affidavit or any other

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evidence submitted that extreme hardship has been shown for granting a waiver, the Division shall waive enforcement of the CE requirements for the license renewal ~~period~~ for which the applicant has applied.

- 2) Extreme hardship shall be determined on an individual basis by the Board and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable pre-renewal period because of:
 - A) Full-time service in the armed forces of the United States of America during a substantial part of the pre-renewal period;
 - B) An incapacitating illness during a substantial part of the pre-renewal period, documented by a statement from a currently licensed physician;
 - C) A physical inability to travel to the sites of approved programs during a substantial part of the pre-renewal period, documented by a currently licensed physician; or
 - D) Any other similar extenuating circumstances.
- 3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Division.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 1140.100 Unprofessional Conduct

- a) Pursuant to Section 110 of the Act, unethical, unauthorized, or unprofessional conduct in the practice of acupuncture shall include, but not be limited to:
 - 1) Procuring, attempting to procure or renewing a license by bribery, or by fraudulent misrepresentation;
 - 2) Willfully making or filing a false report or record, willfully failing to file a report or record required by State or federal law, or willfully impeding or obstructing such filing or inducing another person to do so;

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- 3) Circulating untruthful, fraudulent, deceptive or misleading advertising;
 - 4) Willfully failing to report any violation of the Act or this Part;
 - 5) Willfully or repeatedly violating a lawful order of the Board or the Division previously entered in a disciplinary hearing;
 - 6) Accepting and performing professional responsibilities that the licensee knows, or has reason to know, he/she is not competent to perform;
 - 7) Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or has reason to know, that such person is not qualified by training, experience or licensure to perform them;
 - 8) Gross or repeated malpractice or the failure to deliver acupuncture services with that level of care, skill and treatment that is recognized by a reasonably prudent acupuncturist with similar professional training as being acceptable under similar conditions and circumstances;
 - 9) Dividing with anyone, other than physicians with whom the licensee receives referrals or another acupuncturist with whom the licensee works, any fee, commission, rebate or other form of compensation for any professional services not actually and personally rendered. Nothing contained in this subsection prohibits persons holding valid and current licenses under this Act from practicing in a partnership, limited liability partnership, limited liability company or a corporation under the Professional Corporation Act or from pooling, sharing, dividing or apportioning the fees and monies received by them or by the partnership or corporation;
 - 10) Engaging in immoral conduct in the commission of any act related to the licensee's practice;
 - 11) Engaging in sexual abuse, sexual misconduct, or sexual exploitation
- b) The Division hereby incorporates by reference the "Code of Ethics~~Statement of Ethics and Professional Conduct~~" of the National Certification Commission for

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Acupuncture and Oriental Medicine, 76 South Laura Street, Suite 1290, Jacksonville FL 33202 (October 2008)~~41 Canal Center Plaza, Suite 300, Alexandria VA 22314, April 2005~~, with no later amendments or editions.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Video Gaming (General)
- 2) Code Citation: 11 Ill. Adm. Code 1800
- 3) Section Number: 1800.250 Proposed Action:
Amendment
- 4) Statutory Authority: Authorized by Section 78 (a) (3) and (b) of the Video Gaming Act [230 ILCS 40/78 (a) (3) and (b)].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rulemaking prohibits a terminal operator from doing any of the following:
 - Employing or contracting with owners or Persons with Significant Influence or Control (PSICs) of a licensed video gaming location with which it has entered into a Use Agreement to act as sales agents or brokers, licensed terminal handlers, or licensed technicians.
 - Owning, leasing, having an option to purchase, holding a security interest in, or managing either alone or through an affiliated entity, a licensed video gaming location, if the terminal operator has entered into a Use Agreement with that location.
 - Providing any compensation to, or receiving any compensation from, a licensed video gaming location with which it has entered into a Use Agreement other than the after-tax profits from video gaming provided by subsection (c) of Section 25 of the Video Gaming Act [230 ILCS 40]..

Additionally, the rulemaking provides that, notwithstanding the duties of licensed video terminal operators provided for in Section 1800.250 or elsewhere in the Video Gaming (General) Part of the Illinois Administrative Code [11 IAC 1800] or the Video Gaming Act, an individual who is an investor, member, shareholder, person with significant influence or control, or otherwise owner of a licensed video gaming terminal operator shall be permitted to be an investor, member, shareholder, person with significant influence or control, or otherwise owner of a licensed video gaming location, provided that the individual or the terminal operator itself does not currently, nor will in the future, have a use agreement with, or provide video gaming terminals, directly or indirectly, to that licensed video gaming location.

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Section 30 of the Video Gaming Act ("Multiple types of licenses prohibited") [230 ILCS 40/30] provides that a terminal operator "shall be licensed only to contract with...licensed establishments, licensed truck stop establishments, licensed fraternal establishments, and licensed veterans establishments" [Emphasis added]. Section 30 specifically prohibits a terminal operator from becoming licensed as a video gaming location, or from owning, managing, or controlling a licensed location. This statutory language reflects a legislative intent to protect the integrity of video gaming by requiring an arms-length contractual relationship between terminal operators and licensed video gaming locations. Such an arms-length relationship is violated when a terminal operator hires an owner or PSIC of a licensed location with which it has entered into a Use Agreement to act as a sales agent or broker, licensed terminal handler, or licensed technician, or when a terminal operator assumes an ownership, management, security, or landlord-tenant relationship with a licensed location with which it has entered into a Use Agreement.

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
1800.815	New Section	40 Ill. Reg. 13299; September 23, 2016
1800.220	Amendment	40 Ill. Reg. 16454; December 30, 2016
1800.320	Amendment	40 Ill. Reg. 2669; February 24, 2017

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate under 30 ILCS 805.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Any interested person may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:

Agostino Lorenzini

ILLINOIS GAMING BOARD

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General Counsel
Illinois Gaming Board
160 North LaSalle Street
Chicago IL 60601

fax: 312/814-7253
Agostino.lorenzini@igb.illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: The rulemaking will affect small businesses, which are licensed under the Act as terminal operators, licensed establishments, licensed fraternal establishments, licensed veterans establishments, and licensed truck stops. These businesses will become subject to the provisions of the rulemaking.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: The proposed rulemaking will impose no additional requirements.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda because it was not anticipated at the time agendas were published.

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

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TITLE 11: ALCOHOL, HORSE RACING, LOTTERY, AND VIDEO GAMING
SUBTITLE D: VIDEO GAMING
CHAPTER I: ILLINOIS GAMING BOARD

PART 1800
VIDEO GAMING (GENERAL)

SUBPART A: GENERAL PROVISIONS

Section	
1800.110	Definitions
1800.115	Gender
1800.120	Inspection
1800.130	Board Meetings

SUBPART B: DUTIES OF LICENSEES

Section	
1800.210	General Duties of All Video Gaming Licensees
1800.220	Continuing Duty to Report Information
1800.230	Duties of Licensed Manufacturers
1800.240	Duties of Licensed Distributors
1800.250	Duties of Licensed Video Terminal Operators
1800.260	Duties of Licensed Technicians and Licensed Terminal Handlers
1800.270	Duties of Licensed Video Gaming Locations

SUBPART C: STANDARDS OF CONDUCT FOR LICENSEES

Section	
1800.310	Grounds for Disciplinary Actions
1800.320	Minimum Standards for Use Agreements
1800.330	Economic Disassociation

SUBPART D: LICENSING QUALIFICATIONS

Section	
1800.410	Coverage of Subpart
1800.420	Qualifications for Licensure
1800.430	Persons with Significant Influence or Control

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1800.440 Undue Economic Concentration

SUBPART E: LICENSING PROCEDURES

Section

1800.510 Coverage of Subpart
1800.520 Applications
1800.530 Submission of Application
1800.540 Application Fees
1800.550 Consideration of Applications by the Board
1800.555 Withdrawal of Applications and Surrender of Licenses
1800.560 Issuance of License
1800.570 Renewal of License
1800.580 Renewal Fees and Dates
1800.590 Death and Change of Ownership of Video Gaming Licensee

SUBPART F: DENIALS OF APPLICATIONS FOR LICENSURE

Section

1800.610 Coverage of Subpart
1800.615 Requests for Hearing
1800.620 Appearances
1800.625 Appointment of Administrative Law Judge
1800.630 Discovery
1800.635 Subpoenas
1800.640 Motions for Summary Judgment
1800.650 Proceedings
1800.660 Evidence
1800.670 Prohibition on Ex Parte Communication
1800.680 Sanctions and Penalties
1800.690 Transmittal of Record and Recommendation to the Board
1800.695 Status of Applicant for Licensure Upon Filing Request for Hearing

SUBPART G: DISCIPLINARY ACTIONS AGAINST LICENSEES

Section

1800.710 Coverage of Subpart
1800.715 Notice of Proposed Disciplinary Action Against Licensees
1800.720 Hearings in Disciplinary Actions

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1800.725	Appearances
1800.730	Appointment of Administrative Law Judge
1800.735	Discovery
1800.740	Subpoenas
1800.745	Motions for Summary Judgment
1800.750	Proceedings
1800.760	Evidence
1800.770	Prohibition on Ex Parte Communication
1800.780	Sanctions and Penalties
1800.790	Transmittal of Record and Recommendation to the Board
1800.795	Persons Subject to Proposed Orders of Economic Disassociation

SUBPART H: LOCATION OF VIDEO GAMING TERMINALS IN
LICENSED VIDEO GAMING LOCATIONS

Section

1800.810	Location and Placement of Video Gaming Terminals
1800.820	Measurement of Distances from Locations
1800.830	Waivers of Location Restrictions

SUBPART I: SECURITY INTERESTS

Section

1800.910	Approvals Required, Applicability, Scope of Approval
1800.920	Notice of Enforcement of a Security Interest
1800.930	Prior Registration

SUBPART J: TRANSPORTATION, REGISTRATION,
AND DISTRIBUTION OF VIDEO GAMING TERMINALS

Section

1800.1010	Restriction on Sale, Distribution, Transfer, Supply and Operation of Video Gaming Terminals
1800.1020	Transportation of Video Gaming Terminals into the State
1800.1030	Receipt of Video Gaming Terminals in the State
1800.1040	Transportation of Video Gaming Terminals Between Locations in the State
1800.1050	Approval to Transport Video Gaming Terminals Outside of the State
1800.1060	Placement of Video Gaming Terminals
1800.1065	Registration of Video Gaming Terminals

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1800.1070 Disposal of Video Gaming Terminals

SUBPART K: STATE-LOCAL RELATIONS

Section

1800.1110 State-Local Relations

SUBPART L: FINGERPRINTING OF APPLICANTS

Section

1800.1210 Definitions

1800.1220 Entities Authorized to Perform Fingerprinting

1800.1230 Qualification as a Livescan Vendor

1800.1240 Fingerprinting Requirements

1800.1250 Fees for Fingerprinting

1800.1260 Grounds for Revocation, Suspension and Denial of Contract

SUBPART M: PUBLIC ACCESS TO INFORMATION

Section

1800.1310 Public Requests for Information

SUBPART N: PAYOUT DEVICES AND REQUIREMENTS

Section

1800.1410 Ticket Payout Devices

1800.1420 Redemption of Tickets Following Removal or Unavailability of Ticket Payout Devices

SUBPART O: NON-PAYMENT OF TAXES

Section

1800.1510 Non-Payment of Taxes

SUBPART P: CENTRAL COMMUNICATIONS SYSTEM

Section

1800.1610 Use of Gaming Device or Individual Game Performance Data

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AUTHORITY: Implementing and authorized by the Video Gaming Act [230 ILCS 40].

SOURCE: Adopted by emergency rulemaking at 33 Ill. Reg. 14793, effective October 19, 2009, for a maximum of 150 days; adopted at 34 Ill. Reg. 2893, effective February 22, 2010; emergency amendment at 34 Ill. Reg. 8589, effective June 15, 2010, for a maximum of 150 days; emergency expired November 11, 2010; amended at 35 Ill. Reg. 1369, effective January 5, 2011; emergency amendment at 35 Ill. Reg. 13949, effective July 29, 2011, for a maximum of 150 days; emergency expired December 25, 2011; amended at 36 Ill. Reg. 840, effective January 6, 2012; amended by emergency rulemaking at 36 Ill. Reg. 4150, effective February 29, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 5455, effective March 21, 2012; amended at 36 Ill. Reg. 10029, effective June 28, 2012; emergency amendment at 36 Ill. Reg. 11492, effective July 6, 2012, for a maximum of 150 days; emergency expired December 2, 2012; emergency amendment at 36 Ill. Reg. 12895, effective July 24, 2012, for a maximum of 150 days; amended at 36 Ill. Reg. 13178, effective July 30, 2012; amended at 36 Ill. Reg. 15112, effective October 1, 2012; amended at 36 Ill. Reg. 17033, effective November 21, 2012; expedited correction at 39 Ill. Reg. 8183, effective November 21, 2012; amended at 36 Ill. Reg. 18550, effective December 14, 2012; amended at 37 Ill. Reg. 810, effective January 11, 2013; amended at 37 Ill. Reg. 4892, effective April 1, 2013; amended at 37 Ill. Reg. 7750, effective May 23, 2013; amended at 37 Ill. Reg. 18843, effective November 8, 2013; emergency amendment at 37 Ill. Reg. 19882, effective November 26, 2013, for a maximum of 150 days; emergency amendment suspended by the Joint Committee on Administrative Rules at 38 Ill. Reg. 3384, effective January 14, 2014; suspension withdrawn at 38 Ill. Reg. 5897; emergency repeal of emergency amendment at 38 Ill. Reg. 7337, effective March 12, 2014, for the remainder of the 150 days; amended at 38 Ill. Reg. 849, effective December 27, 2013; amended at 38 Ill. Reg. 14275, effective June 30, 2014; amended at 38 Ill. Reg. 19919, effective October 2, 2014; amended at 39 Ill. Reg. 5401, effective March 27, 2015; amended at 39 Ill. Reg. 5593, effective April 1, 2015; amended at 40 Ill. Reg. 2952, effective January 27, 2016; amended at 40 Ill. Reg. 8760, effective June 14, 2016; amended at 40 Ill. Reg. 12762, effective August 19, 2016; amended at 40 Ill. Reg. 15131, effective October 18, 2016; emergency amendment at 41 Ill. Reg. 2696, effective February 7, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. _____, effective _____.

SUBPART B: DUTIES OF LICENSEES

Section 1800.250 Duties of Licensed Video Terminal Operators

- a) In addition to all other duties and obligations required by the Act and this Part, each licensed terminal operator has an ongoing duty to comply with the following:

ILLINOIS GAMING BOARD

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- 1a) Assume the primary responsibility for the operation and maintenance of video gaming terminals and for payment of tax remittance to the State as required by the Act;
- 2b) Maintain and provide, either directly or through a licensed manufacturer, distributor, supplier, licensed technician, or licensed terminal handler, an inventory of associated video gaming equipment to ensure the timely repair and continued, approved operation and play of the video gaming terminals it operates;
- 3e) Ensure the timely repair and continued, approved operation and play of the video gaming terminals it operates;
- 4d) Assume responsibility for the payment of valid receipt tickets issued by video gaming terminals it operates;
- 5e) Maintain at all times an approved method of payout for valid receipt tickets and pay all valid receipt tickets;
- 6f) Assume responsibility for terminal and associated video gaming equipment malfunctions, including any claim for the payment of credits arising from malfunctions;
- 7g) Promptly notify the Board of electronic or mechanical malfunctions or problems experienced in a terminal that affect the integrity of terminal play;
- 8h) Extend no form of deferred payment for video gaming terminal play in which an individual receives something of value now and agrees to repay the lender in the future for the purpose of wagering at a video gaming terminal;
- 9i) Maintain a single bank account for all licensed video gaming locations with which it contracts for deposit of aggregate revenues generated from the play of video gaming terminals and allow for electronic fund transfers for tax payments;
- 10j) Enter into written use agreements with licensed video gaming locations that comply with the Act and this Part;

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- 11) Obtain and install, at no cost to the State and as required by the Board, all hardware, software and related accessories necessary to connect video gaming terminals to a central communications system;
- 12) Offer or provide nothing of value to any licensed video gaming location or any agent or representative of any licensed video gaming location as an incentive or inducement to locate, keep or maintain video gaming terminals at the licensed video gaming location;
- 13) Not own, manage or control a licensed establishment, licensed truck stop establishment, licensed fraternal establishment or licensed veterans establishment;
- 14) Conduct advertising and promotional activities in accordance with this Part and in a manner that does not reflect adversely on or that would discredit or tend to discredit the Illinois gaming industry or the State of Illinois;
- 15) Respond to service calls within a reasonable time from the time of notification by the video gaming location;
- 16) Immediately remove all video gaming terminals from the restricted area of play:
- A) upon order of the Board or an agent of the Board; or
- B) that have been out of service or otherwise inoperable for more than 72 hours;
- 17) Provide the Board on a monthly basis a current list of video gaming terminals acquired for use in Illinois;
- 18) Not install, remove or relocate any video gaming terminal without prior notification and approval of the Administrator or his designee;
- 19) Provide prompt notice of an assignment of a use agreement to the Board, the affected location, and the central communications system vendor;

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- 20) Maintain a video gaming terminal access log for each video gaming terminal, which must be kept inside the video gaming terminal at all times, documenting all access to the video gaming terminal. The log format shall provide for the time and date of access, the persons who had access, the license number when applicable and the nature of the service or repair made during the access; ~~and~~
- 21) Service, maintain or repair video gaming terminals at licensed video gaming locations only by licensed technicians or licensed terminal handlers;-
- 22) Not employ or contract with licensees or persons with significant influence or control of a licensed video gaming location with which it has entered into a use agreement to act as a sales agent or broker, licensed terminal handler, or licensed technician;
- 23) Not own, lease, have an option to purchase, hold a security interest in, or manage, either alone or through an affiliated entity, the property on which a licensed video gaming location is located if the terminal operator has entered into a use agreement with that licensed video gaming location; and
- 24) Not provide any compensation to, or receive any compensation from, a licensed video gaming location with which it has entered into a use agreement, other than the after-tax profits from video gaming provided by Section 25(c) of the Act.
- b) Notwithstanding the duties of licensed video terminal operators provided for in this Section or elsewhere in this Part or the Act, an individual who is an investor, member, shareholder, person with significant influence or control, or otherwise owner of a licensed video gaming terminal operator shall be permitted to be an investor, member, shareholder, person with significant influence or control, or otherwise owner of a licensed video gaming location, provided that the investor, member, shareholder, person with significant influence or control, or otherwise owner of the licensed video gaming terminal operator, or the terminal operator itself, does not currently, nor will in the future, have a use agreement with, or provide video gaming terminals directly or indirectly to, the licensed video gaming location for which the individual is an investor, member, shareholder, person with significant influence or control, or otherwise owner.

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(Source: Amended at 41 Ill. Reg. _____, effective _____)

OFFICE OF THE STATE TREASURER

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: College Savings Pool
- 2) Code Citation: 23 Ill. Adm. Code 2500
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2500.10	Amendment
2500.20	Amendment
2500.30	Amendment
2500.40	Amendment
2500.50	Amendment
2500.60	Amendment
2500.70	Amendment
2500.80	Amendment
2500.90	Amendment
2500.110	Amendment
2500.130	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 16.5 of the State Treasurer Act [15 ILCS 505/16.5].
- 5) A Complete Description of the Subjects and Issues Involved: This rule revision makes technical changes to the Treasurer's College Savings Program, including updates for technological advances that have occurred in recent years and to adjust the maximum contribution limit as allowed under Section 529 of the Internal Revenue Code.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].

OFFICE OF THE STATE TREASURER

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

G. Allen Mayer
Deputy Legal Counsel
Illinois State Treasurer
219 State House
Springfield IL 62706

217/557-2673
fax: 217/785-2777
email: AMayer@illinoistreasurer.gov

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2016

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

OFFICE OF THE STATE TREASURER

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES
CHAPTER XVI: TREASURERPART 2500
COLLEGE SAVINGS POOL

Section	
2500.10	Purpose
2500.20	Definition of Terms
2500.30	Participation Requirements
2500.40	Deposits at Participating Financial Institutions
2500.50	Investment Policy
2500.60	Record Keeping
2500.70	Withdrawals
2500.80	Administrative Expenses
2500.90	Account Limits
2500.100	Debt
2500.110	Program Documents
2500.120	Private Contractors
2500.130	Amendment of Rules

AUTHORITY: Implementing and authorized by Section 16.5 of the State Treasurer Act [15 ILCS 505/16.5].

SOURCE: Adopted by emergency rule at 24 Ill. Reg. 6118, effective March 24, 2000, for a maximum of 150 days; emergency expired August 20, 2000; adopted at 24 Ill. Reg. 14441, effective September 12, 2000; emergency amendment at 25 Ill. Reg. 13323, effective October 3, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 3747, effective February 20, 2002; emergency amendment at 29 Ill. Reg. 19308, effective November 14, 2005, for a maximum of 150 days; emergency expired April 12, 2006; amended at 41 Ill. Reg. _____, effective _____.

Section 2500.10 Purpose

The Treasurer shall establish and administer the pool as a qualified State tuition program under ~~section~~Section 529 of the Code, thus providing participants with the federal tax benefits provided in ~~section~~Section 529 of the Code. The pool shall be structured to enable participants to own an interest in a pool of assets, which may include, but need not be limited to, equities, bonds, money market instruments, financial institution deposits or investment funds consisting primarily of

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~~those~~ assets. The Treasurer, in a manner that is in compliance with federal and State securities laws, shall issue interests in the pool. The Treasurer shall hold the assets of the pool in trust for the benefit of the participants and designated beneficiaries. In order to qualify the pool as a qualified state tuition program under ~~section~~Section 529 of the Code and to so hold ~~thesuch~~ assets of the pool in trust, the Treasurer may create a trust by declaration of trust. The trust shall be an instrumentality of the State of Illinois.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2500.20 Definition of Terms

The following definitions shall apply to this Part:

"Act": ~~Public Act 91-0607 of the State of Illinois, which created~~ Section 16.5 ~~(College Savings Pool)~~ of the State Treasurer Act [15 ILCS 505/16.5] that establishes the College Savings Pool.

"Administrative Expenses": All expenses associated with the implementation, administration and marketing of the pool, including fees payable to third parties providing services related to the implementation, administration and marketing of the pool. Investment expenses, such as the internal fees and expenses of an investment fund in which assets of the pool are invested and other similar expenses, shall not be considered administrative expenses.

"Account": An individual investment account established and maintained in the pool.

"Applicant": Any person ~~who~~ is in the process of applying to open an account in the pool.

"Code": The Internal Revenue Code of 1986, as amended (26 USC 1 et seq.).

"College Savings Plan": An Illinois qualified tuition program established under and operated in accordance with section 529 of the Code.

"Deposits": The deposits to be made by the Treasurer, on behalf of and for the benefit of the account owners, with financial institutions accepting deposits, as required by the Act.

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"Designated Beneficiary": The designated individual whose qualified expenses are expected to be paid from an account. A designated beneficiary may be the individual designated on the application, a new beneficiary in the case of a change of beneficiaries, or an individual receiving a scholarship from the State, a local government, or a not-for-profit corporation.

"Earnings": The aggregate total of all dividends and interest income received by the College Savings Pool, at any time following the pool's commencement. ~~The Such~~ aggregate total of dividends and interest income shall be reduced by the aggregate total of administrative expenses paid out of the pool at any time following the commencement of the pool. Earnings shall be determined without regard to realized or unrealized capital gains and losses incurred by the pool.

"Institutions of Higher Education": Educational institutions that are described in ~~section~~Section 481 of the Higher Education Act of 1965 (20 USC 1988), as in effect on August 5, 1997, and are eligible to participate in a program under Title VI of that Act. The term may include, but is not limited to, community colleges, public and private four-year colleges, universities, graduate and post-graduate programs, and certain proprietary and vocational schools as allowed by ~~section~~Section 481.

"Investment Policy Statement": The Investment Policy Statement adopted by the Treasurer pursuant to the Act, which establishes the College Savings Pool and sets forth the policies, objectives and guidelines that govern the investment of deposits in the programs.

"Participant": An owner of an account on behalf of a designated beneficiary.

"Participating Financial Institution": Any financial institution insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration and lawfully doing business in the State of Illinois, and any credit union lawfully doing business in the State of Illinois that has executed a ~~participation~~selling agreement with the Treasurer or his or her agent.

"Pool": The College Savings Pool authorized to be established under the Act.

"Prevailing Interest Rate": The interest rate offered by a participating financial institution to an ordinary customer seeking to deposit a given amount of money at the institution. The prevailing interest rate may be lower than the rate that is

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offered to certain preferred customers.

"Program Disclosure Statement": The offering document describing the College Savings Plans for distribution to participants in connection with their opening of an account and entering into a participation agreement and to others having an interest in the College Savings Plans. The program disclosure statement shall include, without limitation and unless contained in the participation agreement, the information required by the Act and otherwise required under applicable federal and Illinois laws.

"Qualified Expenses": Those expenses~~To the extent~~ treated as "qualified higher education expenses" under ~~section~~Section 529 of the Code, including: tuition, fees, computers and related equipment and services, books, supplies, equipment and costs for room and board (subject to certain limits as specified under the Code).

"Treasurer": The duly elected Treasurer of the State of Illinois or his or her designee or designees, which may include one or more third party service providers.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2500.30 Participation Requirements

- a) Participants on behalf of designated beneficiaries shall make contributions to the pool. Any person residing in the United States at the time the account is processed may be a participant. Any person may be a designated beneficiary. Contributions may be made only in cash and not in property. Cash contributions may be made by check, money order, electronic transfer, or similar methods allowed by the Code. Cash contributions may not be made by credit card.
- b) New accounts in the pool shall be processed through participating financial institutions. ~~A participating financial institution may charge a processing fee that does not exceed \$30, until the year 2001, to a participant to open an account in the pool. Participating financial institutions shall be responsible for collecting the processing fee directly from an applicant. On January 2, 2001 and on January 2 of every year thereafter, the Treasurer shall adjust the maximum processing fee based on the Consumer Price Index as published by the United States Department of Labor, Bureau of Labor Statistics pursuant to 26 USC 2 for the immediately~~

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~~preceding calendar year. Participating financial institutions shall be notified by the Treasurer or its agent of such adjustment.~~

- c) The Treasurer shall create applications for participation in the pool to be completed by the applicant and the participating financial institution. The applicant and the participating financial institution shall be responsible for providing all of the information requested by the Treasurer. The Treasurer shall keep all information received from applicants confidential and may only share the information with third parties to the extent required to operate the pool. Participating financial institutions shall be required to provide information regarding the participating financial institution on the application to enable the Treasurer to open an account for the applicant and verify that the ~~account~~Account was processed through a participating financial institution. Applications that have the relevant section completed by the participating financial institution shall be deemed to be processed through the participating financial institution. Completed applications must be ~~submitted~~ assent to a mailing address specified in the application form and the program disclosure statement.
- d) Applications ~~may~~shall include an initial contribution to the pool of an amount that is at least \$25 in the form ~~set forth in subsection (a) of a check or money order payable to the pool~~. Applications that are incomplete and applications that fail to meet the guidelines established by the Treasurer in an effort to comply with ~~section~~Section 529 of the ~~Internal Revenue~~ Code shall be rejected.
- e) Subsequent contributions to the pool ~~may~~shall be in an amount of at least \$15 and may be made by the participant directly to the pool. Subsequent contributions may be made ~~by a method set forth in subsection (a) electronically or in the form of a check or money order, payable to the pool~~.
- f) The minimum initial contribution and minimum subsequent contribution limits ~~may be~~are waived for contributions made to the pool through an employer-offered payroll deduction program or when agreed to by the Treasurer and participating financial institutions to encourage additional contributions.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2500.40 Deposits at Participating Financial Institutions

- a) The Treasurer, in accordance with the State Treasurer Act [15 ILCS 505], shall

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make a percentage of each account processed by a participating financial institution available for investments as deposits in participating financial institutions. Unless a participating financial institution elects not to accept the deposits or is prohibited by law from accepting the deposits, the Treasurer will make deposits in ~~such~~ participating financial institution in an amount that is at least as great as the percentages provided in the Act, provided that the deposit is federally insured or collateralized with United States Treasury obligations having maturities of ~~10~~^{ten} years or less, the principal and interest on which are guaranteed as to the timely payment by the United States, in an amount equal to 105% of the amount of deposit to be collateralized. The required percentage of each account to be invested in these deposits shall be invested in all participating financial institutions accepting deposits.

- b) The Treasurer shall make all deposits required by the Act at least annually. A participating financial institution that elects to accept deposits shall be entitled to receive the deposits related to the accounts processed through the participating financial institution as long as the accounts exist, unless the institution is prohibited by law from accepting the deposits. A participating financial institution may choose to revoke its election to accept deposits for existing accounts or may assign its right to those deposits to another participating financial institution that accepts these deposits. If a participating financial institution revokes its election to accept deposits for existing accounts, the Treasurer shall invest the deposits to which the participating financial institution would otherwise be entitled in one or more participating financial institutions selected by the Treasurer. The Treasurer shall seek to place ~~thesuch~~ deposits at a participating financial institution whose main address is in close geographic proximity to the participating financial institution that has revoked its election to accept ~~those deposits~~^{such Deposits}. The Treasurer shall, until each annual adjustment date, invest in deposits at financial institutions selected by the Treasurer. The Treasurer may aggregate multiple deposits to a participating financial institution.
- c) Participating financial institutions shall offer to the College Savings Pool their full range of deposit products at prevailing interest rates. Participating financial institutions shall make time deposits available to the pool at prevailing interest rates for certificates of deposit whether or not the amounts of the deposits meet the minimum investment amount required to purchase certificates of deposit. The Treasurer may require that, when a time deposit is redeemed in part prior to maturity, the participating financial institution will apply any penalty only to the redeemed portion and not to the non-redeemed portion of the time deposit. The

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Treasurer may require participating financial institutions to provide written confirmation that the rates offered to the pool are prevailing interest rates.

- d) The deposits in participating financial institutions shall be pooled.
- e) To the extent that a deposit is not insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, the Treasurer shall require that the deposit is fully collateralized.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2500.50 Investment Policy

The Treasurer shall select the investment options to be offered by the pool to the participants. The Treasurer shall, by the commencement date of the pool and ~~by July 1 of~~ each year thereafter, develop, publish and implement an investment policy covering the investment of monies in the pool. ~~The Such~~ policy may be amended at any time and shall be published and distributed to participants 30 days prior to implementing the policy in accordance with the Act. The investment policy shall govern the investment of accounts, including the investment options available to participants. No participant or designated beneficiary may directly or indirectly direct the investment of any contributions to an account or any earnings on an account. ~~The Except as permitted by Section 529 of the Code, the~~ investment strategy may ~~not~~ be changed by the participant, provided the change is in accordance with section 529 of the Code after it is selected at the time the initial contribution establishing the account is made. ~~The Such~~ investment policy shall permit moneys in the pool to be invested in the same manner and in the same types of investments, and subject to the same limitations, provided for the investment of moneys by the State Board of Investments (see 40 ILCS 5/Art. 22A).

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2500.60 Record Keeping

The Treasurer shall maintain records that enable the Treasurer to produce a report for each account in the pool, at least annually, that documents the account balance and investment earnings. There shall be a separate accounting for each account and contributions to each account and any earnings attributable to the account must be allocated to the appropriate account. The Treasurer shall provide, or cause to be provided, to each participant and to the participating financial institution at which the account was processed, at least annually, an account statement showing the total account balance, the investment in the account, and earnings and distributions

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from the account.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2500.70 Withdrawals

- a) There shall be no penalty assessed for withdrawals for qualified expenses, withdrawals for expenses other than qualified expenses upon the death or disability of the designated beneficiary in accordance with the provisions of ~~section~~Section 529 of the Code, or for withdrawals for expenses other than qualified expenses if the designated beneficiary receives a scholarship (or allowance or payment described in ~~section~~Section 135(d)(1)(b) or (c) of the Code) that equals or exceeds the distribution. In addition, no penalty shall be assessed on a transfer from an account of a designated beneficiary to an account of another designated beneficiary ~~who~~that is a member of the family of the original designated beneficiary. Also, no penalty shall be assessed on a distribution from an account of a designated beneficiary that is deposited within 60 days after the distribution into the original account or an account of another designated beneficiary that is a member of the family of the original designated beneficiary. "Family" is defined in ~~section~~Section 529(e) of the Code.
- ~~b) For any withdrawals or distributions other than those listed in subsection (a) and those that are not subject to an additional tax assessed by the Internal Revenue Service that is equal to 10% of earnings on the withdrawal of the distribution, the Treasurer shall assess a penalty of 10% of the earnings portion of the non-qualified withdrawal or distribution, as required by Section 16.5 of the State Treasurer Act and Section 529 of the Code. The Treasurer may also assess a penalty to cover costs associated with the redemption of deposits prior to maturity. The calculation of the portion of the distribution that constitutes earnings subject to this penalty shall be in accordance with Section 529 of the Code.~~
- be) The Treasurer shall implement practices and procedures to identify whether a distribution is a qualified withdrawal under section 529 of the Code and notify appropriate State and federal agencies if the distribution is non-qualified, is subject to a penalty and to collect any penalty that is due. These practices and procedures shall meet the safe harbor requirements under ~~section~~Section 529 of the Code and the regulations promulgated under that statute.

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(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2500.80 Administrative Expenses

- a) ~~The administrative expenses of the College Savings Pool shall be paid from its earnings.~~ Administrative expenses shall be paid from earnings and shall be allocated among the pool's underlying investment portfolios in an equitable manner determined by the Treasurer. Investment earnings in excess of the administrative expenses of the pool ~~and all monies collected by the pool as penalties as a result of withdrawals that are not used to pay qualified expenses,~~ after the payment of expenses, shall be credited or paid monthly to participants in the pool in a manner that equitably reflects the differing amounts of their respective investments in the pool and the differing periods of time for which those amounts were in the custody of the pool, and shall be allocated among the pool's underlying investment portfolios in a manner equitably determined by the Treasurer.
- ~~b~~e) In the event that the Treasurer is obligated to pay administrative expenses of the pool, but the pool has insufficient earnings to make ~~that~~~~such~~ payment, the obligation to pay the administrative expenses may accrue, but the Treasurer shall not pay the administrative expenses until ~~such time as~~ the pool has sufficient earnings to support ~~the~~~~such~~ payment.
- ~~c~~d) The Treasurer may permit a third party service provider to provide compensation to participating financial institutions or other financial services providers that promote the pool to their customers, provided that the cost of the compensation is not passed on to participants.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2500.90 Account Limits

- a) ~~As provided in subsection (b), the~~The Treasurer shall limit the ~~contribution~~~~contribution~~ that may be made on behalf of a designated beneficiary, ~~based on an actuarial estimate of what is required to pay tuition, fees, and room and board for 5 undergraduate years at the highest cost eligible educational institution.~~ The account balance limit will be reflected on the Treasurer's website or in another form that provides adequate notice to account owners. The account balance limit, ~~\$235,000,~~ shall be the same for all accounts of designated

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beneficiaries with the same expected year of enrollment and may be the same for all accounts in the pool. No participant may make a contribution to an account if ~~that such a~~ contribution would result in the aggregated balance of all accounts under all qualified ~~Illinois state~~ tuition programs qualifying under ~~section~~Section 529 of the Code for a particular designated beneficiary exceeding the account balance limit established by the Treasurer. The account limit set forth in this Section is limited to contributions only and does not include earning, interest or any other credits. The Treasurer ~~may shall~~ review the contribution limit annually and provide reasonable notice to the account owners in advance of any adjustment.

b) Account Balance Limit Calculation

1) When setting the account balance limit, the Treasurer will use estimates of tuition, fees, and room and board for an undergraduate, graduate and professional degree from at least two public and two private institutions of higher education reasonably believed to be the highest cost in:

A) Illinois;

B) the Midwest; and

C) nationally.

2) Thus, the Treasurer will utilize the estimated costs from no less than 12 institutions of higher education.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2500.110 Program Documents

In order to establish and administer the pool, the Treasurer may enter into all necessary documents and instruments with terms and provisions that shall not be inconsistent with the Act, ~~section~~Section 529 of the Code and the regulations promulgated under the Code, or this Part.

(Source: Amended at 41 Ill. Reg. _____, effective _____)

Section 2500.130 Amendment of Rules

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~~a) Notice of any proposed amendments to the rules and regulations shall be provided to all participants prior to adoption. Amendments to rules and regulations shall apply only to contributions made after the adoption of the amendment. [15 ILCS 505/16.5] Notice of any proposed substantive amendment to this Part shall be provided to all participants prior to adoption as provided in Section 5-40 of the Illinois Administrative Procedure Act [5 ILCS 100/5-40].~~

b) ~~Any amendment to this Part shall only apply to contributions made after the adoption of the amendment.~~

(Source: Amended at 41 Ill. Reg. _____, effective _____)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received during the period of February 14, 2017 through February 21, 2017. The rulemakings are scheduled for review at the Committee's March 14, 2017 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>
4/2/17	<u>Illinois Gaming Board</u> , Video Gaming (General) (11 Ill. Adm. Code 1800)	12/30/16 40 Ill. Reg. 16454	3/14/16

ILLINOIS ADMINISTRATIVE CODE
Issue Index - With Effective Dates

Rules acted upon in Volume 41, Issue 9 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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