# 2020

# ILLINOIS

# REGISTER

Rules of
Governmental Agencies

Volume 44, Issue 20

May 15, 2020

Pages 8,116 - 8,453

Index Department
Administrative Code Division
111 E. Monroe St.
Springfield, IL 62756
217-782-7017

Printed by authority of the State of Illinois. May --- 70 I PUB35

PUBLISHED BY JESSE WHITE • SECRETARY OF STATE

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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 2020

| Issue# | Rules Due Date | Date of Issue |
|---|---|---|
| 1 | December 23, 2019 | January 3, 2020 |
| 2 | December 30, 2019 | January 10, 2020 |
| 3 | January 6, 2020 | January 17, 2020 |
| 4 | January 13, 2020 | January 24, 2020 |
| 5 | January 21, 2020 | January 31, 2020 |
| 6 | January 27, 2020 | February 7, 2020 |
| 7 | February 3, 2020 | February 14, 2020 |
| 8 | February 10, 2020 | February 21, 2020 |
| 9 | February 18, 2020 | February 28, 2020 |
| 10 | February 24, 2020 | March 6, 2020 |
| 11 | March 2, 2020 | March 13, 2020 |
| 12 | March 9, 2020 | March 20, 2020 |
| 13 | March 16, 2020 | March 27, 2020 |
| 14 | March 23, 2020 | April 3, 2020 |
| 15 | March 30, 2020 | April 10, 2020 |
| 16 | April 6, 2020 | April 17, 2020 |
| 17 | April 13, 2020 | April 24, 2020 |
| 18 | April 20, 2020 | May 1, 2020 |
| 19 | April 27, 2020 | May 8, 2020 |
| 20 | May 4, 2020 | May 15, 2020 |
| 21 | May 11, 2020 | May 22, 2020 |
| 22 | May 18, 2020 | May 29, 2020 |

| | | |
|---|---|---|
| 23 | May 26, 2020 | June 5, 2020 |
| 24 | June 1, 2020 | June 12, 2020 |
| 25 | June 8, 2020 | June 19, 2020 |
| 26 | June 15, 2020 | June 26, 2020 |
| 27 | June 22, 2020 | July 6, 2020 |
| 28 | June 29, 2020 | July 10, 2020 |
| 29 | July 6, 2020 | July 17, 2020 |
| 30 | July 13, 2020 | July 24, 2020 |
| 31 | July 20, 2020 | July 31, 2020 |
| 32 | July 27, 2020 | August 7, 2020 |
| 33 | August 3, 2020 | August 14, 2020 |
| 34 | August 10, 2020 | August 21, 2020 |
| 35 | August 17, 2020 | August 28, 2020 |
| 36 | August 24, 2020 | September 4, 2020 |
| 37 | August 31, 2020 | September 11, 2020 |
| 38 | September 8, 2020 | September 18, 2020 |
| 39 | September 14, 2020 | September 25, 2020 |
| 40 | September 21, 2020 | October 2, 2020 |
| 41 | September 28, 2020 | October 9, 2020 |
| 42 | October 5, 2020 | October 16, 2020 |
| 43 | October 13, 2020 | October 23, 2020 |
| 44 | October 19, 2020 | October 30, 2020 |
| 45 | October 26, 2020 | November 6, 2020 |
| 46 | November 2, 2020 | November 13, 2020 |
| 47 | November 9, 2020 | November 20, 2020 |
| 48 | November 16, 2020 | November 30, 2020 |
| 49 | November 23, 2020 | December 4, 2020 |
| 50 | November 30, 2020 | December 11, 2020 |
| 51 | December 7, 2020 | December 18, 2020 |
| 52 | December 14, 2020 | December 28, 2020 |

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Radioactive Materials Transportation

2) Code Citation: 32 Ill. Adm. Code 341

3) Section Number: 341.10 Proposed Action: Amendment

4) Statutory Authority: Implementing and authorized by Section 10, 11, 11.5 and 12 of the Radiation Protection Act of 1990 [420 ILCS 40/10, 11, 11.5 and 12], and Section 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/9] and by Section 70 of the Nuclear Safety Law of 2004 [20 ILCS 3310/70].

5) A Complete Description of the Subjects and Issues Involved: After reviewing IEMA's last amendments to Part 341 to comply with RATS ID 2015-3, the U.S. Nuclear Regulatory Commission (USNRC) identified an issue with IEMA's rules regarding the 10 CFR 71 incorporation by reference. The Agency is proposing to add an Agency Note in Section 341.10(a) to address the issue and maintain compatibility with 10 CFR 71 as required by the USNRC. The Agency is also proposing to amend Section 341.10(a) to comply with RATS ID 2019-2 and maintain compatibility by changing the dates for the applicable Code of Federal Regulations.

Section 31 of the Radiation Protection Act of 1990 [420 ILCS 40/31] provides that IEMA is exempt from rulemaking procedures in the Illinois Administrative Procedure Act when regulations that are identical in substance are necessary to implement, secure, or maintain federal authorization for a program. After consideration of comments from the appropriate federal agency, the Agency may adopt the verbatim text of the laws, regulations, or orders as necessary and appropriate for authorization or maintenance of the program. Because this rulemaking is not subject to the Illinois Administrative Procedure Act, and in accordance with Section 31, this rulemaking will become effective following the first notice period immediately upon filing for adoption with the Secretary of State or at a date required or authorized by the relevant federal laws, regulations, or orders as stated in the notice of the rulemaking, and shall be published in the Illinois Register.

6) Any published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking, in accordance with 1 Ill Adm. Code 100.355: No

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENT

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: The requirements imposed by the proposed rulemaking are not expected to require local governments to establish, expand or modify their activities in such a way as to necessitate additional expenditures from local revenues.

12) Time, Place and Manner in which interested persons may comment on this proposed Rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. The Agency will consider fully all written comments on this proposed rulemaking submitted during the 45 day comment period. Comments should be submitted to:

Traci Burton, Paralegal Assistant
Illinois Emergency Management Agency
1035 Outer Park Drive
Springfield IL 62704

217/785-9860

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities or not-for-profit corporations effected: The Agency believes this rulemaking will have no direct impact on any small businesses, small municipalities or not-for-profit corporations.

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

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis: None

15) Regulatory Agenda on which this rulemaking was summarized: July 2019

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

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENT

TITLE 32: ENERGY
CHAPTER II: ILLINOIS EMERGENCY MANAGEMENT AGENCY
SUBCHAPTER b: RADIATION PROTECTION

PART 341
RADIOACTIVE MATERIALS TRANSPORTATION

Section
341.10 Scope
341.20 Incorporations by Reference
341.25 Definitions
341.30 General License
341.40 Records
341.50 Reports

AUTHORITY: Implementing and authorized by Section 10, 11, 11.5 and 12 of the Radiation Protection Act of 1990 [420 ILCS 40/10, 11, 11.5 and 12], and Section 9 of the Illinois Low-Level Radioactive Waste Management Act [420 ILCS 20/9], and by Section 70 of the Nuclear Safety Law of 2004 [20 ILCS 3310/70].

SOURCE: Adopted at 10 Ill. Reg. 17616, effective September 25, 1986; amended at 11 Ill. Reg. 5219, effective March 13, 1987; amended at 12 Ill. Reg. 2434, effective January 15, 1988; amended at 18 Ill. Reg. 4196, effective March 3, 1994; recodified from the Department of Nuclear Safety to the Illinois Emergency Management Agency at 27 Ill. Reg. 13641; old Part repealed and new Part adopted at 29 Ill. Reg. 6911, effective May 2, 2005; amended at 30 Ill. Reg. 9160, effective April 28, 2006; amended at 39 Ill. Reg. 9928, effective July 1, 2015; amended at 42 Ill. Reg. 7537, effective April 4, 2018; amended at 44 Ill. Reg. _____, effective _____.

**Section 341.10 Scope**

a) This Part applies to each licensee who transports licensed material outside the site where the licensee is authorized to possess and use the material or who transports the material on public highways or who delivers the material to a carrier for transport. The licensee shall comply with the regulations in this Part, the applicable requirements of the U.S. Nuclear Regulatory Commission (NRC) in 10 CFR 71, in effect as of December 30, 2019~~July 13, 2015~~, and the applicable requirements of the U.S. Department of Transportation (USDOT) regulations

appropriate to the mode of transport in 49 CFR 170-189, in effect as of December 30, 2019~~July 13, 2015~~.

AGENCY NOTE: Where the words "NRC", "Commission", "Nuclear Regulatory Commission", "United States Nuclear Regulatory Commission", or "Administrator of the appropriate Regional Office" appear in 10 CFR 71, substitute the words "Illinois Emergency Management Agency (Agency or IEMA)" except when used in 10 CFR 71.5(b), 71.10, 71.17(c)(3) and (e), 71.85 (c), 71.88(a)(4), 71.93(c), 71.95, and 71.97(c), (c)(3)(iii) and (f). In addition, the terms "certificate of compliance", "compliance holder", or "applicant" apply to NRC as it is the sole authority for issuing a package Certificate of Compliance.

b) When the licensee is not in areas under the jurisdiction of USDOT or NRC, but is in an area of jurisdiction of the State of Illinois as described in subsection (a) of this Section, the licensee shall comply with the following portions of USDOT and NRC regulations, as applicable:

1) Packaging, 49 CFR 173, subparts A, B and I;

2) Marking and labeling, 49 CFR 172, subpart D, paragraphs 172.400-172.407, 172.436-172.440 and subpart E;

3) Placarding, 49 CFR 172, subpart F, paragraphs 172.500-172.519 and 172.556; and appendices B and C;

4) Shipping papers and emergency information, 49 CFR 172, subparts C and G;

5) Accident reporting, 49 CFR 171.15 and 171.16;

6) Hazardous material shipper/carrier requirements, 49 CFR 107, subpart G;

7) Hazardous material employee training, 49 CFR 172, subpart H;

8) Definitions, 10 CFR 71.4;

9) Transportation of licensed material, 10 CFR 71.5;

10) Exemptions for low level material, 10 CFR 71.14(a);

11) General license: NRC-approved package, 10 CFR 71.17;

12) Previously approved package, 10 CFR 71.19(a) and (b);

13) General license: USDOT specification container material, 10 CFR 71.20;

14) General license: Use of foreign approved package, 10 CFR 71.21;

15) General license: Fissile material, 10 CFR 71.22;

16) External radiation standards for all packages, 10 CFR 71.47;

17) Assumptions as to unknown properties, 10 CFR 71.83;

18) Preliminary determinations, 10 CFR 71.85;

19) Routine determinations, 10 CFR 71.87;

20) Air transportation of plutonium, 10 CFR 71.88;

21) Opening instructions, 10 CFR 71.89;

22) Advance notification of shipment of irradiated reactor fuel and nuclear waste, 10 CFR 71.97;

23) Quality assurance requirements, 10 CFR 71.101(a), (b), (c), (f) and (g);

24) Quality assurance organization, 10 CFR 71.103;

25) Quality assurance program, 10 CFR 71.105; and

26) Determination of $A_1$ and $A_2$, 10 CFR 71, appendix A.

c) The licensee shall also comply with USDOT regulations pertaining to the following modes of transportation:

1) Rail, 49 CFR 174, subparts A-D and K;

ILLINOIS EMERGENCY MANAGEMENT AGENCY

NOTICE OF PROPOSED AMENDMENT

2) Air, 49 CFR 175;

3) Vessel, 49 CFR 176, subparts A-F and M; and

4) Public highway, 49 CFR 177 and 390-397.

d) If USDOT regulations are not applicable to a shipment of licensed material as described in subsection (a), the licensee shall conform to the standards and requirements of USDOT specified in subsection (a) to the same extent as if the shipment or transportation were subject to USDOT regulations. A request for modification, waiver or exemption from those requirements, and any notification referred to in those requirements, must be filed with, or made to, the Agency.

e) Common and contract carriers, freight forwarders, warehousemen and the U.S. Postal Service are exempt from the requirements for a license set forth in 420 ILCS 40/10, 11 and 12 and in 32 Ill. Adm. Code 330, 335, 337, 346, 350 and 351 to the extent that they transport or store byproduct material in the regular course of carriage for another or storage incident to that carriage.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: The Taking of Wild Turkeys – Spring Season

2) Code Citation: 17 Ill. Adm. Code 710

3)

| Section Numbers: | Proposed Actions: |
|---|---|
| 710.10 | Amendment |
| 710.20 | Amendment |
| 710.50 | Amendment |
| 710.70 | Amendment |

4) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5].

5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to make Statewide program changes, open and close State-owned or -managed sites, and amend procedures at State sites. Additional amendments are being made to allow for permit cancellations and refunds for unforeseen circumstances, including the closure of State properties resulting from emergency declarations in response to COVID19.

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 affect units of local government.

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

John Heidinger, Legal Counsel
Department of Natural Resources
One Natural Resources

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Springfield IL 62702

217/557-6379

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) Small Business Impact Analysis: None

15) Regulatory Agenda on which this rulemaking was summarized: January 2020

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

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 710
THE TAKING OF WILD TURKEYS − SPRING SEASON

Section

710.5 Hunting Zones
710.10 Hunting Seasons
710.20 Statewide Turkey Permit Requirements
710.21 Turkey Permit Requirements − Special Hunts (Renumbered)
710.22 Turkey Permit Requirements − Landowner/Tenant Permits
710.25 Turkey Permit Requirements − Special Hunts
710.28 Turkey Permit Requirements − Heritage Youth Turkey Hunt (Repealed)
710.30 Turkey Hunting Regulations
710.40 Other Regulations (Repealed)
710.50 Regulations at Various Department-Owned or -Managed Sites
710.55 Special Hunts for Disabled Hunters
710.60 Releasing or Stocking of Turkeys
710.70 Spring Youth Turkey Hunt

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.20, 2.9, 2.10, 2.11 and 2.20 of the Wildlife Code [520 ILCS 5].

SOURCE: Adopted at 4 Ill. Reg. 15, p. 153, effective April 1, 1980; codified at 5 Ill. Reg. 10643; amended at 6 Ill. Reg. 3852, effective March 31, 1982; amended at 7 Ill. Reg. 4208, effective March 25, 1983; amended at 8 Ill. Reg. 5663, effective April 16, 1984; amended at 9 Ill. Reg. 6200, effective April 24, 1985; amended at 10 Ill. Reg. 6848, effective April 4, 1986; amended at 11 Ill. Reg. 2267, effective January 20, 1987; amended at 12 Ill. Reg. 5342, effective March 8, 1988; amended at 13 Ill. Reg. 5090, effective April 4, 1989; amended at 14 Ill. Reg. 663, effective January 2, 1990; amended at 15 Ill. Reg. 4161, effective March 4, 1991; amended at 16 Ill. Reg. 1843, effective January 17, 1992; amended at 17 Ill. Reg. 3184, effective March 2, 1993; amended at 18 Ill. Reg. 1156, effective January 18, 1994; emergency amendment at 18 Ill. Reg. 3751, effective March 1, 1994, for a maximum of 150 days; emergency expired July 29, 1994; amended at 19 Ill. Reg. 2450, effective February 17, 1995; emergency amendment at 19 Ill. Reg. 5312, effective April 1, 1995, for a maximum of 150 days; emergency expired August 29, 1995; amended at 20 Ill. Reg. 777, effective December 29, 1995; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill.

Reg. 9389; amended at 21 Ill. Reg. 3125, effective March 3, 1997; amended at 22 Ill. Reg. 2192, effective January 2, 1998; amended at 22 Ill. Reg. 19568, effective October 23, 1998; amended at 23 Ill. Reg. 11956, effective September 21, 1999; amended at 24 Ill. Reg. 7984, effective May 24, 2000; amended at 24 Ill. Reg. 17778, effective November 27, 2000; amended at 25 Ill. Reg. 14176, effective October 22, 2001; amended at 26 Ill. Reg. 18028, effective December 6, 2002; amended at 27 Ill. Reg. 17075, effective October 22, 2003; amended at 29 Ill. Reg. 3935, effective February 24, 2005; amended at 29 Ill. Reg. 20484, effective December 2, 2005; amended at 31 Ill. Reg. 1958, effective January 16, 2007; amended at 31 Ill. Reg. 16476, effective November 28, 2007; amended at 32 Ill. Reg. 19742, effective December 3, 2008; amended at 34 Ill. Reg. 4868, effective March 19, 2010; amended at 35 Ill. Reg. 3705, effective February 16, 2011; amended at 35 Ill. Reg. 20588, effective December 9, 2011; amended at 37 Ill. Reg. 1898, effective February 4, 2013; amended at 37 Ill. Reg. 20688, effective December 12, 2013; amended at 38 Ill. Reg. 22780, effective November 18, 2014; amended at 39 Ill. Reg. 10951, effective July 27, 2015; amended at 40 Ill. Reg. 10630, effective July 20, 2016; amended at 41 Ill. Reg. 85, effective December 22, 2016; amended at 41 Ill. Reg. 8727, effective June 28, 2017; amended at 41 Ill. Reg. 12599, effective September 20, 2017; amended at 42 Ill. Reg. 13174, effective June 22, 2018; amended at 43 Ill. Reg. 9581, effective August 23, 2019; amended at 44 Ill. Reg. _____, effective _____.

**Section 710.10 Hunting Seasons**

a) Northern Zone Season Dates:

1st Season: Monday, April 12~~13~~-Friday, April 16~~17~~, 2021~~2020~~

2nd Season: Saturday, April 17~~18~~-Thursday, April 22~~23~~, 2021~~2020~~

3rd Season: Friday, April 23~~24~~-Wednesday, April 28~~29~~, 2021~~2020~~

4th Season: Thursday, April 29~~30~~-Wednesday, May 5~~6~~, 2021~~2020~~

5th Season: Thursday, May 6~~7~~-Thursday, May 13~~14~~, 2021~~2020~~

b) Southern Zone Season Dates:

1st Season: Monday, April 5~~6~~-Friday, April 9~~10~~, 2021~~2020~~

2nd Season: Saturday, April 10~~11~~-Thursday, April 15~~16~~, 2021~~2020~~

DEPARTMENT OF NATURAL RESOURCES

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3rd Season: Friday, April 16~~17~~-Wednesday, April 21~~22~~, 2021~~2020~~

4th Season: Thursday, April 22~~23~~-Wednesday, April 28~~29~~, 2021~~2020~~

5th Season: Thursday, April 29~~30~~-Thursday, May 6~~7~~, 2021~~2020~~

c) Open Counties:

NORTHERN ZONE

Adams
Boone
Brown
Bureau
Calhoun
Carroll
Cass
Champaign
Christian
Clark
Coles
Cumberland
DeKalb
DeWitt
Douglas
Edgar
Ford
Fulton
Greene
Grundy
Hancock
Henderson
Henry
Iroquois
Jersey
Jo Daviess
Kane
Kankakee
Kendall
Knox

Lake
La Salle
Lee
Livingston
Logan
Macon
Macoupin
Marshall-Putnam
Mason
McDonough
McHenry
McLean
Menard
Mercer
Montgomery
Morgan
Moultrie
Ogle
Peoria
Piatt
Pike
Rock Island
Sangamon
Schuyler
Scott
Shelby
Stark
Stephenson
Tazewell
Vermilion
Warren
Whiteside
Will
Winnebago
Woodford

SOUTHERN ZONE
Alexander
Bond

Clay
Clinton
Crawford
Edwards
Effingham
Fayette
Franklin
Hamilton
Gallatin-Hardin
Jackson
Jasper
Jefferson
Johnson
Lawrence
Madison
Marion
Massac
Monroe
Perry
Pope
Pulaski
Randolph
Richland
Saline
St. Clair
Union
Wabash
Washington
Wayne
White
Williamson

d) Permit quotas shall be set by the Department of Natural Resources on a county or special hunt area basis.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 710.20 Statewide Turkey Permit Requirements**

a) All turkey hunters must have a current, valid Spring Wild Turkey Hunting Permit. Lifetime licenses issued after August 15, 2006 shall not qualify a non-resident of Illinois for a resident turkey permit. All hunters, except those exempted by Section 3.1 of the Wildlife Code [520 ILCS 5/3.1] are also required to obtain a hunting license before hunting wild turkey. Fees for spring turkey permits are as follows:

1) Permits issued via lottery by Permit Office:
Illinois Resident lottery permit − $15
Nonresident lottery permit − $125

2) Over-the-Counter (OTC) Permits sold by license vendors pursuant to subsection (g); all prices include vendor's issuing fee:
Illinois Resident OTC Permit – $15.50
Nonresident OTC Permit − $125.50

b) Permits are issued for a specific county or area and are valid only in the county or area designated on the permit. Applications for wild turkey permits shall be completed and submitted by visiting one of the Illinois Department of Natural Resources' DNR license vendors, by applying on-line at www.dnr.illinois.gov or by writing to:

Department of Natural Resources – Spring Turkey
One Natural Resources Way
P.O. Box 19446
Springfield, Illinois 62794-9446

c) Applicants must supply all information necessary to complete the application. Incomplete applications will be rejected and fees returned. Each applicant must submit payment for his/her individual application at the time of application. Permits are allocated via computerized lottery drawings held in Springfield, Illinois. Permits are not transferable. For the purpose of this Section, "transfer" means the modification or changing, by the Department or any other person, individual or group, of the name or the location on an issued permit to another person or location~~Not more than 6 applications may be submitted for group hunters~~.

d) Applications from Illinois residents will be accepted through December 1 for the First Lottery Drawing. Applicants for the First Lottery Drawing that have applied

for or already are in possession of a valid landowner permit are not eligible to apply for the First Lottery Drawing. Applications received in the permit office after December 1 will be included in the next computerized drawing. ~~Permits are not transferable and refunds will not be granted. Permits will be allocated in a computerized drawing to be held in Springfield.~~ Applicants rejected in this drawing will receive preference in the next year's drawing for spring season permits subject to guidelines outlined in subsection (h). Only one application may be submitted per applicant for the First Lottery Drawing.

e) Permits not issued during the First Lottery Drawing~~first computerized drawing~~ will be available in a Second Lottery Drawing. Applications for this drawing will be accepted through the first working day after January 10. Applications received after this date will be included in the next drawing. All hunters ~~not receiving a permit in the first computerized drawing and non-residents~~ are eligible to apply for permits remaining for this Second Lottery Drawing, but hunters who have not already been awarded a permit will receive preference in the Second Lottery Drawing. Only one application may be submitted per applicant for the Second Lottery Drawing. ~~All resident permit applications will receive preference over non-resident applications.~~

f) Permits not issued during the first two lottery drawings will be available in the Third Lottery Drawing.~~Any hunter who has not received a permit, and hunters that have received only one permit, may apply for a first or a second permit in a third computerized lottery drawing for the remaining permits. All resident permit applications will receive preference over non-resident applications.~~ Applications for this Third Lottery Drawing will be accepted through the first working day after February 8. Applications received after this date will be rejected and fees refunded. Applicants may submit up to three applications for the Third Lottery Drawing. No applicant may exceed the limit of, or receive more than, three permits in total for spring turkey hunting, including lottery drawn, OTC, youth and landowner permits.

g) Permits remaining after the Third Lottery Drawing will be available ~~over-the-counter (~~OTC~~)~~ from agents designated by the Department (pursuant to 17 Ill. Adm. Code 2520) beginning the second Tuesday in March on a first-come, first-served basis. Permits will be sold until quotas are exhausted, or until the close of the specific turkey season segment (i.e., of seasons 1 through~~–~~ 5) in the Zone (north vs. south) for which the permit is being requested. Hunters~~Persons~~ may purchase one or more permits during this period, subject to availability, except

that no one may exceed the limit of three permits in total for spring turkey hunting, including lottery drawn, OTC, youth and landowner permits.

h) The following criteria must be met to obtain preference in the first computerized drawing:

1) The applicant must apply using the official agency application.

2) The applicant must be a resident of the State, be eligible to receive a spring turkey permit, and not had turkey hunting privileges revoked.

3) The applicant must apply for the same county and season choices which he/she listed on the previous year's application. Preference will not be granted for special hunt areas as listed in Section 710.25 or for permit areas listed in Section 710.50(c).

i) A $3 service fee will be charged for replacement permits issued by the Department.

j) The periods for accepting applications for the lotteries may be extended if applications are not available to the public by November 1. A news release will announce the extension of the application periods.

k) It shall be unlawful to:

1) Submit applications before the second computerized lottery drawing for more than one permit for the same person.

2) Submit applications before the third computerized lottery drawing for more than two permits for the same person.

3) Apply for or receive more than three permits for the spring turkey season. The three-permit total includes lottery drawn, OTC, youth and~~any~~ landowner permits~~permit or youth turkey permit received~~.

4) Provide false and/or deceptive information on a permit application form. In addition to criminal charges, individuals found guilty of violating this Section~~section~~ shall have their applications~~application~~ rejected, permit revoked, and fees forfeited. Rejection, revocation and forfeiture is subject

to the notice and hearing requirements set out in 17 Ill. Adm. Code 2530.

l) Refunds and Cancellations

1) A refund shall be issued by the Department for a permit that has been granted, or for an application that has been submitted, under the following circumstances:

A) The State managed or owned site for which the permit was issued was closed due to a national or State issued emergency or disaster declaration or any other emergency circumstance that resulted in the Department closing access to the hunting site, park or area. Issued permits shall be cancelled by the Department. This subsection (l) shall include, but is not limited to, closure of State parks, fish and wildlife areas, and recreation areas by the Department as a response to the Gubernatorial Disaster Proclamations regarding COVID-19 or Department closures reflecting those proclamations or orders;

B) The applicant for a permit was unsuccessful in obtaining a permit in the lottery for which the applicant applied; or

C) Upon the request of the permit holder, a permit was issued due to an error of the Department, the OTC point-of-sale vendor or the applicant. The permit that was issued in error and the request for a refund must be delivered to the Department before the last day of the season listed on the permit. Permits shall be considered delivered to the Department if the permit is received by the Department at its headquarters in Springfield, Illinois or postmarked before the last day of the season listed on the permit; or

D) Upon the return of an issued permit to the Department before the first day of the season listed on the issued permit. Permits shall be considered delivered to the Department if the permit is received by the Department at its headquarters in Springfield, Illinois or postmarked before the first day of the season listed on the permit. No refund shall be issued under this subsection (l)(1)(D) if the

permit is returned or postmarked after the first day of the season listed on the permit.

2) A permit shall be cancelled if a refund is approved pursuant to subsection (l)(1)(A), (C) or (D). Once a permit has been cancelled, the cancelled permit shall not count towards the total number of permits that an applicant may obtain for the Spring Turkey Hunting Season.

3) Upon the request of a permit holder, a refund may be issued by the Department for a permit that has been granted under the following circumstances:

A) A medical condition or death of the permit holder that prevented the permit holder from hunting. A death certificate or medical documentation showing that the permit holder was unable to or advised not to hunt may be required by the Department before any refund is issued. Requests must be made within 90 days after the start of the season that the permit was issued for and must accompany the return of the permit to the Department at its headquarters in Springfield, Illinois. No refunds shall be issued under this subsection if the request or permit is delivered to the Department at its headquarters in Springfield, Illinois or postmarked 90 days after the first day of the season listed on the permit; or

B) The permit holder was unable to travel or use the permit that was issued to him or her due to a national or State issued emergency or disaster declaration that resulted in a danger to the health or safety of the permit holder had they attempted to use the issued permit. Requests must be made within 60 days after the start of the season for which the permit was issued and must accompany the return of the permit to the Department at its headquarters in Springfield, Illinois. No refund shall be issued under this subsection (l)(3)(B) if the request or permit is delivered or postmarked 60 days after the first day of the season listed on the permit.

C) A permit holder choosing not to, or being unable to, use the issued spring turkey hunting permit due to the COVID-19 Gubernatorial Proclamations. Requests for refunds on the basis of the COVID-

19 disaster period must include the unused issued permit. The request for refund must be submitted to, and the unused permit that was issued for a spring turkey hunting season during the COVID-19 disaster period must be returned to, the Department at its headquarters in Springfield, Illinois or postmarked on or before December 1, 2020. No refund shall be issued on this basis if the request and issued unused permit is received or postmarked after December 1, 2020.

D) A permit that was issued due to an error of the Department, the OTC point-of-sale vendor, or the applicant, if the permit is returned to the Department before the last day of the season for which the permit was issued.

m) Group Hunt Application Requirements

1) Up to six individuals may apply to hunt as a group during the First and Second Lottery Drawings. Group hunt applications will not be accepted for the Third Lottery as all applications in that lottery will be processed individually.

2) Each individual must sign his or her own paper application.

3) Groups must identify a group leader, and all applicants must list the same group leader in their submitted application. For online applications, the group leader customer ID number must be included on all group members' applications.

4) Groups must list the same county or special hunt area of choice and complete, in an identical fashion, all options regarding hunting locations and the season choices. This does not include the personal identification information of the applicant or type of permit.

5) In order to receive preference for the group hunt, all members must have the same county of choice. If any member does not designate the group's county of choice, the entire group will not receive preference.

6) Applicants applying as a group will be rejected if any member does not list the identical information as all other members of the applicant group, other than the applicant's personal identification information.

7) Group applications will be accepted for the First Lottery Drawing. Only one application per hunter will be accepted. All members of the group must be Illinois residents.

8) Group applications will be accepted for the Second Lottery Drawing. Only one application per hunter will be accepted.

9) Since applicants that have not been awarded a permit are given preference for permits allocated in the Second Lottery Drawing, groups containing both applicants that have not been awarded a permit and applicants that have been awarded a permit will not receive preference in the Second Lottery Drawing.

10) Providing false information on an application is a violation of 520 ILCS 5/2.38.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 710.50 Regulations at Various Department-Owned or -Managed Sites**

a) Hunters who intend to hunt Department sites and who have a physical disability that requires special accommodations are encouraged to contact the site superintendent at least 10 days before the date they wish to hunt. The site superintendent will make reasonable accommodations necessary to allow the disabled person to participate in the hunting experience at the site. Disabled hunters who require an aide or assistant with them during the hunt are responsible for providing the aide or assistant and notifying the site superintendent that an assistant will be present, and whether the assistant will also be hunting.

b) Hunters must sign in/sign out at all sites that are followed by a (1). Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by a (2).

c) Statewide regulations shall apply for the following sites:

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Alvah Borah State Habitat Area (2)

Anderson Lake State Conservation Area (1)

Argyle Lake State Park (2)

Cache River State Natural Area (1)

Campbell Pond State Wildlife Management Area (2)

Cape Bend State Fish and Wildlife Area (1)

Carlyle Lake State Fish and Wildlife Area (2)

Copperhead Hollow State Wildlife Area (2)

Cretaceous Hills State Natural Area (2)

Cypress Pond State Natural Area (1)

Deer Pond State Natural Area (1)

Devil's Island State Fish and Wildlife Area

Dog Island State Wildlife Management Area (2)

Ferne Clyffe State Park − Cedar Draper Bluff Hunting Area (1)

Flag Pond State Natural Area

Fort de Chartres State Historic Site (muzzleloading shotgun or archery only; no in-line muzzleloading shotguns or muzzleloaders with scopes allowed) (1)

~~Fort Massac State Park (2)~~

Giant City State Park (1)

Horseshoe Lake State Conservation Area − Alexander County (controlled

goose hunting area and public hunting area only) (1)

Horseshoe Lake State Park (Madison County) − Gabaret, Mosenthein, Chouteau Island Units (all hunters must obtain a free site permit)

Kaskaskia River State Fish and Wildlife Area (no hunting east of and within 50 yards of the defined Baldwin Lake Waterfowl Rest Area's main north-south road, within 100 yards of any house or building, or south of the Dry Lake access road; a hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, may hunt at the site's designated handicapped hunting spot within this closed area; the hunting spot will be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

Kinkaid Lake State Fish and Wildlife Area (1)

Mark Twain National Wildlife Refuge, Gardner Division

Mississippi River State Fish and Wildlife Area (Pools 25 and 26)

Mississippi River Pools 16, 17, 18, 21, 22, and 24

Nauvoo State Park (Max Rowe Unit only) (2)

Oakford State Conservation Area

Peabody River King State Fish and Wildlife Area (except South Subunit) (1)

Pere Marquette State Park (designated area only) (2)

Ray Norbut State Fish and Wildlife Area (2)

Rend Lake Project Lands and Waters except Wayne Fitzgerald State Park

Saline County State Fish and Wildlife Area (2)

Sanganois State Conservation Area (2)

Sielbeck Forest State Natural Area (2)

Skinner Farm State Habitat Area (1)

Trail of Tears State Forest (1)

Turkey Bluffs State Fish and Wildlife Area (1)

Union County State Conservation Area − Firing Line Unit and Public Hunting Area only (1)

Weinberg-King State Park (2)

Weinberg-King State Park (Cecil White Unit) (2)

Weinberg-King State Park (Spunky Bottoms Unit) (2)

Wildcat Hollow State Habitat Area (2)

Wise Ridge State Natural Area

d) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.20. This permit is only valid for the specific site and season indicated on the permit.

Apple River Canyon State Park − Thompson and Salem Units (2)

Beaver Dam State Park (2)

Big Bend State Fish and Wildlife Area (1)

Big River State Forest (2)

Burning Star State Fish and Wildlife Area (2)

Butterfield Trail State Recreation Area (2)

Carlyle Lake State Fish and Wildlife Area − East Fork Management Unit

(2)

Castle Rock State Park (2)

Clinton Lake State Recreation Area (2)

Coffeen Lake State Fish and Wildlife Area (2)

Crawford County State Fish and Wildlife Area (2)

Dixon Springs State Park ~~(youth under the age of 18 prior to the first day of the season only)~~ (1)

Eagle Creek State Park (first two seasons only) (2)

Eldon Hazlet State Park (2)

Embarras River Bottoms State Habitat Area (2)

Ferne Clyffe State Park − Ferne Clyffe Hunting Area (1)

Fort Massac State Park ~~(youth under the age of 18 prior to the first day of the season only)~~ (1)

Fox Ridge State Park (2)

French Bluff State Natural Area (2)

Green River State Wildlife Area (2)

Hamilton County State Conservation Area (2)

Hanover Bluff State Natural Area (2)

Harry "Babe" Woodyard State Natural Area (2)

Hidden Springs State Forest (2)

Horseshoe Lake State Park (Madison County)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Iroquois County State Wildlife Area (2)

Jim Edgar Panther Creek State Fish and Wildlife Area (2)

Johnson-Sauk Trail State Park (2)

Jubilee College State Park (1)

Kankakee River State Park (hunting hours are from ½ hour before sunrise until 12:00 noon) (1)

Kickapoo State Park (2)

Kishwaukee River State Fish and Wildlife Area (2)

Lowden Miller State Forest (2)

Mackinaw River State Fish and Wildlife Area (2)

Marseilles State Fish and Wildlife Area (site is open to hunting Monday through Thursday only; hunting hours are from ½ hour before sunrise until 8:30 a.m. with potential additional hunting hours being posted by the site; unauthorized personnel may not be on the site outside of the posted check station operating hours; hunters may only enter the site from designated parking lots) (1)

Marshall State Fish and Wildlife Area (2)

Matthiessen State Park (South of Vermilion River Area) (1)

Mautino State Fish and Wildlife Area (2)

Meeker State Habitat Area (2)

Mermet Lake State Fish and Wildlife Area (2)

Middle Fork State Fish and Wildlife Management Area (2)

Mississippi Palisades State Park (closed during the fifth season) (2)

Momence Wetlands (1)

Moraine View State Park (no hunting on weekends during 4th and 5th season) (2)

Morrison Rockwood State Park (closed during the fifth season) (1)

Mt. Vernon Game Propagation Center

Newton Lake State Fish and Wildlife Area (2)

Paul C. Burrus State Habitat Area (2)

Pere Marquette State Park (Piasa, Quotoga, Potawatomi Camp Areas) (no hunting allowed on weekends) (2)

Pyramid State Park (2)

Pyramid State Park – Captain Unit (2)

Pyramid State Park – Denmark Unit (2)

Pyramid State Park − East Conant Unit (2)

Pyramid State Park – Galum Unit (2)

Rall Woods State Natural Area (2)

Ramsey Lake State Park (2)

Randolph County State Conservation Area (a handicapped hunter with a P-2 handicapped certification, accompanied by a non-hunting attendant, wanting to hunt at one of the site's two designated handicapped hunting spots is not required to have a site-specific permit; these hunting spots will be allocated on a first come-first served basis or via a drawing, if needed, held at the site office) (1)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Ray Norbut State Fish and Wildlife Area – Dutch Creek Unit (2)

Red Hills State Park (2)

Red Hills State Park/Chauncey Marsh (2)

Sahara Woods State Fish and Wildlife Area (2)

Sam Dale Lake State Fish and Wildlife Area (2)

Sam Parr State Fish and Wildlife Area (2)

Sand Ridge State Forest (2)

Sandy Ford State Natural Area

Sangamon County State Conservation Area

Sanganois State Conservation Area (Squirrel Timber Unit) (2)

Sangchris Lake State Park

Shelbyville State Fish and Wildlife Area (must have valid permit for Lake Shelbyville Project Lands – Moultrie County) (2)

Siloam Springs State Park (2)

Siloam Springs State Park (Buckhorn Unit) (2)

Spoon River State Forest (2)

Starved Rock State Park (1)

Stephen A. Forbes State Park (2)

Tapley Woods State Natural Area (2)

Ten Mile Creek State Fish and Wildlife Area (2)

Vesely Land and Water Reserve (2)

Washington County State Conservation Area (1)

Wayne Fitzgerrell State Recreation Area

Weinberg-King State Park (Scripps Unit) (2)

Weldon Springs State Park − Piatt County Unit (2)

Winston Tunnel State Natural Area (2)

Witkowsky State Wildlife Area (2)

Wolf Creek State Park (first 2 seasons only) (2)

Zoeller State Natural Area (2)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 710.70 Spring Youth Turkey Hunt**

a) Hunting Dates: March 27~~28~~ and 28~~29~~, 2021~~2020~~ and April 3~~4~~ and 4~~5~~, 2021~~2020~~. The North Zone and South Zone are open concurrently for all 4 days.

b) Open Counties: All counties listed in Section 710.10 are open to Spring Youth Turkey Hunting.

c) Eligibility: The Spring Youth Turkey Hunt is open only to hunters who have not reached the age of 18 prior to the opening date of the youth season. Hunters must have an apprentice or youth hunting license, or they must have completed a State-approved Hunter Education course and have a hunting license, unless exempt. In addition, hunters must have a Habitat Stamp, unless exempt.

d) Permit Requirements − Spring Youth Turkey Hunt

1) All youth hunters must have a current, valid Youth Turkey Hunt Permit ($10). Hunters are eligible to purchase only one Youth Turkey Hunt

Permit. Hunting without a permit is a Class B misdemeanor (see 520 ILCS 5/2.9).

2) For a county permit: Youth Turkey Hunt Permits valid for counties open to youth turkey hunting will be available for sale over-the-counter (OTC) from agents beginning the first Tuesday in March through the last day of the Youth Turkey Season.

3) For a Special Hunt Area permit: Youth hunters may apply online (http://dnr.state.il.us/admin/turkey.htm) for a site-specific permit valid for one of the Special Hunt Areas. The application period begins the third Tuesday in January and ends the third Monday in February. Permits will be allocated via a lottery drawing in which Illinois residents will be given preference.

4) The applicants must not have had their hunting privileges suspended or revoked in this State or any other state.

5) A $3 service fee will be charged for replacement permits issued by the Department, except when permits are lost in the mail, there will be no charge. Monies derived from this source will be deposited in the Wildlife and Fish Fund.

6) The Youth Turkey Hunt Permit shall be valid only for the dates and counties/Special Hunt Area listed on the permit.

7) A permit issued for the Youth Turkey Hunt will count toward the maximum number of permits (Section 710.20(j)(3)) an individual can receive for the Spring Wild Turkey Season.

e) Youth Turkey Hunting Regulations

1) Each hunter participating in the Illinois Youth Turkey Hunt while using an Apprentice Hunter License or Youth Hunting License must be accompanied by a non-hunting, validly-licensed (Illinois hunting license) adult who is 21 years of age or older.

2) All other hunters (using other types of hunting licenses or license-exempt) participating in the Youth Turkey Hunt must each be accompanied by a

non-hunting supervisor (parent, guardian or responsible adult). If the youth is hunting with a firearm, a nonresident supervisor must have a valid Illinois hunting license.

3) The non-hunting supervisor must remain with the hunting youth so as to have the youth under immediate control. Each supervisor may only accompany a single youth at any given time during the hunt. The supervising adult shall be criminally liable for the actions of the youth in the hunting party and shall be subject to the criminal penalties provided by law.

4) All regulations prescribed by Section 710.30 apply during the Youth Turkey Hunt.

f) The following sites will be open to holders of a valid Youth Turkey Hunt Permit for the county in which the site is located. Persons wishing to hunt one of the listed sites should contact that site prior to hunting for information about site regulations and restrictions. Sites that require use of windshield cards by hunters as specified in 17 Ill. Adm. Code 510.10 are followed by a (2).

Anderson Lake State Fish and Wildlife Area

Apple River Canyon State Park − Thompson and Salem Units (2)

Argyle Lake State Park

Big Bend State Fish and Wildlife Area (Whiteside County)

Big River State Forest (2)

Cache River State Natural Area

Cape Bend State Fish and Wildlife Area

Carlyle Lake State Fish and Wildlife Area (2)

Carlyle Lake State Fish and Wildlife Area – East Fork Management Unit (2)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Copperhead Hollow State Wildlife Area (2)

Crab Orchard National Wildlife Refuge Public Hunting Area

Crawford County State Fish Wildlife Area

Cypress Pond State Natural Area

Deer Pond State Natural Area

Devil's Island State Fish and Wildlife Area

Dog Island State Wildlife Management Area

Ferne Clyffe State Park − Cedar Draper State Habitat Area

Giant City State Park

Green River State Wildlife Area (2)

Hanover Bluff State Natural Area (2)

Horseshoe Lake State Conservation Area − Alexander County

Kaskaskia River State Fish and Wildlife Area

Kinkaid Lake State Fish and Wildlife Area

Lake Shelbyville Project Land (U.S. Army Corps of Engineers managed) – Moultrie County

Lake Shelbyville Project Land (U.S. Army Corps of Engineers managed) – Shelby County

Mackinaw River State Fish and Wildlife Area (2)

Marshall State Fish and Wildlife Area

Mermet Lake State Fish and Wildlife Area (2)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Mississippi River Area Pools 21, 22, 24, 25 and 26

Moraine View State Park (2)

~~Mississippi River Area Pools 21, 22, 24, 25 and 26~~

Mt. Vernon Game Propagation Center (1)

Nauvoo State Park (Max Rowe Unit Only) (2)

Newton Lake State Fish and Wildlife Area (2)

Pere Marquette State Park (open area east of Graham Hollow Road only) (2)

Pyramid State Park (2)

Pyramid State Park − East Conant Unit (2)

Rall Woods State Natural Area (2)

Ray Norbut State Fish and Wildlife Area (2)

Rend Lake Corps of Engineers-managed land in Jefferson and Franklin Counties

Rend Lake State Fish and Wildlife Area

Sahara Woods State Fish and Wildlife Area (2)

Sam Parr State Fish and Wildlife Area (2)

Shelbyville State Fish and Wildlife Area (2)

Sielbeck Forest State Natural Area (2)

Siloam Springs State Park (2)

Siloam Springs State Park (Buckhorn Unit) (2)

Skinner Farm State Habitat Area

Spoon River State Forest (2)

Tapley Woods State Natural Area (2)

~~Trail of Tears State Forest~~

Ten Mile Creek State Fish and Wildlife Area

Trail of Tears State Forest

Turkey Bluffs State Fish and Wildlife Area

Union County State Conservation Area

Weinberg-King State Park (2)

Weinberg-King State Park (Cecil White Unit) (2)

Weinberg-King State Park (Scripps Unit) (2)

Weinberg-King State Park (Spunky Bottoms Unit) (2)

Winston Tunnel State Natural Area (2)

Wise Ridge State Natural Area

Witkowsky State Wildlife Area (2)

g) Statewide regulations shall apply except that all hunting is allowed by site-specific permit only. The Department of Natural Resources allocates permits for these areas through the lottery process set forth in Section 710.70(d). This permit is only valid for the specific site and season indicated on the permit.

Burning Star State Fish and Wildlife Area (2)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Butterfield Trail State Recreation Area (2)

Castle Rock State Park (2)

Clinton Lake State Recreation Area (2)

Coffeen Lake State Fish and Wildlife Area (2)

Crab Orchard National Wildlife Refuge (Closed Portion)

Dixon Springs State Park

Eldon Hazlet State Park (2)

Embarras River Bottoms State Habitat Area (2)

Ferne Clyffe State Park − Ferne Clyffe Hunting Area

Fort Massac State Park (2)

Harry "Babe" Woodyard State Natural Area (2)

Heidecke State Fish and Wildlife Area (Jugtown Unit)

Hidden Springs State Forest (2)

Iroquois County State Fish and Wildlife Area (2)

Jim Edgar Panther Creek State Fish and Wildlife Area

Kankakee River State Park

Kickapoo State Recreation Area (2)

Middle Fork State Fish and Wildlife Area (2)

Momence Wetlands

Ramsey Lake State Park (2)

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Sam Dale Lake State Fish and Wildlife Area (2)

Sand Ridge State Forest

Sangchris Lake State Park

Stephen A. Forbes State Park (2)

Wayne Fitzgerrell State Recreation Area

Weldon Springs − Piatt County Unit (2)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

1) Heading of the Part: Health Care Worker Background Check Code

2) Code Citation: 77 Ill. Adm. Code 955

3)

| Section Numbers: | Proposed Actions: |
|---|---|
| 955.110 | Amendment |
| 955.115 | Amendment |
| 955.165 | Amendment |
| 955.190 | Amendment |
| 955.260 | Amendment |
| 955.270 | Amendment |
| 955.275 | Amendment |
| 955.285 | Amendment |
| 955.300 | Amendment |
| 955.APPENDIX A | Amendment |
| 955.APPENDIX C | Amendment |

4) Statutory Authority: Health Care Worker Background Check Code [225 ILCS 46]

5) A Complete Description of the Subjects and Issues Involved: This rulemaking implements PA 101-176, which amended the Health Care Worker Background Check Act to allow workforce intermediaries and organizations providing pro bono legal services to initiate a fingerprint-based criminal history records checks for individuals who have disqualifying conditions and who are receiving services from the workforce intermediary or organization.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

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

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

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

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 a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

Erin Conley
Rules Coordinator
Division of Legal Services
Illinois Department of Public Health
Division of Legal Services
535 W. Jefferson St., 5th Floor
Springfield IL 62761

217/782-2043
dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: Workforce intermediaries and organizations providing pro bono legal services

B) Reporting, bookkeeping or other procedures required for compliance: Criminal history background checks

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

A) Types of businesses subject to the proposed rule:

62 Health Care and Social Assistance
81 Other Services (except Public Administration)

B) Categories that the Agency reasonably believes the rulemaking will impact, including:

i. Record keeping

15) Regulatory Agenda on which this rulemaking was summarized: January 2020

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

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

PART 955
HEALTH CARE WORKER BACKGROUND CHECK CODE

Section
955.100 Applicability
955.110 Definitions
955.115 Initiation of Fingerprint-Based Criminal History Records Checks as a Fee Applicant Inquiry
955.120 Incorporated and Referenced Materials
955.130 Exceptions
955.135 Contracted or Subcontracted Workers
955.140 Policies Defining Employee Work Positions
955.145 Employment Verification
955.150 Employment Prohibition
955.160 Disqualifying Offenses
955.165 Fingerprint-Based Criminal History Records Check
955.170 Non-Fingerprint-Based UCIA Criminal History Records Check (Repealed)
955.180 Criminal History Records Checks after Implementation
955.190 Notification to Student, Applicant, or Employee
955.200 Submission of Criminal History Records Check Results to Nurse Aide Registry (Repealed)
955.210 Offer of Permanent Employment
955.220 Health Care Employer Files
955.230 Invalid Non-Fingerprint-Based Records Check (Repealed)
955.240 Fingerprint-Based UCIA Criminal History Records Check (Repealed)
955.250 Additional Conviction (Repealed)
955.260 Application for Waiver
955.270 Department Review of Waiver Application
955.275 Rehabilitation Waiver
955.280 Employment Pending Waiver
955.285 Livescan Vendor Authorization
955.290 Recovery of Back Pay
955.300 Health Care Worker Registry
955.310 Department Findings of Abuse, Neglect, or Misappropriation of Property
955.320 Removal from Registry of a Department Finding of Neglect

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

| | |
|---|---|
| 955.APPENDIX A | Offenses that Are Always Disqualifying Except Through the Appeal Process |
| 955.APPENDIX B | Disqualifying Offenses that May Be Considered for a Rehabilitation Waiver |
| 955.APPENDIX C | Disqualifying Offenses that May Be Considered for a Waiver by the Submission of a Waiver Application |

AUTHORITY: Implementing and authorized by the Health Care Worker Background Check Act [225 ILCS 46].

SOURCE: Adopted at 28 Ill. Reg. 14133, effective October 15, 2004; amended at 33 Ill. Reg. 5378, effective March 26, 2009; amended at 43 Ill. Reg. 3665, effective March 1, 2019; emergency amendment at 44 Ill. Reg. 5951, effective March 25, 2020, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 6597, effective April 10, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. _____, effective _____.

**Section 955.110 Definitions**

The following terms have the meaning ascribed to them whenever the term is used in this Part:

"Act" – the Health Care Worker Background Check Act [225 ILCS 46].

*"Applicant" – an individual enrolling in a training program or seeking employment with a health care employer, whether paid or on a volunteer basis, ~~with a health care employer~~ who has received a bona fide conditional offer of employment* from a health care employer. (Section 15 of the Act)

*"Conditional offer of employment" – a bona fide offer of employment by a health care employer to an applicant, which is contingent upon the receipt of a report from the Department of Public Health indicating that the applicant does not have a record of conviction of any of the criminal offenses enumerated in Section 25* of the Act and Section 955.160 of this Part. (Section 15 of the Act)

"Contracted or Subcontracted Worker" – an individual who provides direct care for clients, patients, or residents or who works for a long-term care facility in a position that involves or may involve contact with residents or access to the living quarters or financial, medical, or personal records of long-term care residents under an arrangement other than as an employee.

"Demographic data" − information collected by a livescan vendor concerning an applicant, including, but not limited to, name, address, date of birth, race, height, and eye color.

*"Department" – the Department of Public Health*. (Section 15 of the Act)

"Designee" − a person or committee designated in writing by the Director.

*"Direct care" – the provision of nursing care or assistance with feeding, dressing, movement, bathing, toileting, or other personal needs, including home services as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act.* (Section 15 of the Act)

*"Director" – the Director of Public Health*. (Section 15 of the Act)

*"Disqualifying offenses" – those offenses set forth in Section 25 of the Act* and Section 955.160 of this Part. (Section 15 of the Act)

"Educational entity" – a community college, community agency, or private business that conducts educational programs in which individuals learn the skills to provide direct care services to clients, residents, or patients.

*"Employee" – any individual hired, employed, or retained, whether paid or on a volunteer basis, to which the Act* and this Part apply as set forth in Section 10 of the Act and Section 955.100 of this Part. (Section 15 of the Act)

"Fee applicant inquiry" – a fingerprint-based criminal history records check requested by an agency of the State of Illinois (in this Part, the Department of Public Health) through the Department of State Police. The Department of State Police stores the fingerprints and provides notification back to the requesting State agency if there is a new conviction associated with the fingerprints.

*"Finding" – the Department's determination of whether an allegation is verified and substantiated.* (Section 15 of the Act)

*"Fingerprint-based criminal history records check" – a livescan fingerprint-based criminal history records check submitted as a fee applicant inquiry in the form*

*and manner prescribed by the Department of State Police*. (Section 15 of the Act)

*"Health care employer":*

*the owner or licensee of any of the following:*

*a community living facility, as defined in the Community Living Facilities Licensing Act*;

*a life care facility, as defined in the Life Care Facilities Act*;

*a long-term care facility*;

*a home health agency, home services agency, or home nursing agency, as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act*;

*a hospice care program or volunteer hospice program, as defined in the Hospice Program Licensing Act*;

*a hospital, as defined in the Hospital Licensing Act*;

*a nurse agency, as defined in the Nurse Agency Licensing Act;*

*a respite care provider, as defined in the Respite Program Act;*

*an establishment licensed under the Assisted Living and Shared Housing Act*;

*a supportive living program, as defined in the Illinois Public Aid Code;*

*early childhood intervention programs as described in* 89 Ill. Adm. Code 500*;*

*the University of Illinois Hospital, Chicago;*

*programs funded by the Department on Aging through the Community Care Program;*

*programs certified to participate in the Supportive Living Program authorized by Section 5-5.01a of the Illinois Public Aid Code;*

*programs listed by the Emergency Medical Services (EMS) Systems Act as Freestanding Emergency Centers*; or

*locations licensed under the Alternative Health Care Delivery Act;*

*a day training program certified by the Department of Human Services;*

*a community integrated living arrangement operated by a community mental health and developmental service agency, as defined in the Community-Integrated Living Arrangements Licensing and Certification Act; or*

*the State Long Term Care Ombudsman Program, including any regional long term care ombudsman programs under Section 4.04 of the Illinois Act on the Aging, only for the purpose of securing background checks*. (Section 15 of the Act)

"Health Care Facility" – a facility owned or operated by a health care employer of the type to which the Act and this Part apply.

"Health Care Worker Registry" – a registry maintained by the Department of Public Health or its designee that includes a registry for certified nursing assistants pursuant to Section 3-206.01 of the Nursing Home Care Act, Section 3-206.01 of the MC/DD Act, and Section 3-206.01 of the ID/DD Community Care Act, and that includes background check and training information for health care employees and students to whom the Act and this Part apply.

*"Initiate" – obtaining from a student, applicant, or employee his or her social security number, demographics, a disclosure statement, and an authorization for* a health care employer, an educational entity, or *the Department or its designee to request a fingerprint-based criminal history records check; transmitting this information electronically to the Department* or its designee*; conducting Internet searches on certain web sites* from links provided through the Health Care

Worker Registry, *and having the student's, applicant's, or employee's fingerprints collected* directly by a livescan vendor *and transmitted electronically to the Department of State Police.* (Section 15 of the Act)

"Livescan technician" − an individual who is trained to collect fingerprints on livescan equipment and who meets any licensing requirements of the State or federal government.

*"Livescan vendor" – an entity whose equipment has been certified by the Department of State Police to collect an individual's demographics and inkless fingerprints and, in a manner prescribed by the Department of State Police and the Department of Public Health, electronically transmit the fingerprints and required data to the Department of State Police and a daily file of required data to the Department of Public Health* and who has received authorization from the Department under a livescan vendor authorization contract to conduct fingerprinting pursuant to the Act and this Part. (Section 15 of the Act)

"Livescan vendor authorization contract" – a standardized *contract between the Department* and *a* fingerprinting *vendor who has two or more years of experience transmitting fingerprints electronically to the Department of State Police* by which the Department provides *authorization* to the vendor to conduct fingerprinting pursuant to the Act and this Part under the terms and conditions *defined* in Section 955.285. (Section 15 of the Act)

*"Long-term care facility" – a facility licensed by the State or certified under federal law as a long-term care facility, including without limitation facilities licensed under the Nursing Home Care Act, the Specialized Mental Health Rehabilitation Act of 2013, the ID/DD Community Care Act, or the MC/DD Act, a supportive living facility, an assisted living establishment, or a shared housing establishment or registered as a board and care home*. (Section 15 of the Act)

*"Organization providing pro bono legal services" – an organization that functions to provide legal services performed without compensation or at a significantly reduced cost to the recipient and that provides services designed to help individuals overcome statutory barriers that would prevent them from entering positions in the healthcare industry.* (Section 33(n) of the Act)

"Parole; Mandatory Supervised Release" – except when a term of natural life is imposed, every sentence includes a term in addition to the term of imprisonment.

For those sentenced under the law in effect before February 1, 1978, that term is a parole term. For those sentenced on or after February 1, 1978, that term is a mandatory supervised release term.

"Rehabilitation waiver" – a waiver that the Department grants based solely upon the results of a fingerprint-based criminal history records check without a waiver application being submitted to the Department.

*"Resident" – a person, individual,* client, consumer, *or patient under the direct care of a health care employer or who has been provided goods or services by a health care employer.* (Section 15 of the Act)

"Staffing agency" – any individual or business entity *whose profession is job counseling* (Section 60 of the Act), or that contracts or subcontracts its workers or services to a health care employer.

"UCIA criminal history records check" – a check of criminal history information conducted by the Department of State Police in accordance with the Illinois Uniform Conviction Information Act (UCIA).

"Web application" – a computer program on the Department's intranet that is titled "HCW Background Check Registry" and is accessed by signing in through the Department's secure web portal. This program is used to initiate fingerprint-based criminal history records checks pursuant to the Act and this Part.

*"Workforce intermediary" – an organization that functions to provide job training and employment services. Workforce intermediaries include institutions of higher education, faith-based and community organizations, and workforce investment boards.* (Section 33(n) of the Act)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 955.115 Initiation of Fingerprint-Based Criminal History Records Checks as a Fee Applicant Inquiry**

Fingerprint-based criminal history records checks shall be initiated by educational entities, staffing agencies, workforce intermediaries, organizations that provide pro bono legal services, and health care employers through the Department's web application used for the Health Care Worker Registry. *The* educational entity, staffing agency, workforce intermediary, organization

that provides pro bono legal services, or health care *employer, or its designee,* must~~*must*~~ *log into the Health Care Worker Registry through a secure login.* (Section 33(i) of the Act)

a) Educational entities, staffing agencies, workforce intermediaries, organizations that provide pro bono legal services, and health care employers shall gain access to the secure login by having an employee register for access to the Department's secure web portal. After the Department has authorized initial access, that employee may authorize other employees or a designee access to the secure web portal. An educational entity, staffing agency, workforce intermediary, organization that provides pro bono legal services, or~~A~~ health care employer may not be implemented into the process of initiating fingerprint-based criminal history records checks through the Department's web application until the Department has authorized the initial access.

b) When educational entities, staffing agencies, workforce intermediaries, organizations that provide pro bono legal services, or~~and~~ health care employers are required in this Part to transmit information electronically to the Department, the data shall be entered into the Health Care Worker ~~Background Check~~ Registry web application. The information shall be electronically transmitted to the Department when the data record is saved.

c) To better provide support and instruction, the Department will bring a limited number of educational entities and health care employers into the fingerprint process at one time. The Department will proceed across the State using such indicators as zip codes and county boundaries.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 955.165 Fingerprint-Based Criminal History Records Check**

a) Educational entities, other than secondary schools, and health care employers are required to check the Health Care Worker Registry before allowing a student to enter a training program or hiring an employee to determine:

1) Whether a fingerprint-based criminal history records check has previously been conducted, which is indicated by the identifier of "FEE_APP" or "CAAPP".

A) *As long as the* student, applicant or *employee has had* a background check *and stays active on the Health Care Worker Registry, no further* fingerprint-based *criminal history record checks are required.* (Section 33(g) of the Act)

B) If the individual has disqualifying convictions and a waiver has not been granted pursuant to this Part, the individual is not allowed to work as a direct care giver for a health care employer or as an individual with access to residents, the resident's living quarters, or the resident's financial, medical or personal records in a long-term care setting.

2) Whether the individual is active on the Health Care Worker Registry.

A) *If an individual is inactive on the Health Care Worker Registry, that individual is prohibited from being hired to work as a certified nursing assistant if, since the individual's most recent completion of a competency test* or the date the individual was deemed competent by the Department of Public Health, *there has been a period of 24 consecutive months during which the individual has not provided nursing or nursing-related services for pay.* (Section 33(g) of the Act)

B) *If the individual can provide proof of having retained his or her certification by not having a 24-consecutive-month break in service for pay, he or she may be hired as a certified nursing assistant and that employment information shall be entered into the Health Care Worker Registry*. (Section 33(g) of the Act)

C) Not retaining his or her certification does not prevent that individual from being hired in a position that does not require the individual to be a certified nursing assistant.

b) *If the individual has not had a background check or is not active on the Health Care Worker Registry, then the health care employer shall initiate a fingerprint-based* criminal history records *check*. (Section 33(g) of the Act)

c) Educational entities and health care employers shall conduct *Internet searches on certain web sites, including without limitation the Illinois Sex Offender Registry,*

*the Department of Corrections' Sex Offender Search Engine, the Department of Corrections' Inmate Search Engine, the Department of Corrections Wanted Fugitives Search Engine, the National Sex Offender Public Registry, and the website of the Health and Human Services Office of Inspector General to determine if the applicant has been adjudicated a sex offender, has been a prison inmate, or has committed Medicare or Medicaid fraud, or* shall conduct *similar searches* as provided by the web-based application. (Section 15 of the Act)

d) *Any student, applicant, or employee* to whom the Act and this Part apply and *who desires to be included on the Department of Public Health's Health Care Worker Registry shall authorize the Department of Public Health or its designee to request a fingerprint-based criminal history records check to determine if the individual has a conviction for a disqualifying offense* by completing and signing an authorization and disclosure form. *This authorization shall allow the Department of Public Health to request and receive information and assistance from any State or local governmental agency.* (Section 33(b) of the Act)

1) *A* health care *employer may initiate a fingerprint-based* criminal history records *check required by the Act* or this Part *for any of its employees* or volunteers to whom the Act and this Part apply*, but may not use this process to initiate background checks for residents* or for employees or volunteers not covered by the Act and this Part. *The results of any fingerprint-based* criminal history records *check* required by the Act and this Part *shall be entered in the Health Care Worker Registry*. (Section 33(f) of the Act)

2) No educational entity or health care employer shall use the processes and procedures provided in the Act or this Part to conduct a fingerprint-based criminal history records check for any purpose not authorized by the Act or this Part. Nothing in this Section prohibits an educational entity or health care employer from using means other than the processes and procedures provided in the Act or this Part to conduct a criminal history records check of any student, applicant, or employee who is not covered by the Act or this Part.

e) *An educational entity, other than a secondary school, conducting a* certified nursing assistant *training program shall initiate a fingerprint-based criminal history records check required by* the *Act* and this Part *prior to entry of an individual into the training program.* (Section 33(c) of the Act)

f) *A health care employer who makes a conditional offer of employment to an applicant* who is not exempt under Section 955.130, *for a position as an employee, shall initiate a fingerprint-based criminal history records check on the applicant, if such a background check has not been previously conducted.* A health care employer shall not use the fingerprint-based criminal history records check process provided in the Act and this Part to initiate background checks for applicants for employment positions to which the Act and this Part do not apply. (Section 33(d) of the Act)

g) *Workforce intermediaries and organizations providing pro bono legal services may initiate a fingerprint-based criminal history record check if a conditional offer of employment has not been made and a background check has not been previously conducted for an individual who has a disqualifying conviction and is receiving services from a workforce intermediary or an organization providing pro bono legal services.* (Section 33(d) of the Act)

h~~g~~) *When initiating a background check, an~~An~~ educational entity*, ~~*or*~~ *health care employer*, staffing agency, workforce intermediary, or organization that provides pro bono legal services *shall electronically submit to the Department of Public Health the student's, applicant's, or employee's social security number, demographics, disclosure and authorization information in a format prescribed by the Department of Public Health within 2 working days after the authorization is secured.* (Section 33 (e) of the Act)

i~~h~~) *The student, applicant, or employee shall* go to a livescan vendor and *have his or her fingerprints collected electronically and transmitted to the Department of State Police within 10 working days* after signing the authorization and disclosure form. Each individual shall submit his or her fingerprints in an electronic manner prescribed by the Department of State Police. (Section 33(e) of the Act)

1) The student, applicant, or employee shall bring the portion of the livescan request form that is completed by the livescan vendor back to the educational entity or health care employer as proof that his or her fingerprints have been collected. The educational entity or health care employer shall provide the transaction control number, obtained from this portion of the livescan request form, whenever any follow-up inquiries are made about the progress of the background check being processed.

2) If the fingerprints are rejected by the Department of State Police, the student, applicant, or employee shall go to a livescan vendor and have his or her fingerprints collected electronically a second time.

3) If the fingerprints are rejected by the Department of State Police a second time, the educational entity or health care employer shall conduct a complete name-based UCIA criminal history records check through the Department of State Police and mail a copy of the results of the background check to the Department within 10 working days after receipt. The UCIA criminal history records check shall be requested as prescribed by the Department of State Police. The results of the UCIA criminal history records check shall have been issued by the Department of State Police no earlier than 31 days prior to hire. A UCIA name-based criminal history records check may be used only when there is proof that the individual's fingerprints have been rejected twice by the Department of State Police within the previous 12 months.

4) If the student, applicant, or employee does not go to a livescan vendor and have his or her fingerprints collected electronically within 10 working days, the individual shall be suspended from participating in a training program if a student, or suspended from working if an employee, until such time as proof is provided that the individual has had his or her fingerprints collected electronically from a livescan vendor.

5) If the student, applicant, or employee has not had his or her fingerprints collected electronically by a vendor within 30 days after being hired or beginning a training program, the employee shall be terminated or the student shall be dropped from the training program. The educational entity or health care employer shall withdraw the background check application from the Health Care Worker Registry.

j~~i~~) *The educational entity*, ~~*or*~~ *health care employer*, staffing agency, workforce intermediary, or organization that provides pro bono legal services *shall transmit all necessary information and fees to the livescan vendor and Department of State Police within 10 working days after receipt of the authorization* for a criminal history records check. (Section 33(e) of the Act)

1) *Application fees shall include, but are not limited to, the amounts established by the Department of State Police to process* ~~*a*~~ *fingerprint-*

*based criminal history records checks~~check~~* and the amount charged by the livescan vendor for collecting and transmitting the fingerprints.

2) Health care employers that are certified to participate in the Medicaid program are required to pay for certified nursing assistants' (CNA) application fees. These fees shall be a direct pass-through on the cost report submitted by the employer to the Medicaid agency.

3) *Any student, applicant, or employee who is not a certified nursing assistant may be required to pay all related application and fingerprinting fees.* (Section 45 of the Act)

k~~j~~) *The results of the criminal history records checks shall be maintained by the Department of Public Health's Health Care Worker Registry* as long as the employee stays active on the Registry. (Section 33(e) of the Act)

l~~k~~) *A health care employer or long-term care facility may conditionally employ an applicant for up to* three *months pending the results of a fingerprint-based criminal history records check* required by the Act and this Part. During this time, the employee shall have adequate supervision, which is the type and frequency of supervision required to prevent abuse, neglect, or theft regarding patients, clients, or residents. (Section 33(l) of the Act)

m~~l~~) *The livescan vendors may act as the designee for individuals, educational entities,* staffing agencies, workforce intermediaries, organizations that provide pro bono legal services, *or health care employers in the collection of Department of State Police fees and deposit those fees into the State Police Services Fund.* (Section 33(b) of the Act)

n~~m~~) *If the individual is not active on the Health Care Worker Registry, then the health care employer shall initiate a fingerprint-based* criminal history record *check* required by the Act and this Part. (Section 33(g) of the Act)

o~~n~~) *If the Department of State Police notifies the Department of Public Health that an employee has a new conviction of a disqualifying offense, based upon fingerprints that were previously submitted, then:*

1) *the Health Care Worker Registry shall notify the employee's last known employer of the offense* by sending an automatic e-mail to the health care

employer;

2) *a record of the employee's disqualifying offense shall be entered on the Health Care Worker Registry; and*

3) *the individual shall no longer be eligible to work as an employee unless he or she obtains a waiver pursuant to* this Part. (Section 33(h) of the Act)

p~~o~~) The Health Care Worker Registry will indicate only those criminal convictions that are disqualifying under the Act. Nothing in this Part shall prohibit the health care employer from developing policies concerning employment of individuals whose criminal history records checks indicate convictions for offenses that are not disqualifying.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 955.190 Notification to Student, Applicant, or Employee**

a) *The student, applicant, or employee shall be notified of each of the following whenever a fingerprint-based criminal history records check is* requested pursuant to the Act and this Part:

1) *That the educational entity,* staffing agency, workforce intermediary, organization that provides pro bono legal services, or *health care employer* ~~*or long-term care facility*~~ *shall initiate a fingerprint-based criminal history records check of the student, applicant, or employee required by the Act* and this Part. (Section 33(k) of the Act)

2) That *a* health care *employer may initiate a fingerprint-based background check required by the Act* and this Part *for any of its employees. The results of any fingerprint-based background check that is initiated* pursuant to the Act and this Part *shall be entered in the Health Care Worker Registry.* (Section 33(f) of the Act)

3) *That the student, applicant, or employee has a right to obtain a copy of the criminal records report that indicates a conviction for a disqualifying offense and challenge the accuracy and completeness of the report through an established Department of State Police procedure for Access*

*and Review*, and request a waiver~~*and request a waiver*~~ in accordance with this Part. (Section 33(k) of the Act)

4) *That the applicant, if hired conditionally, may be terminated if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* Section 955.160, unless a waiver is obtained pursuant to this Part. (Section 33(k) of the Act)

5) *That the applicant, if not hired conditionally, shall not be hired if the criminal records report indicates that the applicant has a record of conviction of any of the criminal offenses enumerated in* Section 955.160, unless a waiver is obtained pursuant to this Part. (Section 33(k) of the Act)

6) *That the employee shall be terminated if the criminal records report indicates that the employee has a record of conviction of any of the criminal offenses enumerated in* Section 955.160, unless a waiver is obtained pursuant to this Part. (Section 33(k) of the Act)

7) That *if, after the employee has originally been determined not to have disqualifying offenses, the employer is notified that the employee has a new conviction or convictions~~convictions~~ of any of the criminal offenses in Section 25~~in Section 25~~* of the Act and Section 955.160 of this Part, *then the employee shall be terminated*. The employee may seek to obtain a waiver pursuant to this Part. (Section 33(k)(6)~~(h)~~ of the Act)

b) *The Department of Public Health or an entity responsible for inspecting, licensing, certifying, or registering the health care employer or long-term care facility shall be immune from liability for notices given based on the results of a fingerprint-based criminal history record check.* (Section 33(m) of the Act)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 955.260 Application for Waiver**

a) *Any student, applicant, individual receiving services from a workforce intermediary or organization providing pro bono legal services, or employee*

*listed on the Health Care Worker Registry may request a waiver of the prohibition against employment by*:

1) *Completing a waiver application on a form prescribed by the Department of Public Health*:

A) If the individual~~applicant~~ has previously been employed, the individual~~applicant~~ shall provide an entire work history or attach a complete resumé;

B) If the individual~~applicant~~ has been convicted in another state, the individual~~applicant~~ shall provide information concerning those convictions or attach the complete results of a criminal history records check from the other states;

C) If the individual~~applicant~~ has a federal conviction, the individual~~applicant~~ shall provide information concerning that conviction or attach the complete results of a criminal history records check from the Federal Bureau of Investigation; and

D) If the individual~~applicant~~ has been certified as a nursing assistant in another state, the individual~~applicant~~ shall attach certificates or verifications;

2) *Providing a written explanation of each conviction, to include:*

A) *what happened;*

B) *how many years have passed since the offense;*

C) *the individuals involved;*

D) *the age of the individual~~applicant~~ at the time of the offense; and*

E) *any other circumstances surrounding the offense* (Section 40(a) of the Act);

3) Providing proof of completion of a rehabilitation program, if the use of alcohol or other drugs was involved in the offense, and the individual was ordered to participate in a rehabilitation program as part of the judgment;

4) *Providing official documentation showing that all fines have been paid, if applicable,* except in the instance of payment of court-imposed fines or restitutions in which the individual~~applicant~~ is adhering to a payment schedule, *and the date probation* (or mandatory supervised release) *or parole was satisfactorily completed, if applicable* (Section 40(a) of the Act); and

5) Submitting the results of a fingerprint-based criminal history records check.

b) *The individual~~applicant~~ may, but is not required to, submit employment and character references and any other evidence demonstrating the ability of the individual~~applicant~~ or employee to perform the employment responsibilities competently and evidence that the individual~~applicant or employee~~ does not pose a threat to the health or safety of residents, patients, or clients.* (Section 40(b) of the Act)

c) A request for a waiver will automatically be denied unless the individual~~applicant~~ has met the time periods in Section 955.270(d).

d) Each request for waiver consideration shall be accompanied by a fully completed waiver application. The waiver application will not be deemed complete until the Department has received all of the information required by this Section.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 955.270 Department Review of Waiver Application**

a) The Department will consider an application for a waiver from individuals who have been convicted of committing or attempting to commit one or more of the offenses listed in Appendix C upon receipt of a complete application and the results of a fingerprint-based criminal history records check in accordance with Sections 955.115 and 955.165.

b) An application for a waiver shall be denied unless the individual~~applicant~~ meets the following requirements and submits documentation thereof with the waiver application:

1) Except in the instance of payment of court-imposed fines or restitutions in which the individual~~applicant~~ is adhering to a payment schedule, the individual~~applicant~~ shall have met all obligations to the court and under terms of parole (i.e., probation or mandatory supervised release has been successfully completed); and

2) The individual~~applicant~~ shall have satisfactorily completed a drug and/or alcohol recovery program, if drugs and/or alcohol were involved in the offense and the individual was ordered to participate in a rehabilitation program as part of the judgment.

c) The Department may grant a waiver based on the following information provided by the individual~~applicant or employee~~ and the results of the fingerprint-based criminal history records check:

1) *The age of the* individual*~~applicant~~ ~~or employee~~ at the time of the offense ~~(Section 40(a) of the Act)~~;*

2) *A written explanation of each conviction to include what happened, how many years have passed since the offense, the individuals involved, and any other circumstances surrounding the offense* (Section 40(a) of the Act);

3) The individual's~~applicant's~~ work history;

4) The individual's~~applicant or employee's~~ criminal history since the disqualifying conviction, to include the results of the Illinois criminal history records report, convictions in other states, and federal convictions;

5) The individual's~~applicant's~~ record on another state's registry for certified nursing assistants, if the individual~~applicant~~ was certified as a nursing assistant in another state;

6) The individual's~~applicant's~~ completion of rehabilitation if ordered as part of the judgment to participate in a rehabilitation program;

7) *Official documentation showing that all fines have been paid, if applicable*; if on a court-imposed payment schedule for fines or restitution, whether the individual~~applicant~~ is adhering to a payment schedule; *the date probation* or mandatory supervised release *or parole was satisfactorily completed, if applicable*; and whether all terms of parole (i.e., conditional discharge, probation or mandatory supervised release) have been successfully completed (Section 40(a) of the Act);

8) *Employment and character references,* if the individual~~applicant~~ submits references~~ (Section 40(b) of the Act)~~*; and*

9) Any other *evidence demonstrating the ability of the* individual~~*applicant or employee*~~ *to perform the employment responsibilities competently and evidence that the* individual~~*applicant or employee*~~ *does not pose a threat to the health or safety of residents, patients, or clients*~~ (Section 40(b) of the Act)~~, if submitted by the individual~~applicant~~, which may include, but is not limited to, the individual's~~applicant's or employee's~~ participation in anger management or domestic violence prevention programs. (Section 40(b) of the Act)

d) Waivers will not be granted to individuals who have not met the following time frames.

1) Single disqualifying misdemeanor conviction – no earlier than one year after the conviction date;

2) Two to three disqualifying misdemeanor convictions – no earlier than three years after the most recent conviction date;

3) More than three disqualifying misdemeanor convictions – no earlier than five years after the most recent conviction date;

4) Single disqualifying felony convictions – no earlier than three years after the conviction date;

5) Two to three disqualifying felony convictions – no earlier than five years after the most recent conviction date;

6) More than three disqualifying felony convictions – no earlier than 10 years after the most recent conviction date.

e) Waivers will not be granted to individuals who have been convicted of committing or attempting to commit one or more of the offenses listed in Appendix A.

f) The Department will *inform health care employers if a waiver is being sought by entering a record* notation *on the Health Care Worker Registry that a waiver is pending and must act upon the waiver request within 30 days* after *receipt of all necessary information* pursuant to Section 955.260. If a waiver is granted, denied, or revoked, that information will be entered on the Health Care Worker Registry. *The Department will send an* individual *written notification of its decision whether to grant a waiver, including listing the specific disqualifying offenses for which the waiver is being granted or denied. The Department shall issue additional copies of this written notification upon the* individual's *request.* (Section 40(c) of the Act)

g) Appeal Process for Convictions Listed in Appendix A:

1) An appeal process is available for individuals who have been denied a waiver because of a conviction for committing or attempting to commit one or more offenses listed in Appendix A. All of the following must be provided for an appeal to be considered:

A) A letter appealing the denial of the waiver, in which the individual~~applicant~~ states his or her reasons for requesting the appeal;

B) The original waiver application that was completed pursuant to Section 955.260 and any additional information provided when the waiver was denied;

C) A copy of the police report generated at the time of arrest for all disqualifying convictions listed in Section 955.160; and

D) A transcript of the trial or court proceedings for all disqualifying convictions listed in Section 955.160.

2) An appeal will be denied unless the individual~~applicant~~ meets the following requirements and submits documentation with the appeal:

A) Except in the instance of payment of court-imposed fines or restitutions in which the individual~~applicant~~ is adhering to a payment schedule, the individual~~applicant~~ shall have met all obligations to the court and under terms of parole (i.e., probation or mandatory supervised release has been successfully completed) 10 or more years prior to the submission of the appeal;

B) The individual~~applicant~~ shall have satisfactorily completed a drug and/or alcohol recovery program 10 or more years prior to the submission of the appeal, if drugs and/or alcohol were involved in the disqualifying offense and the individual was ordered to participate in a rehabilitation program as part of the judgment. The individual~~applicant~~ shall not have been ordered to participate in another drug and/or alcohol program during the 10 years prior to the submission of the appeal for any offense.

3) The Director or designee will consider the information submitted with the appeal application and the results of a fingerprint-based criminal history records check to determine whether to grant a waiver as a result of an appeal. If the Director or designee determines that the individual~~applicant~~ does not pose a threat to the health or safety of residents, patients, or clients, the Director will issue a waiver.

h) Waiver Revocation

1) The Department will automatically revoke a waiver if the waiver recipient is convicted of any additional disqualifying offense.

2) The Department will automatically revoke a waiver granted for a conviction of an offense listed in Appendix A if the waiver recipient is convicted of any additional crimes, other than a minor traffic violation, regardless of whether the offense is disqualifying.

i) *The entity responsible for inspecting, licensing, certifying, or registering the health care employer and the Department of Public Health shall be immune from liability for any waivers granted or not granted under this Section.* (Section 40(e)

of the Act)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 955.275 Rehabilitation Waiver**

a) The Department may consider the results of a fingerprint-based criminal history records check for a rehabilitation waiver, if sufficient time has passed since the last disqualifying conviction. A rehabilitation waiver may be granted without a waiver application being submitted by the individual~~student, applicant, or employee~~.

b) For an individual~~applicant~~ to be considered for a rehabilitation waiver, the Department must have received from him or her a criminal history records check that meets the requirements of Sections 955.115 and 955.165 of this Part.

c) A waiver without a waiver application shall not be granted unless the individual~~student, applicant, or employee~~ has met the following time frames:

1) Single disqualifying misdemeanor conviction – five~~5~~ years after conviction date;

2) Two disqualifying misdemeanor convictions – seven~~7~~ years after conviction date;

3) Three or more disqualifying misdemeanor convictions – nine~~9~~ years after conviction date;

4) Single disqualifying felony conviction – seven~~7~~ years after conviction date;

5) Two disqualifying felony convictions – nine~~9~~ years after conviction date; and

6) Three or more felony convictions shall not be considered for a rehabilitation waiver.

d) A waiver without a waiver application may be granted to an individual who has been convicted of committing or attempting to commit one or more of the

offenses listed in Appendix B~~ of this Part~~, if the time frames listed in subsection (c) have been met.

e) Upon receipt of the results of a criminal history records check that meets the requirements set forth in Sections 955.115 and 955.165~~ of this Part~~, the Department will review the convictions reported to determine whether the convictions are disqualifying in accordance with Section 25 of the Act and Section 955.160 of this Part and whether the circumstances of the convictions meet the criteria set forth in this Section. The Department will grant a rehabilitation waiver to the individual~~applicant~~ if: the criteria of this Section are met and no additional information is needed to verify completion of parole (i.e., probation or mandatory supervised release) or payment of fines or restitutions; the Health Care Worker Registry does not show any administrative findings of abuse, neglect or misappropriation of property; and the individual~~applicant or employee~~ has no other disqualifying convictions.

f) In cases in which a rehabilitation waiver is granted, a letter will be sent to the individual notifying the individual that he or she has received~~*In cases where a rehabilitation waiver is granted, a letter shall be sent to the applicant notifying the applicant that he or she has received*~~ a rehabilitation waiver~~*waiver*~~. ~~(Section 40(c) of the Act)~~ The waiver will be recorded in the Health Care Worker Registry. If a rehabilitation waiver is not granted, the individual may apply for a waiver by submitting a completed waiver application pursuant to Section 955.260~~ of this Part~~.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 955.285 Livescan Vendor Authorization**

a) Any livescan vendor authorized to provide *livescan* non-criminal fingerprinting services pursuant to a standardized livescan *vendor authorization* contract issued by the Department shall determine a fee for collecting fingerprints and shall determine an area of the State in which to provide service. (Section 15 of the Act)

b) Any livescan vendor that *has two~~2~~ or more years of experience transmitting fingerprints electronically to the Illinois~~Department of~~ State Police* (ISP) and that meets the requirements of the Department's standardized livescan *vendor authorization* contract may individually enter into a livescan *vendor authorization* contract with the Department. A livescan vendor authorized to provide livescan

non-criminal fingerprinting services pursuant to a standardized livescan *vendor authorization* contract shall meet the following requirements, which shall be included in the terms and conditions of the standardized livescan *vendor authorization* contract:

1) The livescan vendor shall use only *equipment* that *has been certified by ISP~~the Department of State Police~~ to collect inkless fingerprints* and software that is up to date and meets the requirements of ISP~~the Department of State Police~~ for the electronic submission of fingerprints. (Section 15 of the Act)

   A) The livescan vendor shall maintain backup equipment to provide scheduled fingerprinting in case of livescan equipment failure.

   B) For any individual~~applicant~~ to whom the vendor agrees to provide service, no individual~~applicant~~ shall be forced to exceed the 10-day limit of having his or her fingerprints collected due to equipment failure or the livescan vendor's lack of availability.

2) For any individual~~applicant~~ to whom the livescan vendor agrees to provide service, the livescan vendor shall provide fingerprinting within 10 working~~seven calendar~~ days after a request. Fingerprinting shall be performed at a location within the county of the individual's~~applicant's~~ residence for counties with a population more than 100,000 and for small counties either within the county of the individual's~~applicant's~~ residence or within 35 miles of the facility providing the Livescan Request Form. For any facility to which the livescan vendor agrees to provide service, the vendor will make available special on-site fingerprinting sessions for groups of 20 or more. The livescan vendor shall provide a reasonable amount of weekend and after 5:00 p.m. hours.

3) The livescan vendor shall *electronically transmit the fingerprints and required data to ISP~~the Department of State Police~~* through a secure network within one business day after the fingerprints are collected. The fingerprint image and demographic data shall comply with all Electronic Fingerprint Submission Specifications (EFSS) of ISP~~the Department of State Police~~ and all Electronic Fingerprint Transmission Specifications standards of the Federal Bureau of Investigation. (Section 15 of the Act)

4) The livescan vendor shall collect demographic data from the individual~~applicant~~ and *electronically transmit a daily* file of required data successfully to the Department~~ of Public Health~~ in a manner prescribed by the Department within one business day after the fingerprints are collected. (Section 15 of the Act) All data records from one business day shall be transmitted in one data file to the Department~~ of Public Health~~ in the prescribed format.~~ (Section 15 of the Act)~~

A) The daily file shall contain demographic data, including, but not limited to, name, address, social security number, transaction control number (TCN), state and city.

B) The livescan vendor shall provide the Department with access to the electronic file transmitted to ISP~~the Department of State Police~~.

C) The livescan vendor shall be responsible for all costs of fingerprint collection equipment, processing, transmission, and data storage. The Department is under no obligation to change any of its processes to coordinate with the vendor's equipment. The livescan vendor shall conform to the Department's requirements for receiving data.

5) The livescan vendor shall archive (store, back up, retrieve, etc.) the fingerprints transmitted to ISP~~the Department of State Police~~ and the daily files transmitted to the Department in a secure manner for the contract period so that the Department, an individual, educational entity, staffing agency, workforce intermediary, organization that provides pro bono legal services, or health care employer can verify at a later date that a specific print or daily file was submitted or can resubmit the print or daily file. Upon expiration or termination of the contract, the livescan vendor shall provide the stored data to the Department in the format requested by the Department.

6) The livescan vendor shall respond to any follow-up inquiries and provide any reports required by the Department.

7) The livescan vendor shall *effectively demonstrate*, through a verification provided by ISP~~the Department of State Police~~, *that the* livescan vendor's business entity *has 2 or more years of* successful *experience transmitting*

*fingerprints electronically to ISP~~the Department of State Police~~*. (Section 15 of the Act)

8) Only livescan technicians who have had a fingerprint-based criminal history records check and no disqualifying convictions as listed in Section 25 of the Act and Section 955.160 of this Part shall collect fingerprints and transmit the data files electronically to ISP~~the Department of State Police~~.

9) The livescan vendor shall provide a means for users (i.e., individuals, educational entities, staffing agencies, workforce intermediaries, organizations that provide pro bono legal services, or health care employers) to pay the livescan vendor the amount due to ISP~~the Department of State Police~~ for livescan fingerprints submitted for criminal history records checks.

A) The livescan vendor shall act as designee for the user in paying fees into the State Police Services Fund. The livescan vendor shall maintain or provide a means of prepayment. Charges for the vendor's livescan services and the amount due to ISP~~the Department of State Police~~ shall be charged against this prepaid account. The livescan vendor shall provide either an on-line or a paper record of account transactions to a user at least monthly. The livescan vendor shall determine the amount of prepaid balance to be kept in the account by the user, based upon the frequency of the user's charges against the account.

B) The livescan vendor may charge an additional amount to compensate for maintaining the accounts. The livescan vendor may refrain from transmitting any prints to ISP~~the Department of State Police~~ if the user's account does not have funds to pay for the prints being submitted. The livescan vendor shall notify ISP~~the Department of State Police~~, the Department, and the user~~educational entity, staffing agency, or health care employer~~ when a fingerprint transmission is retained because of lack of funds in the user's account.

C) The livescan vendor may deny a prepaid account to any user that is unable to maintain the account with fewer than 60 days past due until the user pays the balance due in the account. If the user

becomes more than 60 days past due on a second occasion, the livescan vendor is not required to offer the service of providing a prepaid account to the user.

D) The livescan vendor shall promptly transmit funds due to ISP~~the Department of State Police~~.

E) All costs associated with the fingerprint-based criminal history records check, including fees charged by ISP~~the Department of State Police~~, shall be paid by the user~~applicants, the educational entities, or the health care employers~~.

10) The livescan vendor shall require the individual~~student, applicant or employee~~ to present current, valid government-issued photo identification or other valid identification. The livescan vendor shall screen all individuals~~applicants~~ at the time of fingerprinting to ensure that the individual~~applicant~~ is being fingerprinted for the purpose intended. Only individuals presenting a Livescan Request Form generated from the Health Care Worker Registry's web application shall be allowed to be fingerprinted under the process of initiating fingerprint-based criminal history records checks required by the Act and this Part. The livescan vendor shall complete the bottom portion of the Livescan Request Form and return it to the individual~~applicant~~ to confirm that the individual~~applicant~~ was successfully fingerprinted. The livescan vendor may charge an amount in addition to the rate of the livescan services to compensate for credit card fees.

11) Fingerprints shall be collected directly from the individual's~~student's, applicant's or employee's~~ hand, consisting of 10 rolled impressions and 10 slap impressions in a format consistent with the requirements of ISP~~the Department of State Police~~ for submission. The livescan vendor shall collect only livescan fingerprints, not card scan fingerprints.

12) If an individual's fingerprints are rejected by ISP~~the Department of State Police~~, the livescan vendor shall collect a second set of fingerprints. The livescan vendor shall not charge for collecting the second set of fingerprints.

13) If a livescan vendor has a rejection rate from ISP~~the Department of State Police~~ of 2% or greater during any 12-month period, the Department may terminate the vendor authorization contract. The rejection rate shall be calculated by dividing the number of fingerprints submitted electronically to ISP that were of such poor quality that the fingerprints could not be processed by the total number of fingerprints submitted by the livescan vendor electronically to ISP. Upon termination of the vendor authorization contract, the livescan vendor shall not continue to collect fingerprints required by the Act and this Part.

14) If a livescan vendor has a rejection rate from the Department~~ of Public Health~~ of 5% or greater during any 12-month period, the Department may terminate the vendor authorization contract. Upon termination of the vendor authorization contract, the livescan vendor shall not continue to collect fingerprints required by the Act and this Part.

15) The livescan vendor shall provide a single point of contact for users~~applicants or facilities~~ to schedule fingerprinting (such as a toll free number, website, etc.).

(Source: Amended at 44 Ill. Reg. _____, effective _____)

**Section 955.300 Health Care Worker Registry**

a) The Department will establish and maintain a Health Care Worker Registry of unlicensed individuals and employees who:

1) Are *employed or retained by a health care employer as home health care aides, nurse aides,* certified nursing assistants*, personal care assistants, private duty nurse aides, day training personnel, or an individual working in any similar health-related occupation where he or she provides direct care* (e.g., resident attendants, child care/habilitation aides/developmental disabilities aides, and psychiatric rehabilitation services aides), *or* in positions where they have *access to long-term care residents or the living quarters or financial, medical, or personal records of long-term care residents*; (Section 10 of the Act)

2) *Have satisfactorily completed the training required by Section 3-206 of the Nursing Home Care Act, Section 3-206 of the MC/DD Act, or Section 3-206 of the ID/DD Community Care Act*; (Section 26 of the Act) or

3) *Have begun a current course of training as set forth in Section 3-206 of the Nursing Home Care Act, Section 3-206 of the MC/DD Act, or Section 3-206 of the ID/DD Community Care Act*. (Section 26 of the Act)

b) *Any individual* or employee *placed on the Health Care Worker Registry is required to inform the Department of any change of address within 30 days after the effective date of the change of address*. (Section 26 of the Act)

c) *The Health Care Worker Registry will include the information contained in the registries established under Section 3-206.01 of the Nursing Home Care Act, Section 3-206.01 of the MC/DD Act, and Section 3-206.01 of the ID/DD Community Care Act*. (Section 26 of the Act)

d) The Health Care Worker Registry *will document criminal history records check results pursuant to the requirements of the Act* and this Part. (Section 28(c) of the Act)

e) *The Health Care Worker Registry maintained by the Department exclusive to health care employers*, staffing agencies, workforce intermediaries, organizations that provide pro bono legal services, and educational entities *will clearly indicate whether an individual~~applicant or employee~~ is eligible for employment and will include the following*:

1) *The individual's~~ or employee's~~ name*;

2) *His or her current address;*

3) *Social Security number*;

4) *The date and location of the training course completed by the individual~~ or employee~~*; (Section 3-206.01(a-5) of the Nursing Home Care Act)

5) *Information identifying where an individual received his or her clinical training*; (Section 3-206 of the Nursing Home Care Act)

6) *Whether the individual*~~ or employee~~ *has any of the disqualifying convictions listed in Section 25 of the Act from the date of the* training course completed by the individual~~ or employee~~;

7) *The date of the individual's*~~ or employee's~~ *last criminal records check*; (Section 3-206.01(a-5) of the Nursing Home Care Act)

8) Whether the individual~~ or employee~~ has any *findings as reported by the Inspector General of the Department of Human Services*~~of the Department of Human Services~~*, under Section 1-17(s) of the Department of Human Services Act*; (Section 27(g) of the Act)

9) *Whether the individual*~~ or employee~~ *has a waiver pending under Section 40 of the Act* (Section 3-206.01(a-5)(1) of the Nursing Home Care Act), and *the following language:*

> *"A waiver granted by the Department of Public Health is a determination that the individual*~~*applicant or employee*~~ *is eligible to work in a health care facility. The Equal Employment Opportunity Commission provides guidance about federal law regarding hiring of individuals with criminal records."* (Section 3-206.01(a-5)~~(a-10)~~ of the Nursing Home Care Act); *and*

10) *A link to Equal Employment Opportunity Commission guidance regarding hiring of individuals with criminal records*. (Section 3-206.01(a-5)(3)~~(2)~~ of the Nursing Home Care Act)

f) *The publicly accessible* version of the Health Care Worker *Registry* will:

1) *Report that an individual*~~ or employee~~ *is ineligible to work, if he or she has a disqualifying offense under Section 25 of the Act and has not received a waiver under Section 40 of the Act*;

2) *Report that an individual*~~*applicant or employee*~~ *is eligible to work,* if he or she *has received a waiver for one or more disqualifying offenses under Section 40 of the Act and he or she is otherwise eligible to work.* The publicly~~publically~~ accessible Health Care Worker Registry *shall not report information regarding* the granting or denial of *a waiver*; (Section 3-206.01(a-10) of the Nursing Home Care Act)

3) Include findings as reported by the Department *that an employee, or former employee, has been guilty of abuse or neglect of a resident or misappropriation of resident property or* whether the Department *has made any other applicable finding as set forth* in this Part, including the *employee's, or former employee's, statement relating to the finding or a clear and accurate summary of the statement*; (Section 27(f) of the Act) and

4) Include *findings as reported by the Inspector General of the Department of Human Services, under Section 1-17(s) of the Department of Human Services Act*~~of the Department of Human Services Act~~. (Section 27(g) of the Act)

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

**Section 955.APPENDIX A Offenses that Are Always Disqualifying Except Through the Appeal Process**

| Illinois Compiled Statutes Citation 720 ILCS: | Offense | Additional Offense Added Effective |
|---|---|---|
| 5/8-1.1 | Solicitation of Murder | 1/1/98 |
| 5/8-1.2 | Solicitation of Murder for Hire | 1/1/98 |
| 5/9-1 | First Degree Murder | 7/1/95 |
| 5/9-1.2 | Intentional Homicide of an Unborn Child | 7/1/95 |
| 5/9-2 | Second Degree Murder | 7/1/95 |
| 5/9-2.1 | Voluntary Manslaughter of an Unborn Child | 7/1/95 |
| 5/9-3 | Involuntary Manslaughter and Reckless Homicide | 7/1/95 |
| 5/9-3.1;<br>5/9-3.4 | Concealment of Homicidal Death | 7/1/95<br>8/25/17 |
| 5/9-3.2 | Involuntary Manslaughter and Reckless Homicide of an Unborn Child | 7/1/95 |
| 5/9-3.3 | Drug Induced Homicide | 7/1/95 |
| 5/10-1 | Kidnapping | 7/1/95 |
| 5/10-2 | Aggravated Kidnapping | 7/1/95 |
| 5/11-6 | Indecent Solicitation of a Child | 1/1/98 |
| 5/11-9.1 | Sexual Exploitation of a Child | 1/1/98 |
| 5/11-9.1A; 150/5.1 | Permitting Sexual Abuse of a Child | 8/25/17 |
| 5/11-9.2 | Custodial Sexual Misconduct | 8/25/17 |
| 5/11-9.3 | Presence of Sex Offender in School Zone | 8/25/17 |
| 5/11-9.4-1 | Presence of Sexual Predator or Sex Offender near Public Park | 8/25/17 |
| 5/11-9.5 | Sexual Misconduct with a Person with a Disability | 7/24/06 |
| 5/11-14.4(a) | Promoting Juvenile Prostitution | 7/25/15 |
| 5/11-19.2 | Exploitation of a Child | 1/1/98 |
| 5/11-20.1 | Child Pornography | 1/1/98 |

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

| | | |
|---|---|---|
| 5/11-20.3<br>5/11-20.1B | Aggravated Child Pornography | 7/1/11 |
| 5/12-3.3 | Aggravated Domestic Battery | 1/1/04 |
| 5/12-3.05;<br>5/12-4 | Aggravated Battery | 1/1/98<br>7/1/95 |
| 5/12-4.1 | Heinous Battery | 1/1/98 |
| 5/12-4.2 | Aggravated Battery with a Firearm | 7/1/95 |
| 5/12-4.2-5 | Aggravated Battery with a Machine Gun or a Firearm Equipped with Any Device or Attachment Designed or Used for Silencing the Report of a Firearm | 1/1/04 |
| 5/12-4.3 | Aggravated Battery of a Child | 7/1/95 |
| 5/12-4.4 | Aggravated Battery of an Unborn Child | 7/1/95 |
| 5/12-4.4a(a) | Abuse or Neglect of a Long Term Care Facility Resident | 8/25/17 |
| 5/12-4.4a(b) | Criminal Abuse or Neglect of an Elderly Person or a Person with a Disability | 8/25/17 |
| 5/12-4.6 | Aggravated Battery of a Senior Citizen | 7/1/95 |
| 5/12-4.7 | Drug Induced Infliction of Great Bodily Harm | 7/1/95 |
| 5/11-1.20; 5/12-13 | Criminal Sexual Assault | 7/1/95 |
| 5/11-1.30; 5/12-14 | Aggravated Criminal Sexual Assault | 7/1/95 |
| 5/11-1.40; 5/12-14.1 | Predatory Criminal Sexual Assault of a Child | 7/1/95 |
| 5/11-1.50; 5/12-15 | Criminal Sexual Abuse | 7/1/95 |
| 5/11-1.60; 5/12-16 | Aggravated Criminal Sexual Abuse | 7/1/95 |
| 5/12-19 | Abuse and Criminal Neglect of a LTC Facility Resident | 7/1/95 |
| 5/12-20.5 | Dismembering a Human Body | 8/25/17 |
| 5/12-21 | Criminal Abuse or Neglect of an Elderly Person or Person with a Disability | 7/1/95 |
| 5/16-1.3; 5/17-56 | Financial Exploitation of an Elderly Person or a Person with a Disability | 7/1/95 |

| | | |
|---|---|---|
| 5/18-2 | Armed Robbery | 7/1/95 |
| 5/18-4 | Aggravated Vehicular Hijacking | 1/1/98 |
| 5/18-1(b); 5/18-5 | Aggravated Robbery | 1/1/98 |
| 5/19-6 | Home Invasion | 8/25/17 |
| 5/20-1.1 | Aggravated Arson | 7/1/95 |
| 150/5.1 | Permitting Sexual Abuse of a Child | 1/1/04 |

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

**Section 955.APPENDIX C Disqualifying Offenses that May Be Considered for a Waiver by the Submission of a Waiver Application**

| Illinois Compiled Statutes Citation | Offense | Additional Offense Added Effective |
|---|---|---|
| 225 ILCS 65/50-50 | Practice of Nursing without a License | 8/25/17 |
| 510 ILCS 70/3.01(a) | Beating, Cruelly Treating, Tormenting, Starving, Overworking, or Abusing an Animal | 8/25/17 |
| 510 ILCS 70/3.02 | Aggravated Cruelty to a Companion Animal | |
| 510 ILCS 70/3.03 | Animal Torture | 8/25/17 |
| 720 ILCS 5/10-3 | Unlawful Restraint | 7/1/95 |
| 720 ILCS 5/10-3.1 | Aggravated Unlawful Restraint | 7/1/95 |
| 720 ILCS 5/10-4 | Forcible Detention | 7/1/95 |
| 720 ILCS 5/10-5 | Child Abduction | 7/1/95 |
| 720 ILCS 5/10-7 | Aiding and Abetting Child Abduction | 7/1/95 |
| 720 ILCS 5/12-1 | Assault | 7/1/95 |
| 720 ILCS 5/12-2 | Aggravated Assault | 7/1/95 |
| 720 ILCS 5/12-3 | Battery | 7/1/95 |
| 720 ILCS 5/12-3.1 | Battery of an Unborn Child | 7/1/95 |
| 720 ILCS 5/12-3.2 | Domestic Battery | 7/1/95 |
| 720 ILCS 5/12-4.5 | Tampering with Food, Drugs or Cosmetics | 1/1/98 |
| 720 ILCS 5/12-7.4 | Aggravated Stalking | 1/1/98 |
| 720 ILCS 5/12-11 | Home Invasion | 1/1/98 |
| 720 ILCS 5/12-21.6; | Endangering the Life or Health of a Child | 1/1/98 |
| 720 ILCS 5/12C-5 | | 8/25/17 |
| 720 ILCS 5/12C-10 | Child Abandonment | 8/25/17 |
| 720 ILCS 5/12-21.5 | | |
| 720 ILCS 5/12-32 | Ritual Mutilation | 1/1/98 |
| 720 ILCS 5/12-33 | Ritual Abuse of a Child | 1/1/98 |
| 720 ILCS 5/16-1 | Theft | 7/1/95 |
| 720 ILCS 5/16-2 | Theft of Lost or Mislaid Property | 1/1/04 |

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

| | | |
|---|---|---|
| 720 ILCS 5/16A-3 | Retail Theft | 7/1/95 |
| 720 ILCS 5/16G-15; | Identity Theft | 1/1/04 |
| 720 ILCS 5/16-30 | | 8/25/17 |
| 720 ILCS 5/16G-20 | Aggravated Identity Theft | 1/1/04 |
| 720 ILCS 5/17-3 | Forgery | 1/1/98 |
| 720 ILCS 5/17-32(b) | Possession of Another's Credit or Debit Card | 8/25/17 |
| 720 ILCS 5/17-33 | Possession of Lost or Mislaid Credit or Debit Card | 8/25/17 |
| 720 ILCS 5/17-34 | Sale of Credit or Debit Card | 8/25/17 |
| 720 ILCS 5/17-36 | Use of Counterfeited, Forged, Expired, Revoked, or Unissued Credit or Debit Card | 8/25/17 |
| 720 ILCS 5/17-44 | Fraudulent Use of Electronic Transmission | 8/25/17 |
| 720 ILCS 5/18-1 | Robbery | 7/1/95 |
| 720 ILCS 5/18-3 | Vehicular Hijacking | 1/1/98 |
| 720 ILCS 5/19-1 | Burglary | 1/1/98 |
| 720 ILCS 5/19-3 | Residential Burglary | 7/1/95 |
| 720 ILCS 5/19-4 | Criminal Trespass to Residence | 7/1/95 |
| 720 ILCS 5/20-1 | Arson | 7/1/95 |
| 720 ILCS 5/20-1.2 | Residential Arson | 1/1/04 |
| 720 ILCS 5/24-1 | Unlawful Use of Weapons | 7/1/95 |
| 720 ILCS 5/24-1.1 | Unlawful Use or Possession of Weapons by Felons or Persons in the Custody of the Department of Corrections Facilities | 1/1/04 |
| 720 ILCS 5/24-1.2 | Aggravated Discharge of a Firearm | 7/1/95 |
| 720 ILCS 5/24-1.2-5 | Aggravated Discharge of a Machine Gun or a Firearm Equipped with a Device Designed or Used for Silencing the Report of a Firearm | 7/18/03 |
| 720 ILCS 5/24-1.5 | Reckless Discharge of a Firearm | 1/1/98 |
| 720 ILCS 5/24-1.6 | Aggravated Unlawful Use of a Weapon | 1/1/04 |
| 720 ILCS 5/24-3.2 | Unlawful Discharge of Firearm Projectiles | 1/1/04 |
| 720 ILCS 5/24-3.3 | Unlawful Sale or Delivery of Firearms on the Premises of Any School | 1/1/04 |

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

| | | |
|---|---|---|
| 720 ILCS 5/24-3.8 | Possession of a Stolen Firearm | 8/25/17 |
| 720 ILCS 5/24-3.9~~720 ILCS 5/24-3.3~~ | Aggravated Possession of a Stolen Firearm | 8/25/17 |
| 720 ILCS 5/33A-2 | Armed Violence | 1/1/98 |
| 225 ILCS 65/10-5 | Practice of Nursing without a License | 1/1/04 |
| 720 ILCS 150/4 | Endangering Life or Health of a Child | 1/1/98 |
| 720 ILCS 115/53; | Cruelty to Children | 1/1/98 |
| 740 ILCS 55/4 | | 8/25/17 |
| 720 ILCS 250/4 | Receiving Stolen Credit Card or Debit Card | 1/1/04 |
| 720 ILCS 250/5 | Receiving a Credit or Debit Card with Intent to Use, Sell, or Transfer | 1/1/04 |
| 720 ILCS 250/6 | Selling a Credit Card or Debit Card, without the Consent of the Issuer | 1/1/04 |
| 720 ILCS 250/8 | Using a Credit or Debit Card with the Intent to Defraud | 1/1/04 |
| 720 ILCS 250/17.02 | Fraudulent Use of Electronic Transmission | 1/1/04 |
| 720 ILCS 550/5(c), (d), (e), (f), (g) | Manufacture, Delivery, or Possession with Intent to Deliver, or Manufacture, Cannabis | 8/25/17 |
| 720 ILCS 550/5.1 | Cannabis Trafficking | 7/1/95 |
| 720 ILCS 550/5.2 | Delivery of Cannabis on School Grounds | 1/1/98 |
| 720 ILCS 550/7 | Delivering Cannabis to a Person under 18 | 1/1/98 |
| 720 ILCS 550/9 | Calculated Criminal Cannabis Conspiracy | 7/1/95 |
| 720 ILCS 570/401 | Manufacture or Delivery, or Possession with Intent to Manufacture or Deliver, a Controlled Substance Other than Methamphetamine, a Counterfeit Substance, or a Controlled Substance Analog | 7/1/95 |
| 720 ILCS 570/401.1 | Controlled Substance Trafficking | 7/1/95 |
| 720 ILCS 570/404 | Distribution, Advertisement, or Possession with Intent to Manufacture or Distribute a Look-alike Substance | 7/1/95 |

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

| | | |
|---|---|---|
| 720 ILCS 570/405 | Calculated Criminal Drug Conspiracy | 7/1/95 |
| 720 ILCS 570/405.1 | Criminal Drug Conspiracy | 7/1/95 |
| 720 ILCS 570/407 | Delivering a Controlled, Counterfeit or Look-alike Substance to a Person under 18 | 7/1/95 |
| 720 ILCS 570/407.1 | Engaging or Employing Person under 18 to Deliver a Controlled, Counterfeit or Look-alike Substance | 7/1/95 |
| 720 ILCS 646 | Violations under the Methamphetamine Control and Community Protection Act | 9/11/05 |

(Source: Amended at 44 Ill. Reg. _____, effective _____)

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: State Universities Civil Service System

2) Code Citation: 80 Ill. Adm. Code 250

3) Section Number: 250.110 — Proposed Action: Amendment

4) Statutory Authority: State Universities Civil Service Act [110 ILCS 70]

5) A Complete Description of the Subjects and Issues Involved: Section 250.110(f) was reorganized and renumbered with a few changes. Also headers were added to various sections. Changes included the following: additional language was added regarding the reasons for discharges; elimination of the written closing statements following a discharge hearing; and a timeline was established regarding the exchange of documents between parties of record prior to a hearing. In Section 250.110(e)(3) additional language regarding suspensions was added. A new Section 250.110(c)(5) was added regarding a status employee who fails to maintain his/her right to work in the United States.

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? No

11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.

12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit comments in writing concerning this proposed rulemaking not later than 45 days after publication of this Notice in the *Illinois Register* to:

Jeff Brownfield

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENT

Executive Director
State Universities Civil Service System
1717 Philo Road, Suite 24
Urbana IL 61802

217/278-3150
rulemaking@sucss.illinois.gov

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) Small Business Impact Analysis: The Agency did not prepare a small business impact analysis as this rulemaking will not have an adverse impact on small businesses.

15) Regulatory Agenda on which this rulemaking was summarized: The Agency did not anticipate this rulemaking.

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

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE A: MERIT EMPLOYMENT SYSTEMS
CHAPTER VI: STATE UNIVERSITIES CIVIL SERVICE SYSTEM

PART 250
STATE UNIVERSITIES CIVIL SERVICE SYSTEM

Section
250.5 Definitions
250.10 Purpose, Adoption, and Amendment of Rules
250.20 The State Universities Civil Service System and its Divisions
250.30 The Classification Plan
250.40 Military Service Preference, Veterans Preference
250.50 Examinations
250.60 Eligible Registers
250.70 Nonstatus Appointments
250.80 Status Appointments
250.90 Probationary Period
250.100 Reassignments and Transfers
250.110 Separations and Demotions
250.119 Furloughs
250.120 Seniority
250.130 Review Procedures
250.140 Delegation of Authority and Responsibilities
250.150 Training
250.160 Suspension of Rules

AUTHORITY: Implementing and authorized by the State Universities Civil Service Act [110 ILCS 70].

SOURCE: Rules: State Universities Civil Service System, approved January 16, 1952, effective January 1, 1952; amended at 3 Ill. Reg. 13, p. 68, effective April 1, 1979; amended at 4 Ill. Reg. 10, p. 262, effective February 25, 1980; amended at 6 Ill. Reg. 2620, effective February 22, 1982; amended at 6 Ill. Reg. 7236, effective June 3, 1982; amended at 8 Ill. Reg. 4948 and 4950, effective March 29, 1984; codified at 8 Ill. Reg. 12936; amended at 8 Ill. Reg. 24732, effective December 6, 1984; amended at 9 Ill. Reg. 17422, effective October 23, 1985; amended at 11 Ill. Reg. 8942, effective May 8, 1987; amended at 12 Ill. Reg. 3457, effective February 1, 1988; amended at 12 Ill. Reg. 17079, effective October 7, 1988; amended at 13 Ill. Reg. 7324, effective May 1, 1989; amended at 13 Ill. Reg. 19427, effective February 6, 1990; amended at 18 Ill. Reg.

1901, effective January 21, 1994; amended at 20 Ill. Reg. 4440, effective February 29, 1996; amended at 30 Ill. Reg. 17384, effective October 23, 2006; amended at 31 Ill. Reg. 15848, effective November 13, 2007; amended at 32 Ill. Reg. 17268, effective October 16, 2008; amended at 33 Ill. Reg. 11644, effective July 22, 2009; amended at 36 Ill. Reg. 6014, effective April 6, 2012; amended at 37 Ill. Reg. 419, effective December 26, 2012; amended at 39 Ill. Reg. 13504, effective December 1, 2015; amended at 40 Ill. Reg. 3105, effective January 26, 2016; emergency amendment at 40 Ill. Reg. 3772, effective March 1, 2016, for a maximum of 150 days; amended at 40 Ill. Reg. 11192, effective August 4, 2016; amended at 40 Ill. Reg. 16302, effective December 12, 2016; amended at 41 Ill. Reg. 11576, effective August 30, 2017; amended at 42 Ill. Reg. 24268, effective December 3, 2018; amended at 43 Ill. Reg. 6829, effective May 23, 2019; emergency amendment at 44 Ill. Reg. 6662, effective April 10, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. _____, effective _____.

**Section 250.110 Separations and Demotions**

a) Resignation. An employee having a nonstatus or status appointment, as described in Sections 250.70 and 250.80, may resign by presenting a signed resignation to his/her employer or by demonstrating to the employer by other means his/her intent to separate from employment. Upon receipt of a signed resignation by the employee or other evidence of intent to separate from employment, the employee will be separated from his/her employer. The employer shall maintain all resignations or other documentation of evidence in accordance with the employer's record retention policy.

b) Leave of Absence

1) Leave of Absence for Classification Changes. A status employee who accepts a position that represents a promotion in a class outside his/her promotional line shall be granted a leave of absence from a position of his/her former class for the duration of any intern appointment, provisional appointment, and/or probationary period in the new class.

2) Leave of Absence for Disciplinary Actions. An employee placed on a Disciplinary Suspension or on a Suspension Pending Discharge shall be placed on a leave of absence from his/her position.

3) Leave of Absence for Disability Leave

A) If an employee is no longer able to perform the duties and

responsibilities of his/her position in the class due to a disability as determined by the employer's medical and/or psychological evaluation procedures, and/or in accordance with State and federal laws, the employee will be required to take disability leave in accordance with subsection (b)(3)(B).

B) A status employee who becomes eligible for disability benefits to be paid by the employer or, as later determined, by the Illinois State retirement system to which the employee contributed, or becomes eligible for payment benefits as defined by the Workers' Compensation Act [820 ILCS 305], the Illinois Occupational Diseases Act [820 ILCS 310], or a State self-insurance program, shall be granted a disability leave. The disability leave shall be the period for which the employee applies for such benefits, until the time of the expiration of the benefits or a final administrative decision denying or terminating the benefits, including any gap in benefit payments between the expiration of institutional benefits and those available under the approving authority.

C) The employer may require an employee to take a medical and/or psychological examination prior to returning to work after a disability leave. The examination shall be conducted by a licensed practitioner selected by the employer to determine the physical and/or mental capability to perform the essential duties of the employee's position. The employer may supply the examining practitioner with facts relating to the employee's difficulty or inability to perform the essential functions of the job and may supply additional information, including but not limited to physical and mental requirements of the employee's position, duty statement, job classification specification, and position description. The employee may also present an alternative opinion provided by a licensed practitioner to be selected and paid for by the employee. If there is a difference of opinion, a third outside practitioner shall be selected by the 2 physicians. The employer shall pay for all examinations, except those initiated by the employee.

D) An employee's refusal to submit to an examination as described in subsection (b)(3)(C), the unexcused failure to appear for such an examination, or the refusal to release the results of the examination

may be deemed by the employer as an acknowledgement that the employee is not fit for duty and may subject the employee to termination actions as defined in subsection (c).

E) A disability leave may be revoked by the employer upon evidence that the cause for granting the leave was misrepresented.

F) At the expiration of all disability benefits, an employee shall be entitled to return to a position in his/her class without any loss of status due to the disability leave, providing that he/she returns upon the expiration of all disability benefits to which entitled.

G) Reemployment

i) If an employee does not return to work at the expiration of all disability benefits and is terminated in accordance with subsection (c)(2), the employee may, within one year following the expiration of all disability benefits, request reinstatement and, upon approval of the Executive Director, the employee's name may be placed on the reemployment register in the class in which he/she was employed at the time the disability leave was granted and in accordance with total seniority earned.

ii) If, within one year following the expiration of all disability benefits, the employee requests reinstatement, but, because of his/her disability, is deemed unable to perform the duties in the class, the employee may be required to pass physical or other tests to determine employability under the University System.

4) Military Leave of Absence. An employee shall be granted a Military Leave of Absence in accordance with State and federal laws and regulations.

5) Notification

A) The employer may select:

i) to notify the Executive Director of all leaves of absence,

including military, disability, or any other leave otherwise granted; or

ii) to maintain these records for inspection upon request by the Executive Director or designee during the on-site audit program or other specified time.

B) The notification shall include the beginning and ending dates of leaves that exceed 30 calendar days of non-pay status.

c) Termination

1) An employee having a non-status appointment, as described in Section 250.70, may be terminated by his/her employer at any time during the training period and/or upon completion of the work assignment.

2) An employee on disability leave, as defined in subsection (b)(3), who has exhausted all of his/her disability benefits and is unable to resume the duties and responsibilities of a position in his/her class may be terminated from employment in accordance with subsection (c)(5), or the employer and employee may agree upon employment in a more suitable classification. The alternative employment options shall be subject to standard civil service employment protocols.

3) An employee who fails to report for duty after a disability leave of absence has expired or has been denied, disapproved, revoked, or canceled by the approving authority, or any other failure to report for duty as scheduled after a disability leave of absence, may be terminated from employment in accordance with subsection (c)(6~~5~~).

4) An employee who fails to report for duty after he/ she has exhausted benefits under the Family and Medical Leave Act (FMLA) may be terminated from employment in accordance with subsection (c)(6~~5~~).

5) An employee who fails to maintain his/her right to work in the United States, as evidenced by a Permanent Resident Card (also known as a Green Card), an Employment Authorization Document (also known as a work permit), or an employment-related visa granted by the government of the United States, shall have his/her employment terminated as of the

last date that employee had a right to work in the United States. It is the responsibility of the employee to do all things necessary to maintain his/her right to work in the United States, as governed by U.S. law. The employer shall notify the employee of the termination.

6~~5~~) Appropriate notification shall be provided to an employee, as specifically referenced in subsections (c)(2), (c)(3) and (c)(4), which shall~~will~~ include the notification provisions outlined in this subsection (c)(6~~5~~).

A) The employer shall notify the employee that he/she will be terminated from the employer's service to become effective 7 calendar days from the date of mailing of the notification to the employee. The notification shall be sent, by an overnight delivery service that requires signature upon receipt, to the most recent address of the employee as shown on the employer's records.

B) At any time prior to the effective date of termination, the employee shall have the opportunity to provide to the employer evidence of the reason for the unauthorized absence. The employer shall revoke the termination if the employee provides satisfactory evidence of the reason for the unauthorized absence. If the employer determines that the evidence is not satisfactory, the employer shall notify the employee immediately that the termination will remain in effect.

C) Pursuant to Section 250.130 (Review Procedures), the employee may request a review of the employer's final notice of termination. The review is limited to a determination of whether this Section has been properly applied and whether the employer's decision is deemed arbitrary or capricious. In the event a review is not requested within the allotted timeframe, the employee's termination from service shall be effective 7 calendar days after the original notification.

d) Layoff

1) The Executive Director shall be notified promptly of all employees on layoff status, together with the dates of the beginning of layoff and of return to employment from layoff status, when the layoff exceeds 30 consecutive work days. A status employee shall receive a written notice,

at least 30 calendar days in advance of the effective date of layoff, when the layoff exceeds 30 consecutive work days; however, the effective date of layoff may be extended up to 15 calendar days without the requirement of further notice.

2) Whenever it becomes necessary to lay off one or more employees, except as provided in subsection (d)(3), the employee who has the least amount of service in the class shall be laid off first, and additional layoffs shall be made in the ascending order of the place of the employee on the service and seniority lists for that class.

3) An employee who is the incumbent of a position for which the Executive Director has authorized specialized certification under Section 250.60(d)(9), or who is the incumbent of a position that has previously been identified as requiring specialized training or experience as required by the position in accordance with minimum acceptable qualifications for the class, may not be bumped by another employee with greater seniority unless the employee with greater seniority possesses the special and identified qualifications authorized for the incumbent's position.

4) Whenever it becomes necessary to reemploy one or more employees in a class, the employee last laid off by seniority shall be reemployed first, and further reemployment shall be made in the order of seniority until the reemployment register for that class is exhausted. Work of short duration requiring reemployment of one or more employees will not require a new written 15 calendar day advance notice of layoff if the work period is to be 5 consecutive working days or less and the work is emergent in nature.

5) A status employee who is subject to layoff from a part-time position may bump an employee in a full-time status position, providing the part-time employee's equivalent full-time accrued seniority based on hours in pay status is greater than that of the least senior employee in a full-time position. A full-time status employee who is subject to layoff may bump the least senior full-time employee, who then may bump the part-time employee having the highest percent-time appointment, providing the full-time employee has more accrued seniority.

6) Names of employees laid off during their probationary periods shall be returned to the register from which they were certified to their position in

accordance with service in a status appointment earned as of the date of layoff.

e) Disciplinary Suspension. An employer may suspend an employee as a disciplinary measure for not more than 30 calendar days.

1) The employer shall~~will~~ discuss the specific problem pertaining to contemplated suspension with the employee and the Human Resource Director or his/her designee before a suspension notice is served. The employee shall~~will~~ be told at that time that suspension is being considered.

2) In imposing a disciplinary suspension, the employer shall serve a written suspension notice on the employee showing reason for the suspension, and shall immediately report the suspension to the Executive Director and shall send a copy of the notice served on the employee, along with proof of service, to the Executive Director.

3) Causes justifying suspension, not~~ for~~ discharge as provided for in subsection (f)(1)~~(21)~~, shall include, but are not limited to: unauthorized and unexcused absence; leaving work without authority; failure to accurately record one's arrival for and/or departure from work;~~ring in or out on time card;~~ habitual lateness; recording another person's arrival for and/or departure from work; falsification of documents;~~punching other time cards;~~ key duplication and/or unauthorized possession of keys; misrepresentation of absence; falsification of records; refusal to do work assigned; failure to follow work schedules; failure to follow time schedules; rude, disrespectful, and/or unprofessional behavior;~~insolence;~~ failure to adhere to departmental regulations of appearance;~~ smoking in prohibited areas;~~ disregard of safety regulations; careless workmanship resulting in spoilage, waste, or delay; unauthorized use of institutional property; gambling on institutional property; creating or contributing to unsanitary conditions; horseplay or scuffling; fighting; sleeping during working hours; unauthorized visiting; failure to follow official university policy and procedures; reporting to work with one's mental or physical ability, alertness, or judgment impaired by substances and/or fatigue in a way that makes it impracticable or unsafe to perform one's job duties; and inability or failure to perform assigned duties in a competent and satisfactory manner~~and "loafing on the job"~~.

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENT

AGENCY NOTE: It is to be noted that an employee's allegation that a Disciplinary Suspension was unfairly imposed is subject to the grievance procedure established by the employing institution, but is not reviewable by the State Universities Civil Service System (University System).

f) Discharge Proceedings and Effective Date of Discharge

1) Reason for Discharge. Causes justifying discharge and any suspension during the discharge proceedings shall include, but are not limited to:

A) all those listed as cause for suspension if they become recurring offenses; and

B) theft; consuming intoxicating liquors or other illicit drugs on institutional time or property; consuming intoxicating substances resulting in mental impairment at work; malicious damage to property, tools or equipment; inciting or instigating a physical altercation, or continuing a physical altercation beyond immediate self-defense; immoral or indecent conduct that violates common decency or morality; conduct that is a clear departure from ordinary standards of honesty, good morals, justice, or ethics so as to cause shock to the moral sense of the community.

2) Pre-discharge Proceedings

A) Notification Procedures. Prior to initiating any proceedings before the Merit Board for the discharge of an employee, the employer shall notify the employee in writing, served upon the employee in person if the employee is present on the job or, otherwise, by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and also by First Class U.S. Mail, of the employer's intention to initiate the proceedings. The notification shall advise the employee of the substance of the charges proposed to be filed in sufficient detail to inform the employee of the nature of the conduct on which the proposed charges are based. (Note: It is the employee's responsibility to maintain a current mailing address with his/her employer.) The notification shall also advise the employee that either or both of the following options are

available to the employee:

i) within 3 work days after service of the employer's notification, the employee may notify the employer of his/her decision to require the employer to hold a conference with the employee or his/her representative for the purposes of responding to the matters contained in the notification and of attempting to achieve a reconciliation or understanding; and

ii) within 3 work days after service of notification, the employee may deliver to the employer a written response to the matters contained in the employer's notification; provided that, if the employee elects to require the conference identified in subsection (f)(2)~~(1)~~(A)(i), at that conference the employee may request and receive an opportunity to respond further in writing within 3 work days after the conclusion of the conference.

B) Employer's Decision

i) Within 7 work days after compliance with the provisions of subsection (f)(2)~~(1)~~(A), the employer shall either:

- notify the employee that no further action will be taken to initiate discharge proceedings with the Merit Board against the employee based solely on the matters contained in the employer's notification; or

- initiate proceedings before the Merit Board under this subsection (f) seeking discharge of the employee based solely on the matters contained in the employer's notification.

ii) The employer's election not to initiate discharge proceedings with the Merit Board shall not preclude the employer from imposing a suspension in accordance with subsection (e) or some lesser penalty.

C) Excused Absence with Pay. An employee who has been served with an employer's notification as provided in subsection (f)(2)~~(1)~~(A) may be placed on excused absence with pay during all or any part of the period covered by this subsection (f)(2)~~(1)~~ to provide the employer an opportunity to investigate serious charges.

3~~2~~) Actual Discharge Proceedings

A) Initiating Discharge Proceedings. Proceedings before the Merit Board seeking the discharge of an employee shall be initiated by the employer by completing and filing a Written Charges for Discharge form with the Merit Board/University System, employee, legal counsel for employer, and employer, setting forth the causes for discharge in sufficient detail to inform the employee of the nature of the conduct on which the charges are based. The Written Charges for Discharge form shall be set forth in separately numbered charges. Also, the employer shall develop and attach a document that contains the dates, names of persons, places and facts necessary to properly allege the cause for discharge. If a breach of duty, statute or rule of the employer is alleged, the statute, law or rule shall be cited in connection with the charge. Any and all exhibits that the employer plans to present at the time of the hearing shall be submitted in accordance with subsection (f)(5)(E)~~(11)(B)~~ or as appropriate to the circumstances. The exhibits shall not be attached to the Written Charges for Discharge form.

B) Written Charges for Discharge. The Written Charges for Discharge form shall be accompanied by a certification by the employer that all procedures set forth in subsection (f)(2)~~(1)~~ have been followed and that there has been full compliance with any options elected by the employee. At the time the Written Charges for Discharge form and the certification are filed with the Merit Board/University System office, the employer shall serve copies upon the employee in person if the employee is present on the job; otherwise, service shall be by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and also by First

Class U.S. Mail. The~~the~~ employer shall file proof of service with the Merit Board/University System office.

C) Amended Written Charges for Discharge. At any time prior to commencement of the hearing, the Executive Director may direct or authorize the Written Charges for Discharge to be amended to correct technical defects or to set forth additional facts or allegations that clarify~~related to~~ the subject matter of the original charges. The technical amendments shall relate back to the original proof of service date of the Written Charges for Discharge form. The employer shall serve copies of the Amended Written Charges for Discharge form upon the employee in person if the employee is present on the job; otherwise, service shall be by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and also by First Class U.S. Mail. The~~and the~~ employer shall file proof of service on employee for Amended Charges, on the form provided by the University System, with the Secretary for~~with~~ the Merit Board ("the Secretary")~~/University System office~~. Nothing in this subsection (f)(3)(C) shall change the timing requirements in subsection (f)(5).

D) Suspension Without Pay. An employee who has been served with Written Charges for Discharge in accordance with subsections (f)(3)~~(2)~~(A) and (B) and/or (C) may be suspended without pay by the employer during all or any part of the period that the discharge proceeding is pending, and until final disposition, if the employer is of the opinion that the employee's presence on the job might constitute a substantial risk of injury to life or property, or might cause a disruptive effect on employer's operations. Any suspension without pay shall become effective on the date the employer serves the Suspension Notice Pending Discharge upon the employee, which may be served with the Written Charges for Discharge or on any date thereafter. Service shall be upon the employee in person if the employee is present on the job; otherwise, service shall be by an overnight delivery service that requires signature upon receipt to the most recent address of the employee as shown on the employer's records, and also by First Class U.S. Mail. The~~the~~ employer shall file with the Merit

Board/University System office a copy of the Suspension Notice Pending Discharge and proof of service.

4) Effective Date of Discharge When There Is No Request for Hearing. If the employee does not file a written request for hearing with the Secretary within 15 calendar days from the date specified in the "Proof of Service on Employee" section on the Written Charges for Discharge form, the employee's discharge shall become effective at the end of the 15-day period without further action by the Merit Board. The Secretary shall promptly notify the employer of the employee's failure to file a timely written request for hearing.

5~~3~~) Written Hearing Request/Timing of Parties' Actions

A) Written Request for Hearing. An employee who has been served with Written Charges for Discharge may request a hearing by filing a written request for hearing with the Secretary ~~for the Merit Board~~ within 15 calendar days from the "Proof of Service on Employee" section on the Written Charges for Discharge form that is the date of either personal delivery or mailing of the Written Charges for Discharge form to the employee. Any request for a hearing must include a postal address and a telephone number where the employee can be reached and where notices to the employee under this subsection (f) shall be sent. If the employee has a personal e-mail address at which the employee is willing to accept notices under this subsection (f), the employee may also provide that e-mail address. The employee shall notify the Secretary and the employer of any change to this notice information. The Secretary ~~for the Merit Board~~ shall immediately acknowledge receipt of the request for a hearing and notify the employer that the employee has filed for a hearing. Thereafter, further proceedings shall be as provided in this subsection (f) and any discharge shall be effective on the date of the discharge order of the Merit Board, unless otherwise expressly stated in the order.

B) Requests for Document and Other Tangible Items. Any party may, by written request, direct any other party to produce for inspection, copying, reproduction, photographing, testing or sampling specified documents, including electronically stored information,

objects, or tangible things, relevant to the Written Charges for Discharge or the employee's defense to the charges.~~If the employee does not file a written request for hearing with the Secretary for the Merit Board within 15 calendar days from the date specified in the "Proof of Service on Employee" section on the Written Charges for Discharge form, the employee's discharge shall become effective at the end of the 15-day period without further action by the Merit Board. The Secretary for the Merit Board shall promptly notify the employer of the employee's failure to file a timely written request for hearing.~~

i) The request shall specify a reasonable time and place for production or review of the requested items, no fewer than 10 calendar days prior to the scheduled hearing.

ii) A party directed to produce documents or other tangible items that is unable to produce the requested items by the date requested by the other party may file an objection or request an extension of time to produce the requested items. The objection or request for an extension of time shall be sent to the Executive Director and shall state the cause of the anticipated delay.

iii) All written requests or objections under this subsection (f)(5)(B) shall be served on the Secretary at the same time it is served on the other party.

iv) All actions taken under this subsection (f)(5)(B) shall be taken as early as practicable and shall be taken in good faith.

C) Evidence Depositions. Upon request to the Executive Director and upon good cause shown (which shall include, but is not restricted to, potential unavailability of a witness at the time the hearing is scheduled, scheduling or travel arrangement considerations, or agreement of the parties), any party may request a deposition of any witness to be taken for evidence in a hearing. The use of this provision shall be severely restricted, and designated as a "last resort" option. If desired, subpoenas may be requested upon

application to the Executive Director in a manner consistent with this Part. The deposition shall proceed in the manner provided by law for depositions in civil actions in the circuit courts of the State of Illinois.

D) Subpoenas. Requests for subpoenas shall be directed to the Executive Director at least 5 calendar days before the scheduled hearing, unless an exception is granted by the Executive Director. Subpoena requests may be granted if reasonably designed to produce or lead to the production of evidence related to the alleged charges and the terms of compliance are reasonable given the time frames and other circumstances. The party requesting the subpoenas shall be responsible for service and costs related to the subpoena of a witness. A subpoena may be served by personal delivery of an executed original to the individual, or by leaving an executed original at the individual's usual place of abode, with some person of the family who is age 13 years or older, provided the server also sends a copy of the subpoena, postage prepaid, addressed to the individual at the individual's usual place of abode. The fees of the witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of the State of Illinois. Subpoenas are effective throughout the course of the proceedings. Requests for subpoenas must be submitted in writing and include the following:

i) the name and address of the witnesses sought;

ii) any specific documents the witnesses will be required to bring; and

iii) a brief statement of the relevant facts or testimony that the witnesses will be providing.

E) Witness and Document Lists and Documents for Hearing

i) At least 5 calendar days prior to the hearing, each party shall serve upon the other party and file a copy with the Secretary, to be submitted to the Hearing Board or Hearing

Officer, the following information, to the extent available at that time:

- a list of the names and addresses of the witnesses the party proposes to call in its case-in-chief; and

- all documents the party proposes to offer in its case-in-chief.

ii) Each party shall bring to the hearing 4 identical copies of each document the party proposes to use at the hearing.

F) Commencement of Discharge Hearing. The Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to commence the hearing within 10 calendar days after receipt of the employee's written request for hearing, but in no event shall the hearing commence later than 45 days after service of the Written Charges for Discharge, unless a continuance is granted pursuant to subsection (f)(15)(B). Dilatory tactics or actions will not be permitted and the Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to conduct the hearings in no more than 3 hearing days, unless justice, due process, and fundamental fairness require otherwise.

6~~4~~) Hearing Proceedings

A) Appointment of Hearing Board or Hearing Officer. Upon receipt of the employee's written request for hearing on the Written Charges for Discharge, the Merit Board/University System office shall promptly appoint a Hearing Board or Hearing Officer to hear the charges and the employee's response. ~~All hearings relating to discharge proceedings shall be convened by and conducted under the control of the Executive Director or his/her authorized representative. The Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to commence the hearing within 10 calendar days after receipt of the employee's written request for hearing, but~~

~~in no event shall the hearing commence later than 45 days after service of the Written Charges for Discharge, unless a continuance is granted pursuant to subsection (f)(20)(B). Dilatory tactics or actions will not be permitted and the Executive Director, the Hearing Board or Hearing Officer, the employee and the employer shall all make good faith efforts to conduct the hearings in no more than 3 hearing days, unless justice, due process, and fundamental fairness require otherwise. All hearings shall be open to the public unless, upon motion of either party, the Hearing Board or Hearing Officer finds it necessary to close the hearing or parts of the hearing in instances where personal safety is of concern or when confidential testimony/exhibits are to be referenced or revealed. There shall be a presumption that hearings will be closed only under extraordinary circumstances. A transcript of the hearing, including exhibits, shall be made and shall be filed with the Secretary for the Merit Board as soon as possible following the conclusion of the hearing.~~

B) Disqualification of Assigned Hearing Board or Hearing Officer. A Hearing Board or Hearing Officer may be disqualified on grounds of bias or conflict of interest. An adverse ruling, or the fact that a Hearing Board or Hearing Officer has had contact with the University System, by itself, shall not constitute bias or conflict of interest.~~Within 15 calendar days after receipt of the transcript from the Secretary for the Merit Board, the Hearing Board or Hearing Officer shall file its findings of fact and any other recommendations with the Secretary for the Merit Board, unless that time is extended by the Executive Director for good cause shown. For the purpose of this Section, good cause shall include, but not be limited to: sickness, attendance at court proceedings, death, weather conditions that prevent the members from meeting. If by that time the findings of fact have not been received by the Secretary for the Merit Board, the Executive Director will either appoint another approved Hearing Board or Hearing Officer that will then review the record and submit findings of fact within 10 calendar days after the appointment, or the Executive Director will give written notice to all Hearing Board members or the Hearing Officer and to all parties to the proceeding that he or she will, within 10 calendar days, discontinue the hearing and commence a~~

~~new hearing and the present Hearing Board or Hearing Officer will be dismissed without pay. Within this 10-day period following the Executive Director's notice, the Hearing Board or Hearing Officer can appeal to the Executive Director by showing cause why time should be extended.~~

i) Disclosing a Potential Conflict of Interest. The Hearing Board or Hearing Officer shall communicate with the Secretary and all parties immediately upon suspecting that the Hearing Board or Hearing Officer may have a conflict of interest.

ii) Whenever any party believes a Hearing Board or Hearing Officer should be disqualified from conducting an assigned proceeding, that party may file a request with the Executive Director to disqualify the Hearing Board or Hearing Officer, setting forth by affidavit the alleged grounds for disqualification, with proof of service on all parties. The Executive Director shall rule and make the final determination on all requests for disqualification.

iii) The Executive Director, on his/her own motion, may disqualify a Hearing Board or Hearing Officer if the Hearing Board or Hearing Officer has deviated from, or failed to comply with, this subsection (f), and such disqualification, in the judgment of the Executive Director, is required for justice, due process, and fundamental fairness.

iv) Upon the disqualification of any Hearing Board or Hearing Officer under this subsection (f)(6)(B), a new Hearing Board or Hearing Officer shall be appointed by the Merit Board or by the Executive Director. If the hearing has already been convened, the parties of record shall be notified of the disqualification and the appointment of a new Hearing Board or Hearing Officer. The Executive Director shall make all other such orders as required for justice, due process, and fundamental fairness.

C) Role and Responsibilities of the Hearing Board or Hearing Officer. The Hearing Board or Hearing Officer shall be responsible for the following activities:~~The Executive Director shall certify as the Hearing Record the Written Charges for Discharge, the Suspension Notice Pending Discharge, the employee's request for hearing, the transcript and exhibits, the Hearing Board's or Hearing Officer's findings of fact and other recommendations, and other documents that have been filed.~~

i) conduct the pre-hearing conference;

ii) facilitate the timely completion of the hearing process, taking necessary steps to avoid delay;

iii) establish reasonable limits on the duration of witness testimony;

iv) limit repetitive or cumulative testimony;

v) rule on motions, objections or evidentiary questions;

vi) hear evidence as presented at the hearing by the employer and the employee on behalf of their respective positions (the evidence may include matters in aggravation, mitigation and justification, which may pertain to the question of "just cause" for discharge);

vii) direct questions to witnesses at any time, but restrict questioning to the clarification of the testimony already presented;

viii) prepare and transmit to the Merit Board a signed findings of fact within 15 calendar days after receipt of the transcript and exhibits of the hearing proceedings. The findings of fact shall set forth each of the written charges alleged in the Written Charges for Discharge, including an evaluation of the facts presented by the employer and employee with respect to each charge, and based on this evaluation, a determination as to whether the charges are sufficiently

supported by the evidence presented. The findings of fact shall be based exclusively on the evidence and on matters officially noticed. The findings of fact presented by the Hearing Board or Hearing Officer are advisory only to the Merit Board. It is not the role of the Hearing Board or Hearing Officer to determine whether just cause for discharge exists. The determination of just cause is the sole province of the Merit Board; and

ix) enter any order that further carries out the purpose of this subsection (f)(6)(C).

D) Ex Parte Communications~~Upon certification by the Executive Director, the Secretary for the Merit Board shall, by an overnight delivery service that requires signature upon receipt, immediately forward a copy of the Hearing Record, along with notice that the Hearing Record has been certified, to all parties of record. Any objections to the form or contents of the Hearing Record, or briefs, abstracts, or excerpts from the Hearing Record, or arguments, motions, or recommendations, relating to the hearing proceedings or the Hearing Record, or requests for further hearing or for permission to supplement further the Hearing Record by other evidence, must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the overnight delivery service that the Hearing Record has been certified, with proof of service on all parties. No answer or reply briefs and arguments in response to these filings will be permitted unless expressly authorized by the Executive Director or the Merit Board or its Chair.~~

i) Except in the disposition of matters authorized by law to entertain or dispose of on an ex parte basis, the Merit Board, the Executive Director, employees of the University System, and the assigned Hearing Board or Hearing Officer shall not, after the Notice of Convening of Hearing has been issued to the parties of record, communicate, directly or indirectly, with any party or the party's representative regarding any issue of fact or with any person or party in connection with any other issue regarding the case, except

upon notice and opportunity for all parties to participate. However, the Merit Board, the Executive Director, employees of the University System, and the Hearing Board or Hearing Officer may communicate with each other. Also, members of the Merit Board and the Hearing Board or Hearing Officer may have the aid and advice of one or more personal assistants.

ii) Neither party shall make direct contact with the Hearing Board or Hearing Officer in any manner or for any purpose after the Notice of Convening of Hearing has been issued to the parties of record.

iii) Communications regarding procedure, including interpretation and application of Section 36o of the Act, subsection (f), and related procedures, are not considered ex parte communications.

E) Open Hearings. All hearings shall be open to the public unless, upon motion of either party, the Hearing Board or Hearing Officer finds it necessary to close the hearing or parts of the hearing in instances in which personal safety is of concern or when confidential testimony/exhibits are to be referenced or revealed. There shall be presumption that hearings will be closed only under extraordinary circumstances.~~A party requesting oral argument before the Merit Board in cases of discharge must file an appropriate motion with the Secretary for the Merit Board with notice to all parties within 14 calendar days after the date of the overnight delivery service of the certified Hearing Record, with proof of service on all parties. The motion must specifically state the issues and any relevant law that will be the subject of argument. The Merit Board will grant or deny the motion at the Merit Board meeting at which oral argument is requested. Oral argument in cases of discharge will generally not be allowed unless novel or precedent setting questions of law or policy are at issue.~~

F) Transcript of Hearing. A transcript of the hearing, including exhibits, shall be made and shall be filed with the Secretary as soon as possible following the conclusion of the hearing.

Transcripts and exhibits will be provided by the Secretary to all parties simultaneously. No party may request or obtain a copy of the transcript or exhibits of the hearing from the court reporter or any other source. If a party or his/her representative receives the transcript or exhibits of the hearing from any source other than the Secretary, the party shall immediately send, without first having read the transcript or exhibits and without retaining any copy, to the Secretary.

G) Findings of Fact by the Hearing Board or Hearing Officer. Within 15 calendar days after receipt of the transcript and exhibits from the Secretary, the Hearing Board or Hearing Officer shall file its findings of fact and any other recommendations with the Secretary, unless that time is extended by the Executive Director for good cause shown. For the purpose of this subsection (f)(6)(G), good cause shall include, but not be limited to: sickness, attendance at court proceedings, death, weather conditions that prevent the members of the Hearing Board from meeting.

H) Failure of Hearing Board or Hearing Officer to Submit Findings of Fact. If, by 15 calendar days after receipt of the transcript and exhibits from the Secretary, the findings of fact have not been received by the Secretary, the Executive Director shall either appoint another approved Hearing Board or Hearing Officer that shall then review the record and submit findings of fact within 10 calendar days after the appointment, or the Executive Director shall give written notice to the Hearing Board or Hearing Officer and to all parties to the proceeding that he/she will, within 10 calendar days, discontinue the hearing and commence a new hearing and that the present Hearing Board or Hearing Officer will be dismissed without pay. Within this 10-day period following the Executive Director's notice, the Hearing Board or Hearing Officer can appeal to the Executive Director by showing cause why time should be extended.

I) Certification of Hearing Record. The Executive Director shall certify as the Hearing Record the Written Charges for Discharge, the Suspension Notice Pending Discharge, the employee's request for hearing, the transcript and exhibits, the Hearing Board's or

Hearing Officer's findings of fact and other recommendations, and other documents that have been filed. Upon certification by the Executive Director, the Secretary shall, by an overnight delivery service that requires signature upon receipt, immediately forward a copy of the Hearing Record, along with notice that the Hearing Record has been certified, to all parties of record.

J) Objections to Hearing Record. Any objections to the form or contents of the Hearing Record, or briefs, abstracts, or excerpts from the Hearing Record, or arguments, motions, or recommendations, relating to the hearing proceedings or the Hearing Record, or requests for further hearing or for permission to supplement further the Hearing Record by other evidence, must be filed with the Secretary within 14 calendar days after the date of the overnight delivery service that the Hearing Record has been certified, with proof of service on all parties. If such an objection is made, the non-objecting party may file an answer to the objection with the Secretary within 14 calendar days after the date of the overnight delivery service of the Objection, with proof of service on all parties. No further briefs and/or arguments in response to these filings will be permitted unless expressly authorized by the Executive Director or the Merit Board or its Chair.

7~~5~~) Conduct of Hearing

A) Pre-hearing Conference. In all hearings, it is recommended that the Hearing Board or Hearing Officer hold a pre-hearing conference immediately preceding the hearing on the first day of the hearing. The Hearing Board or Hearing Officer shall~~will~~ give the parties an opportunity to discuss issues and share information at the pre-hearing conference that will allow them to present their cases in a fair, efficient, and timely manner. Generally, the Hearing Board or Hearing Officer shall~~will~~ conduct the pre-hearing conference for the purpose of achieving one or more of the following points, as determined by the Hearing Board or Hearing Officer on a case by case basis:

i) defining and simplification of the issues;

ii) negotiating admissions or stipulations of fact to avoid unnecessary proof;

iii) reviewing each party's witness and exhibit list;

iv) limiting redundant witness testimony or duplication of evidentiary material, if necessary;

v) determining the length of time each party will need to present its case;

vi) exchanging exhibits; ~~and~~

vii) discussing any matter that may aid in the efficient and timely disposition of the case; and~~.~~

viii) work with each party to determine if a settlement agreement can be achieved. If a settlement is reached during the pre-hearing conference, the hearing shall be formally convened and the parameters of the settlement agreement shall be entered into the record in written form or by testimony/statement and agreement by each party.

B) Length of~~Following the~~ Pre-hearing Conference. The length and scope of the pre-hearing conference is at the discretion of the Hearing Board or Hearing Officer, but should generally be conducted with a one hour timeframe.~~Hearing Board or Hearing Officer shall enter into the record any action taken and any agreements made by the parties as to the matters considered. The length and scope of the pre-hearing conference is at the discretion of the Hearing Board or Hearing Officer, but should generally be concluded within a one hour timeframe.~~

8) Evidence and Motions

A) Admissibility of Evidence

i) As a general matter, the rules of evidence and privilege as applied in civil cases in the circuit courts of the State of Illinois shall be followed. However, evidence not admissible under those rules may be admitted (except when precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the investigation and conduct of serious matters of this nature. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.

ii) Consistent with these requirements and in order to expedite the hearing, any part of the evidence may be received in written form, provided the interests of the parties are not jeopardized.

iii) Performance records of the employee or past disciplinary records are admissible and relevant for the purpose of mitigation or aggravation, except if otherwise excluded by a local employer policy or collective bargaining agreement.

B) Oath or Affirmation. All testimony shall be presented under oath or affirmation.

C) Objections. Objections to testimony or evidentiary offers shall be noted in the record.

D) Standard of Proof. The standard of proof applied by the Hearing Board or Hearing Officer when evaluating the charges will be the preponderance of the evidence.

E) Notice Taken by Hearing Board or Hearing Officer. The Hearing Board or Hearing Officer may, on its own motion or upon motion of one of the parties, take notice of matters of which the circuit courts of the State of Illinois take judicial notice.

F) Non-Dispositive Motions. The Hearing Board or Hearing Officer has the authority to rule on all motions that do not dispose of the proceedings. Examples of motions that can be ruled on by the Hearing Board or Hearing Officer are motions in limine or motions

to suppress evidence. Motions directed at the Hearing Board or Hearing Officer shall be presented at the pre-hearing conference, if possible, and actions taken by the Hearing Board or Hearing Officer shall be entered into the record.

G) Dispositive Motions. Motions that dispose of the proceedings must be directed to the Merit Board. Examples of motions that are to be directed to the Merit Board are motions to dismiss, motions to decide a proceeding on the merits, or motions claiming lack of jurisdiction. Motions must be filed with the Secretary within 14 calendar days after the date of the overnight delivery service of the certified Hearing Record. Motions will be ruled on by the Merit Board at the Merit Board meeting in which the case is being considered. The filing of a motion of this nature shall not be allowed to cause any delay in the proceedings.

9~~6~~) Order of Hearing

A) Convening of Hearing. All hearings shall be convened by and under the control of the~~The~~ Executive Director~~,~~ or authorized representative~~, shall open and convene the hearing~~.

B) Recording of Pre-hearing Conference Information. The Hearing Board or Hearing Officer shall enter into the record any action taken and any agreements made by the parties as to the matters considered.

C) Excluding Witnesses from Hearing Room. The Executive Director, or authorized representative, shall request all persons who have been asked to serve as witnesses, other than a party or employer representative, to be excluded from the hearing room while the hearing is in process, except during their own testimony and cross-examination. Except as he/she might intervene, or be requested to intervene, the Executive Director, or authorized representative, shall empower the Hearing Board or Hearing Officer to proceed with the hearing in such a manner as to provide the employer and the employee a full opportunity to present their positions to the Hearing Board or Hearing Officer.

D~~C~~) Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing. It is the policy of the Merit Board to encourage stipulation of facts whenever practicable.

E) Opening Statements. The parties may make a brief opening statement at the beginning of the hearing. The employer shall~~will~~ proceed first, followed by the employee. Opening statements may be waived or may be reserved and presented at the commencement of the party's case-in-chief.

F~~D~~) Employer's Case. The employer shall first present its case-in-chief, with an opportunity for the employee to cross-examine the employer's witnesses. The employee may be called as an adverse witness during the course of the hearing.

G~~E~~) Employee's Case. The employee shall then present his/her case-in-chief, with an opportunity for the employer to cross-examine the employee's witnesses.

H~~F~~) Rebuttal. Each party may call rebuttal witnesses if found to be necessary by the Hearing Board or Hearing Officer.

I~~G~~) Closing Arguments. After both parties have concluded the presentation of their case, the Hearing Board or Hearing Officer may call for a break in the proceedings for up to 30 minutes to allow~~At the conclusion of the hearing,~~ each party to~~may~~ make final preparations of their~~an oral~~ closing argument. After any such break, the parties may make an oral closing argument. The employer shall proceed first, followed by the employee. The employer may be permitted a brief rebuttal at the end of the employee's closing argument.

J~~H~~) Closing the Hearing. The hearing shall be closed when the employer and the employee have had a fair and reasonable opportunity to present their positions to the Hearing Board or Hearing Officer.

K) Motion for Permission to Make Oral Argument. Oral argument is reserved for presentation of extraordinary matters regarding the discharge case. A party desiring to present oral argument before the Merit Board in cases of discharge must file a Motion to Make Oral Argument with the Secretary within 14 calendar days after the date of the overnight delivery service of the certified Hearing Record, with proof of service on all parties. The Motion must specifically state the extraordinary issues to be presented, any relevant law, and a synopsis of the argument to be presented. Any Motions without the required information shall not be considered by the Merit Board. The Merit Board will decide whether to grant the Motion for Permission to Make Oral Argument at the same meeting where the case is to be decided. Oral Argument shall not be intended to be a recitation or summary of either party's case as presented at the hearing. The Merit Board's chair has the authority to halt or redirect either party's oral argument as circumstances warrant.

~~I) In addition, each party may submit written arguments, summary statements, and/or briefs within 10 calendar days after conclusion of the hearing. A copy of the written closing arguments must be provided to all parties of record and filed with the Executive Director, with proof of service included. Only written materials submitted within the 10 calendar day timeframe will be forwarded with the transcript of evidence and exhibits and considered by the Hearing Board or Hearing Officer, unless otherwise extended by the Executive Director.~~

~~7) Evidence and Motions~~

~~A) As a general matter, the rules of evidence and privilege as applied in civil cases in the circuit courts of the State of Illinois shall be followed. However, evidence not admissible under those rules may be admitted (except where precluded by statute) if it is of a type commonly relied upon by reasonably prudent persons in the investigation and conduct of serious matters of this nature. Irrelevant, immaterial, or unduly repetitious evidence shall be excluded.~~

~~B)~~ ~~All testimony shall be presented under oath or affirmation. Objections to testimony or evidentiary offers shall be noted in the record. Consistent with these requirements and in order to expedite the hearing, any part of the evidence may be received in written form, provided the interests of the parties are not jeopardized.~~

~~C)~~ ~~The standard of proof applied by the Hearing Board or Hearing Officer when evaluating the charges will be the preponderance of the evidence.~~

~~D)~~ ~~The Hearing Board or Hearing Officer may, on its own motion or upon motion of one of the parties, take notice of matters of which the circuit courts of the State of Illinois take judicial notice.~~

~~E)~~ ~~The Hearing Board or Hearing Officer has the authority to rule on all motions that do not dispose of the proceedings. Examples of motions that can be ruled on by the Hearing Board or Hearing Officer are motions in limine or motions to suppress evidence. Motions directed at the Hearing Board or Hearing Officer shall be presented at the pre-hearing conference, if possible, and actions taken by the Hearing Board or Hearing Officer shall be entered into the record.~~

~~F)~~ ~~Motions that dispose of the proceedings must be directed to the Merit Board. Examples of motions that are to be directed to the Merit Board are motions to dismiss, motions to decide a proceeding on the merits, or motions claiming lack of jurisdiction. Motions must be filed with the Secretary for the Merit Board within 14 calendar days after the date of the overnight delivery service of the certified Hearing Record. Motions will be ruled on by the Merit Board at the Merit Board meeting in which the case is being considered. The filing of a motion of this nature shall not be allowed to cause any delay in the proceedings.~~

~~G)~~ ~~Performance records of the employee or past disciplinary records are admissible and relevant for the purpose of mitigation or aggravation, except if otherwise excluded by a local employer policy or collective bargaining agreement.~~

~~8)~~ ~~Stipulations. Parties may agree by stipulation upon any facts involved in the hearing. The facts stipulated shall be considered as evidence in the hearing. It is the policy of the Merit Board to encourage stipulation of facts whenever practicable.~~

~~9)~~ ~~Evidence Depositions. Upon request to the Executive Director and upon good cause shown (which shall include, but is not restricted to, potential unavailability of a witness at the time the hearing is scheduled, scheduling or travel arrangement considerations, or agreement of the parties) any party may request a deposition of any witness to be taken for evidence in a hearing. If desired, subpoenas may be requested upon application to the Executive Director in a manner consistent with this Part. The deposition shall proceed in the manner provided by law for depositions in civil actions in the circuit courts of the State of Illinois.~~

~~10)~~ ~~Subpoenas. Requests for subpoenas shall be directed to the Executive Director at least 5 work days before the scheduled hearing, unless an exception is granted by the Executive Director. Subpoena requests may be granted if reasonably designed to produce or lead to the production of evidence related to the alleged charges and the terms of compliance are reasonable given the time frames and other circumstances. The party requesting the subpoenas shall be responsible for service and costs related to the subpoena of a witness. A subpoena may be served by personal delivery of an executed original to the individual, or by leaving an executed original at the individual's usual place of abode, with some person of the family who is age 13 years or older, provided the server also sends a copy of the subpoena, postage prepaid, addressed to the individual at the individual's usual place of abode. The fees of the witnesses for attendance and travel shall be the same as the fees of witnesses before the circuit courts of the State of Illinois. Subpoenas are effective throughout the course of the proceedings. Requests for subpoenas must be submitted in writing and include the following:~~

~~A)~~ ~~The name and address of the witnesses sought;~~

~~B)~~ ~~Any specific documents the witnesses will be required to bring; and~~

~~C)~~ ~~A brief statement of the relevant facts or testimony that the witnesses will be providing.~~

~~11)~~ ~~Request for Documents. At least 3 working days prior to the hearing, each party shall serve upon the other party and file a copy with the Secretary for the Merit Board, to be submitted to the Hearing Board or Hearing Officer, the following information, to the extent available at that time:~~

~~A)~~ ~~A list of the names and addresses of the witnesses the party proposes to call; and~~

~~B)~~ ~~All documents the party proposes to offer in its case-in-chief.~~

10~~12~~) Failure to Appear. Failure of a party to appear on the date set for hearing may result ~~in findings of fact unfavorable to that party and may result~~ in a loss of rights by default.

A) Failure to Appear by Employee

i) A Notice of Convening of Hearing will be sent to all parties of record confirming the date, time and place of the hearing. If an employee or his/her representative is not present on the designated hearing date, the Executive Director or authorized representative shall~~employer will~~ try to make reasonable contact with the employee or his/her representative immediately. If, within a reasonable time on the hearing date, the Executive Director or authorized representative~~employer~~ is unable to contact the employee, the hearing will commence.

ii) The Executive Director or ~~his/her~~ authorized representative shall~~will~~ commence the hearing with an opening statement. At the conclusion of the opening statement, if the employee or his/her representative has still failed to appear, the hearing will be suspended for 3 work days. During this 3 work day period, the Executive Director or ~~his/her~~ authorized representative shall~~will~~ try to make contact with the employee or his/her representative using the last known address, phone, e-mail or any similar method as shown on

the employee's request for a hearing~~Written Charges for Discharge form~~.

iii) If the employee or his/her representative cannot be reached within 3 work days or if the employee is unable to produce a reasonable explanation for failure to attend the hearing, the hearing will be closed and the employee's discharge shall become effective at the end of the 15-day period of the date on the Proof of Service on Employee, as found on the Written Charges for Discharge form, without further action by the Merit Board. The Merit Board/University System office shall notify the parties of record immediately of the action.

iv) If the employee or his/her representative has a reasonable explanation for not attending the hearing, the Executive Director or ~~his/her~~ authorized representative shall schedule a new hearing date. A new Notice of Convening of Hearing will be issued to the parties of record and the Executive Director or ~~his/her~~ authorized representative shall~~will~~ appoint either the same Hearing Board or Hearing Officer or appoint a new Hearing Board or Hearing Officer to conduct the hearing.

~~v) Reasonable explanations can include, but are not limited to: injury on the day or preceding day of the scheduled hearing, traffic accident, death or significant injury of a family member, or other cause that is deemed reasonable by the Executive Director or his/her authorized representative. In any event, the employee is required to demonstrate that there was reasonable effort made to contact the employer or the Merit Board/University System office.~~

B) Failure to Appear by Employer. If the employer's representative ~~employer~~ fails to appear at the hearing and cannot be reached by the end of the next business day, or if the employer is unable to produce a reasonable explanation for failure to attend the hearing, the hearing will be closed and~~without reasonable cause, as~~

~~determined by the Executive Director or his/her authorized representative,~~ the employee will be reinstated to his/her position without loss of compensation as of the Proof of Service on Employee date on the Written Charges for Discharge form.

C) Reasonable Explanations. Reasonable explanations can include, but are not limited to: injury on the day or preceding day of the scheduled hearing, traffic accident, death or significant injury of a family member, or other cause that is deemed reasonable by the Executive Director or authorized representative. In any event, the party that failed to appear is required to demonstrate that there was reasonable effort made to contact the Merit Board/University System office.

~~13) Disqualification of Assigned Hearing Board or Hearing Officer. A Hearing Board or Hearing Officer may be disqualified on grounds of bias or conflict of interest. An adverse ruling, or the fact that a Hearing Board or Hearing Officer has had contact with the University System, by itself, shall not constitute bias or conflict of interest. Whenever any party believes a Hearing Board or Hearing Officer should be disqualified from conducting an assigned proceeding, that party may file a request with the Executive Director to disqualify the Hearing Board or Hearing Officer, setting forth by affidavit the alleged grounds for disqualification, with proof of service on all parties. The Executive Director shall rule and make the final determination on all requests for disqualification.~~

~~14) Ex Parte Communications~~

~~A) Except in the disposition of matters they are authorized by law to entertain or dispose of on an ex parte basis, the Merit Board, the Executive Director, employees of the University System Office, and the assigned Hearing Board or Hearing Officer shall not, after the Notice of Convening of Hearing has been issued to the parties of record, communicate, directly or indirectly, with any party or the party's representative regarding any issue of fact or with any person or party in connection with any other issue regarding the case, except upon notice and opportunity for all parties to participate. However, the Merit Board, the Executive Director, employees of the University System, and the Hearing Board or~~

~~Hearing Officer may communicate with each other. Also, members of the Merit Board and the Hearing Board or Hearing Officer may have the aid and advice of one or more personal assistants.~~

~~B)~~ ~~Communications regarding procedure, including interpretation and application of Section 36o of the Act, subsection (f), and related procedures, are not considered ex parte communications.~~

~~15)~~ ~~Role and Responsibilities of the Hearing Board or Hearing Officer. The Hearing Board or Hearing Officer shall be responsible for the following activities:~~

~~A)~~ ~~Conduct the pre-hearing conference;~~

~~B)~~ ~~Facilitate the timely completion of the hearing process, taking necessary steps to avoid delay;~~

~~C)~~ ~~Establish reasonable limits on the duration of witness testimony;~~

~~D)~~ ~~Limit repetitive or cumulative testimony;~~

~~E)~~ ~~Rule on motions, objections or evidentiary questions;~~

~~F)~~ ~~Hear evidence as presented at the hearing by the employer and the employee on behalf of their respective positions (the evidence may include matters in aggravation, mitigation and justification, which may pertain to the question of "just cause" for discharge);~~

~~G)~~ ~~Direct questions to witnesses at any time, but restrict questioning to the clarification of the testimony already presented;~~

~~H)~~ ~~Prepare and transmit to the Merit Board a signed findings of fact within 15 calendar days after receipt of the transcript and exhibits of the hearing proceedings. The findings of fact shall set forth each of the written charges alleged in the Written Charges for Discharge, including an evaluation of the facts presented by the employer and employee with respect to each charge, and based on this evaluation, a determination as to whether the charges are~~

~~sufficiently supported by the evidence presented. The findings of fact shall be based exclusively on the evidence and on matters officially noticed. The findings of fact presented by the Hearing Board or Hearing Officer are advisory only to the Merit Board. It is not the role of the Hearing Board or Hearing Officer to determine whether just cause for discharge exists. The determination of just cause is the sole province of the Merit Board; and~~

~~I) Enter any order that further carries out the purpose of this Section.~~

11~~16~~) Settlement Agreements. Following the request for a hearing by the employee set forth in subsection (f)(5)~~(3)~~(A), the employer and the employee may enter into a settlement agreement~~Settlement Agreement~~ that may include a suspension of no more than 120 calendar days. Such a suspension is only permissible if the employer files with the Secretary~~ for the Merit Board~~ the terms of that suspension, which must include a signed waiver of the rights provided by Section 36o of the Act. The employer is otherwise limited to a suspension of no more than 30 calendar days as set forth in subsection (e).

12~~17~~) Final Decision of the Merit Board. In the course of reaching its decision, the Merit Board may request the Executive Director to make recommendations that he/she deems appropriate with respect to the discharge proceedings. Nothing in this subsection (f)(12)~~(17)~~ is intended to eliminate or limit the Merit Board's discretion to determine the appropriate disposition on a case-by-case basis. The Merit Board shall enter findings of fact and shall order the following decision and order or any other decision and order it deems appropriate:

A) Discharge, if just cause is found to exist. No employee shall be discharged except for just cause. Just cause is defined as some substantial shortcoming that renders the employee's continuance in his/her position in some way detrimental to the discipline and efficiency of the service and that the law and sound public opinion recognize as good cause for the employee no longer holding the position; or

B) Reinstatement, if just cause for discharge is found not to exist. An employee shall be reinstated as follows:

i) Reinstatement with no loss of compensation when none or few of the significant charges are proven and/or when the proven charges do not justify disciplinary action.

ii) Reinstatement with an unpaid suspension of a minimum of 3 calendar days to a maximum of 120 calendar days when the proven charges do not rise to the level of just cause for discharge, but some disciplinary action is justified based on the severity of the proven charges. If the Merit Board orders reinstatement with a suspension, any time served while on suspension pending discharge shall~~will~~ be applied towards the fulfillment of the suspension. The Merit Board shall not order a reinstatement with a suspension past the day of the action taken by the Merit Board.

13~~18~~) Final Decision and Order of the Merit Board. The Secretary~~ for the Merit Board~~ shall immediately forward copies of all Merit Board orders to the employer and the employee by an overnight delivery service that requires signature upon receipt. The employer is required to enact the Decision and Order of the Merit Board in a timely manner. No later than 14 calendar days after the date that a copy of the final Notice of Decision and Order of the Merit Board has been served upon the parties, any employee who has been reinstated, as provide in subsection (f)(12)(B), shall be returned to pay status. The employer shall take all other required actions to enact the Decision and Order of the Merit Board within 30 days after the serving of the Notice of Decision and Order of the Merit Board.

14~~19~~) Administrative Review. All final decisions of the Merit Board shall be subject to appeal by the parties to the proceedings under the Administrative Review Law [735 ILCS 5/Art. III]. A complaint for administrative review must be filed and summons issued within 35 days after the date that a copy of the final Merit Board decision has been served upon the party affected. A final decision of the Merit Board shall be deemed served either when personally delivered or when deposited in the United States mail in a sealed envelope or package, with postage paid, addressed to the party affected by the decision at his/her last known residence or place of business.

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

NOTICE OF PROPOSED AMENDMENT

15~~20~~) Time Periods for~~Period~~ Proceedings

A) Requests for Extensions. On the motion of either party with notice to the other party, or by independent action of the Chair of the Merit Board or the Executive Director communicated to both parties, any time period set forth in this subsection (f) may be extended by the Chair of the Merit Board or by the Executive Director for good cause shown. The Executive Director, in his/her discretion, may grant an extension by written agreement of the parties.

B) Extensions to be Granted by Executive Director. No extension may be beyond a period established by statute, except for cases in which a written motion for continuance of a scheduled hearing is filed with the Secretary ~~for the Merit Board~~ at least 48 hours prior to the time scheduled for hearing, unless an exception is granted by the Executive Director. The moving party must set forth emergency grounds for a continuance, which are limited to unforeseen, unavoidable or uncontrollable circumstances, such as an Act of God; the sudden illness or death of the movant, a member of his/her~~his or her~~ immediate family, or his/her legal counsel; or if the movant is able to demonstrate some other real and compelling need for additional time. If there is an arrest or criminal indictment of any employee that resulted from an employee's conduct in the course of employment duties, the Executive Director, at the request of the employee, may grant a continuance of hearing pending some resolution of the criminal charges. Requests for continuances must be preceded by contacting the opposing party and asking for agreement to the continuance.

C) Deadlines That May Be Extended. The time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(5)~~(3)~~(B) and except for any time period provided for seeking administrative review of a final decision of the Merit Board, shall be deemed directory and not mandatory; and no failure to comply with any of the time periods set forth in this subsection (f), except for the 15-day period set forth in subsection (f)(5)~~(3)~~(B)~~ of this Section~~ and except for any time period provided

for seeking administrative review of a final decision of the Merit Board, shall cause the Merit Board to lose jurisdiction of any matter.

D) Weekends and Holiday. If the last date for filing falls on a weekend or legal holiday, the last date for filing is the first business day following that weekend or legal holiday.

~~21)~~ ~~Reason for Discharge. Causes justifying discharge and any suspension during the discharge proceedings shall include, but are not limited to: all those listed as cause for suspension if they become recurring offenses; and, in addition, theft; drinking intoxicating liquors on institutional time or property; inability to perform satisfactorily assigned duties as a result of drinking alcoholic beverages; malicious damage to property, tools or equipment; immoral or indecent conduct that violates common decency or morality; conviction of an offense involving moral turpitude; illegal or excessive use of drugs, narcotics and/or intoxicants.~~

16~~22~~) Hearing Expenses~~.~~

A) Employer Expenses. All customary and reasonable court reporter and copying expenses incident to the preparation of the Hearing Record and providing copies to parties to the proceedings shall be paid by the employer.

B) Merit Board Expenses. The Merit Board will~~shall~~ pay all expenses of the Hearing Board or Hearing Officer and any legal expenses incurred by a Hearing Board or Hearing Officer, to the extent that those expenses have been approved by the Merit Board or its Executive Director.

g) Demotion

1) Any of the actions described in this subsection (g)(1) are~~is~~ considered to be a demotion when that action has been initiated by the employer. A demotion may occur when a status employee:

A) is subject to a reduction in salary in his/her current position, or in a position of the same class to which he/she has been reassigned,

except when the reduction in pay results from an overall reduction in pay to persons employed in the same class and/or when the Merit Board, on the basis of supporting evidence, determines that the pay potential should be lowered for a class;

B) is subject to a reduction in percentage of time worked;

C) is appointed to a position in a lower class in a promotional line;

D) is appointed to a position in a class outside a promotional line with a lower pay potential;

E) is given a nonstatus appointment.

2) None of the actions described in subsection (g)(1) are considered to be a demotion when the action has been initiated, or willingly accepted, by the employee.

A) Evidence of initiation by, or willing acceptance by, an employee (i.e., a "voluntary demotion" or "voluntary downgrade" or similar action) shall be: a statement signed by the employee (to be filed by the employer with the notice of employment) indicating that the new appointment is at his/her request and/or is acceptable to him/her, or the employee applied for, and took, the Civil Service examination, upon the results of which the new appointment is based, after the date of certification to his/her most recent position.

B) Without the evidence indicated in subsection (g)(2)(A), the action will be considered to have been initiated by the employer and, therefore, will be considered to be a demotion.

3) Any classification plan changes authorized and implemented by the University System and/or the Merit Board that may result in a lower pay potential will not be considered a demotion.

4) An employer may effectuate a demotion by filing a Notice of Demotion form with the Merit Board and serving a copy of the Notice of Demotion on the employee by personally serving the employee, or by an overnight delivery service that requires signature upon receipt, and also by First

Class U.S. Mail~~or by personally serving the employee~~. The Notice of Demotion form shall designate the position and class to which the employee has been demoted and shall factually state the causes justifying demotion. The effective date of the demotion shall be the "Proof of Service on Employee" date on the Notice of Demotion form. A demotion shall be subject to the same hearing and review procedures as are provided an employee in the case of a discharge. (See subsection (f).) During any hearing and review proceedings, the employee shall be paid the approved rate for the class of the position to which he/she has been demoted, as set forth in the Notice of Demotion form.

5) A status employee who is demoted by action of the Merit Board to a position in a class in which he/she has never been employed on a status appointment shall be placed in a designated class without requiring further examination or probationary period.~~may qualify for the position to which he/she is demoted, if his/her name is not already on an eligible register for that class, by taking the examination given to all other applicants for this class as promptly as possible following demotion to the class. The employee must pass the examination as a condition to retaining his/her appointment.~~

h) Dismissal

1) An employer may dismiss an employee whose name has been certified and who has been subsequently employed in a status position at any time during the probationary period of employment in a class, if the employer determines, pursuant to Section 250.90(a), that the employee has failed to demonstrate the ability and the qualifications necessary to furnish satisfactory service.

2) The employer shall notify the Executive Director promptly of dismissals, setting forth the reasons for the dismissal.

(Source: Amended at 44 Ill. Reg. _____, effective _____)

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Payment of Unemployment Contributions, Interest and Penalties

2) Code Citation: 56 Ill. Adm. Code 2765

3)

| Section Numbers: | Adopted Actions: |
|---|---|
| 2765.335 | Amendment |
| 2765.336 | New Section |

4) Statutory Authority: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 706, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, 2401 and 2600 of the Unemployment Insurance Act [820 ILCS 405/212, 302, 500, 601, 602, 603, 612, 701, 706, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1503, 1507, 1508, 1509, 1700, 1701, 2401 and 2600].

5) Effective Date of Rules: April 28, 2020

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules is on file in the Department of Employment Security's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 38; January 3, 2020

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: No substantive changes were made. The following technical corrections were made by agreement with JCAR during 2nd Notice:

In 2765.335(f), Example, "week paid to an individual in" was stricken and replaced by "claim for unemployment insurance benefits within".

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

13) Will this rulemaking replace an emergency rule currently in effect? No

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

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

| Section Numbers: | Proposed Actions: | *Illinois Register* Citations: |
|---|---|---|
| 2765.62 | Amendment | 44 Ill. Reg. 5971; April 17, 2020 |
| 2765.68 | Amendment | 44 Ill. Reg. 5971; April 17, 2020 |

15) Summary and Purpose of Rulemaking: Implementing the provisions of Section 706 of the Unemployment Insurance Act, which require charging of overpaid unemployment benefits for employers that fail to respond timely or adequately to a request from the Department for information relating to a claim for benefits if the employer has a pattern of untimely or inadequate responses to such requests.

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

Kevin Lovellette, Chief Legal Counsel
Illinois Department of Employment Security
33 South State Street – Room 930
Chicago IL 60603

312/793-1224
fax: 312/793-5645
Kevin.Lovellette@illinois.gov

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

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

TITLE 56: LABOR AND EMPLOYMENT
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY
SUBCHAPTER c: RIGHTS AND DUTIES OF EMPLOYERS

PART 2765
PAYMENT OF UNEMPLOYMENT CONTRIBUTIONS, INTEREST AND PENALTIES

SUBPART A: GENERAL PROVISIONS


| Section | |
|---|---|
| 2765.1 | Unemployment Contributions Not Deductible From Wages |
| 2765.5 | Definitions |
| 2765.10 | Payment Of Contributions |
| 2765.11 | Employers Who Employ Household Workers and Pay Contributions on an Annual Basis |
| 2765.15 | Liability For The Entire Year |
| 2765.18 | Liability of a Third Party Purchaser or Transferee for the Due And Unpaid Contributions, Interest and Penalties of the Seller or Transferor's Seller or Transferor |
| 2765.20 | Contributions Of Employer By Election |
| 2765.25 | Payments In Lieu Of Contributions |
| 2765.30 | When Payments in Lieu of Contributions Are Payable |
| 2765.35 | Payments When Reimbursable Employer Becomes Contributory |
| 2765.40 | Payments When Contributory Employer Becomes Reimbursable |
| 2765.44 | Fee For Not Sufficient Funds (NSF) Checks |
| 2765.45 | Application of Payment |
| 2765.50 | Accrual Of Interest |
| 2765.55 | Imposition Of Penalty |
| 2765.56 | Imposition of Late Reporting Penalty for Employers Who Employ Household Workers and Elect to File Reports on an Annual Basis |
| 2765.60 | Payment Or Filing By Mail |
| 2765.61 | Waiver of Interest and Penalty for Employers Who Employ Household Workers and Who File Reports and Pay Contributions on an Annual Basis (Repealed) |
| 2765.62 | Temporary Waivers of Penalty |
| 2765.63 | When Payment Due and Consequences of Upward Revision in Employer's Contribution Rate |
| 2765.64 | Consequences When an Employee Leasing Company Has Erroneously Reported Wages And Paid Contributions When the Wages Should Have Been Reported and Contributions Paid By Its Client |

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

2765.65 Waiver Of Interest Or Penalty
2765.66 Waiver Of Interest Accruing Because Of Certain Types Of Employees For Periods Prior To January 1, 1988
2765.67 Partial Waiver Of Interest Where An Employer Has Erroneously Reported Wages To The Wrong State
2765.68 Waiver of Penalty for Certain Employers for 1987 and Thereafter Wage Reports
2765.69 Partial Waiver Of Interest Where An Employer Has Erroneously Paid Its Federal Unemployment Tax Act (FUTA) Tax In Full But Has Failed To Pay Its Illinois Unemployment Insurance Contributions
2765.70 Waiver of Interest For Certain Nonprofit Organizations or Local Governmental Entities
2765.71 Waiver of Interest Accruing Due to a Delay in the Issuance of a Decision on a Protested Determination and Assessment
2765.73 Waiver of Penalties and Interest for Certain Nonprofit Organizations
2765.74 Time For Paying Or Filing Delayed Payment Or Report
2765.75 Application for Waiver
2765.80 Approval Of Application For Waiver
2765.85 Insufficient or Incomplete Application
2765.90 Disapproval Of Application Conclusive
2765.95 Appeal And Hearing

SUBPART B: EXPERIENCE RATING

Section
2765.200 Transfer of Trade or Business Subject to Section 1507.1 of the Act
2765.210 Prohibition on Withdrawal of Joint Application for Partial Transfer of Experience Rating Record
2765.220 Determination of Benefit Ratio
2765.225 Requirement for Privity in Order to Have a Predecessor Successor Relationship
2765.228 No Requirement for Continuous Operation in Order for a Predecessor Successor Relationship to Exist
2765.230 Effect of a Transfer of Physical Assets on a Finding That A Predecessor Successor Relationship Exists

SUBPART C: BENEFIT CHARGES

Section
2765.325 Application Of "30 Day" Requirement For Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act
2765.326 Requirement For A Separation Or A Reduction In The Work Offered In Determining The Chargeable Employer Pursuant To Section 1502.1 Of The Act

DEPARTMENT OF EMPLOYMENT SECURITY

NOTICE OF ADOPTED AMENDMENTS

2765.328 What Constitutes A Day For Purposes Of The "30 Day" Requirement In Section 1502.1 Of The Act
2765.329 Application of "30 Day" Requirement for Determining the Chargeable Employer Pursuant to Section 1502.1 of the Act for Benefit Years Beginning on or After January 1, 1993
2765.330 Chargeability Where The Individual Is Discharged As A Result Of His Incarceration
2765.332 Effect Of Ineligibility Under Section 602(B) On Chargeability Under Section 1502.1 Of The Act
2765.333 Effect of Ineligibility Under Section 612 on Chargeability Under Section 1502.1 Of The Act
2765.334 Effect Of Ineligibility Under Section 614 On Chargeability Under Section 1502.1 Of The Act
2765.335 Procedural Requirements And Right Of Appeal
2765.336 Non-Cancellation of Benefit Charges Due to Employer's Pattern of Failing to Respond Timely and Adequately

AUTHORITY: Implementing and authorized by Sections 212, 302, 500, 601, 602, 603, 612, 701, 706, 1400, 1401, 1402, 1403, 1404, 1405, 1502.1, 1507, 1508, 1509, 1700, 1701, 2401 and 2600 of the Unemployment Insurance Act [820 ILCS 405].

SOURCE: Adopted at 6 Ill. Reg. 3863, effective March 31, 1982; amended at 7 Ill. Reg. 13266, effective September 28, 1983; recodified at 8 Ill. Reg. 15027; amended at 11 Ill. Reg. 3972, effective February 23, 1987; amended at 11 Ill. Reg. 11743, effective June 26, 1987; amended at 11 Ill. Reg. 12882, effective July 22, 1987; emergency amendment at 12 Ill. Reg. 225, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11740, effective July 5, 1988; amended at 12 Ill. Reg. 17342, effective October 12, 1988; amended at 12 Ill. Reg. 20484, effective November 28, 1988; emergency amendment at 13 Ill. Reg. 11911, effective July 1, 1989, for a maximum of 150 days; amended at 13 Ill. Reg. 17410, effective October 30, 1989; amended at 14 Ill. Reg. 6218, effective April 16, 1990; amended at 14 Ill. Reg. 19886, effective November 29, 1990; amended at 15 Ill. Reg. 185, effective December 28, 1990; amended at 15 Ill. Reg. 11122, effective July 19, 1991; amended at 16 Ill. Reg. 2131, effective January 27, 1992; amended at 16 Ill. Reg. 12165, effective July 20, 1992; amended at 17 Ill. Reg. 308, effective December 28, 1992; amended at 17 Ill. Reg. 614, effective January 4, 1993; amended at 17 Ill. Reg. 10275, effective June 29, 1993; emergency amendment at 17 Ill. Reg. 13801, effective August 20, 1993, for a maximum of 150 days; emergency expired January 1, 1994; amended at 18 Ill. Reg. 14952, effective September 27, 1994; emergency amendment at 19 Ill. Reg. 16113, effective November 13, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 4307, effective February 29, 1996; amended at

25 Ill. Reg. 2011, effective January 18, 2001; emergency amendment at 29 Ill. Reg. 6788, effective April 25, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 13988, effective September 1, 2005; amended at 33 Ill. Reg. 9658, effective July 1, 2009; emergency amendment at 36 Ill. Reg. 18968, effective December 17, 2012 through June 30, 2013; emergency amendment at 37 Ill. Reg. 2506, effective February 11, 2013 through June 30, 2013; amended at 37 Ill. Reg. 7471, effective May 14, 2013; emergency amendment at 38 Ill. Reg. 22262, effective November 17, 2014, for a maximum of 150 days; emergency expired April 15, 2015; amended at 39 Ill. Reg. 10768, effective July 27, 2015; amended at 43 Ill. Reg. 1585, effective January 15, 2019; expedited correction at 43 Ill. Reg. 11054, effective January 15, 2019; amended at 43 Ill. Reg. 6480, effective May 14, 2019; emergency amendment at 44 Ill. Reg. 6099, effective April 8, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. 8234, effective April 28, 2020.

SUBPART C: BENEFIT CHARGES

**Section 2765.335 Procedural Requirements And Right Of Appeal**

a) Whenever, pursuant to Section 701 of the Act,~~Pursuant to Section 701 of the Act, whenever~~ the claims adjudicator~~Claims Adjudicator~~ decides that an employer is the "last employer" of an individual (employer subject to benefit charges or payments in lieu of contributions) as provided in this Subpart, or, pursuant to Section 706 of the Act, decides that charges must be assessed against the employer pursuant to Section 2765.336 for benefits for which a claimant was ultimately determined to be ineligible, the claims adjudicator~~he~~ shall promptly notify the employer of this decision. A~~With respect to benefit years beginning on or after January 1, 1993, such~~ decision that an employer is the "last employer" of an individual shall apply to the week beginning with the effective date of the claim and each week thereafter until the claims adjudicator finds that the individual is no longer unemployed.

EXAMPLE~~Example~~: An individual files a claim with a benefit year beginning ~~date of~~ January 10, 1993, and Company A is notified that it is the "last employer". The employer fails to file a timely request for reconsideration of this decision. The individual is then paid benefits for the period from January 10, 1993 through January 30, 1993. Company A is the chargeable employer for this period. The individual returns to work for Company A and earns over his weekly benefit amount for the week ending February 6, 1993. He is then laid off of work and files an additional claim beginning February 7, 1993. Company A is notified that it is the "last employer" with respect to this claim. Company A can file a timely request for reconsideration of this decision. However, this request will affect only

weeks after February 6, 1993.

b) If the employer disagrees with the decision of the claims adjudicator that it~~the~~ is the "last employer~~,~~", or that charges must be assessed against the employer pursuant to Section 2765.336, the employer must file a written request for reconsideration of this decision within 10 days after~~of~~ the date of mailing of the decision.

c) A request for reconsideration of the decision of the claims adjudicator must comply with the requirements of 56 Ill. Adm. Code 2720.130. In the case of a decision that the employer is the last employer of the individual, the request shall ~~and~~ specify the full name and social security number of the individual and the reasons why the employer believes that it is not the chargeable employer under this Subpart. The employer may not allege the misapplication of Section 2765.336 with respect to any claim that was part of the basis for charges assessed against an employer pursuant to that Section, if the claim was the basis of a previous decision that assessed charges against the employer pursuant to Section 2765.336 and that decision has become legally final. An employer's request for reconsideration of a decision issued pursuant to Section 706 may not challenge a legally final determination or decision that the employer failed to file a timely and sufficient protest for purposes of Section 2765.336.

EXAMPLE 1: Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant A even though Claimant A was finally determined to be ineligible for those benefits. Employer X files a timely request for reconsideration of that decision. It will be Employer X's burden to show that Section 2765.336 does not apply to the charges for Claimant A's benefits. However, the request may not challenge a legally final determination or decision that Employer X failed to file a timely and sufficient protest for purposes of Section 2765.336.

EXAMPLE 2: Employer X receives a Notice of Claim indicating that Claimant A has filed a claim for benefits. Employer X does not file a timely protest of the claim. The Department issues a determination, allowing A's claim, and A receives benefits during October 2021. That same month, X sends the Department information, indicating that it had discharged A for misconduct. In November 2021, the Department issues a reconsidered determination, denying A's claim. A does not appeal, and the reconsidered determination becomes legally final. According to Department records, during 2021, there were 4 prior claims with

respect to which: X was the last chargeable employer; the Department had properly notified X; the Department initially paid benefits due to X's failure to file a timely and sufficient protest pursuant to Section 2720.130; and the Department ultimately issued a reconsidered determination denying benefits, with the reconsidered determination becoming legally final. Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant A even though Claimant A was finally determined to be ineligible for those benefits. The decision notes the four prior claims that caused X to remain chargeable for the benefits that were paid to A. To be relieved of the charges for A's benefits, X must file a timely request for reconsideration of the decision. It will be Employer X's burden to show that Section 2765.336 does not apply to the charges for Claimant A's benefits. However, the request may not challenge a legally final determination or decision that Employer X failed to file a timely and sufficient protest for purposes of Section 2765.336.

EXAMPLE 3: Employer X receives a Notice of Claim, indicating that Claimant A has filed a claim for benefits. Employer X does not file a timely protest of the claim. The Department issues a determination, allowing A's claim, and A receives benefits during September 2021. That same month, X sends the Department information indicating that it had discharged A for misconduct. In October 2021, the Department issues a reconsidered determination, denying A's claim. A does not appeal, and the reconsidered determination becomes legally final. According to Department records, during 2021, there were 4 prior claims with respect to which: X was the last chargeable employer; the Department had properly notified X; the Department initially paid benefits due to X's failure to file a timely and sufficient protest pursuant to Section 2720.130; and the Department ultimately issued a reconsidered determination denying benefits, with the reconsidered determination becoming legally final. Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant A even though Claimant A was finally determined to be ineligible for those benefits. The decision notes the four prior claims that caused X to remain chargeable for the benefits that were paid to A. X does not file a request for reconsideration, and the decision becomes legally final. In November 2021, Employer X receives a Notice of Claim indicating that Claimant B has filed a claim for benefits. Employer X does not file a timely protest of the claim. The Department issues a determination, allowing B's claim, and B receives benefits during November 2021. That same month, X sends the Department information, indicating that it had discharged B for misconduct. In December 2021, the Department issues a reconsidered determination, denying B's claim. B does not appeal, and the

reconsidered determination becomes legally final. Employer X receives a decision that charges must be assessed against Employer X for benefits paid to Claimant B even though Claimant B was finally determined to be ineligible for those benefits. The decision notes the five prior claims that caused X to remain chargeable for the benefits that were paid to B. X may not allege the misapplication of Section 2765.336 with respect to any of the five prior claims because each was part of the basis for charges assessed against X pursuant to Section 2765.336 for benefits for which a claimant was ultimately determined to be ineligible, and the decision assessing the charges became legally final.

d) After reviewing the allegations of the employer and any other relevant facts in the record, the claims adjudicator shall issue a reconsidered decision. If the employer disagrees with the reconsidered decision of the claims adjudicator~~ that he is the chargeable employer~~, the employer must file a written appeal of the~~this~~ reconsidered decision within 30 days after~~of~~ the date of mailing of the reconsidered decision or the~~that~~ reconsidered decision will become final.

e) An Application made pursuant to Section 1508~~1058~~ of the Act and 56 Ill. Adm. Code 2725.100 regarding revision of the "Statement of Benefit Charges, that"~~which~~ includes benefit charges ~~which~~ the employer believes are incorrect because it is not the chargeable employer shall be sufficient only if the~~such~~ Application contains a reference to, and a copy of, the decision that~~which~~ reverses the claims adjudicator and holds that the employer is not the chargeable employer and that the employer is not subject to charges for the claim pursuant to Section 2765.336. These same requirements must be met by an employer that~~which~~ is questioning payments in lieu of contributions on its "Statement of Amount Due for Benefits Paid."

f) Unless the employer has filed a timely request for reconsideration of~~to~~ the decision that the claims adjudicator has found it to be the chargeable employer, or of the decision that charges must be assessed against the employer pursuant to Section 2765.336, as the case may be, the~~pursuant to this Subpart, such~~ employer shall not be entitled to a revision of its "Statement of Benefit Charges" under 56 Ill. Adm. Code 2725.100, nor shall it be entitled to a revision of the amounts shown on its "Statement of Amount Due for Benefits Paid" for payments in lieu of contributions.

EXAMPLE~~Example~~: Employer A is notified that it is the chargeable employer with respect to a claim for unemployment insurance benefits within~~week paid to~~

~~an individual in~~ a benefit year beginning on or after January 1, 1993. The employer does not request reconsideration of this decision. Several weeks later, this employer is served with its ~~"~~Statement of Benefit Charges~~"~~ for the weeks paid to this individual. At this time, the employer requests a revision of the ~~"~~Statement~~"~~ on the grounds that this individual did not perform services for it for 30 days prior to the beginning of the weeks for which it is being charged. The~~This~~ employer shall not be entitled to a revision of these charges because it failed to file a timely request for reconsideration of the initial decision that it was the chargeable employer.

g) Appeals of decisions under this Section shall be filed with the local office where the original decision was made.

h) The conduct of the hearing shall be the same as that provided under Section 2200 of the Act and 56 Ill. Adm. Code 2725.

(Source: Amended at 44 Ill. Reg. 8234, effective April 28, 2020)

**Section 2765.336 Non-Cancellation of Benefit Charges Due to Employer's Pattern of Failing to Respond Timely and Adequately**

a) For purposes of Section 706 of the Act, if benefits are paid pursuant to a finding or determination, or a reconsidered finding or determination, that is finally reversed or modified in subsequent proceedings, the benefit charges, for purposes set forth in Section 1502.1 of the Act, shall be treated in the same manner as if the reversal or modification had not occurred if:

1) The employer was the last employer with respect to the claim at issue;

2) The employer was properly notified with respect to the claim at issue;

3) The finding or determination, or reconsidered finding or determination, was attributable to the employer's failure to file a sufficient protest within the time required by 56 Ill. Adm. Code 2720.130(a)(1) or (d)(3), whichever is applicable; and

4) During the same calendar year, there were at least 4 prior benefit claims with respect to which:

A) subsections (a)(1), (2) and (3) applied with respect to the employer; and

B) benefits were paid, and the finding, determination or reconsidered finding or determination under which benefits were paid was finally reversed or modified in subsequent proceedings.

EXAMPLE: The employer fails to file a timely and sufficient protest when notified initially that the claimant has filed a claim for benefits and does not preserve party status. The claimant receives benefits. When the employer receives its quarterly Statement of Benefit Charges, it raises a question regarding the claimant's eligibility for benefits. Upon investigation, the claims adjudicator determines the claimant to be ineligible for benefits and establishes an overpayment for the entire amount of the benefits paid to the claimant. The overpayment becomes legally final. The employer's charges for this claimant's benefits will not be cancelled if, within the same calendar year, there were at least four other cases to which subsections (a)(4)(A) and (B) apply.

b) For purposes of subsection (a)(3), with respect to a claim in which benefits are initially paid pursuant to a finding or determination, or a reconsidered finding or determination, the timing of the protest shall be determined without regard to 56 Ill. Adm. Code 2720.130(e) if the finding or determination, or the reconsidered finding or determination, was attributable to the employer's failure to initially submit a sufficient protest.

c) Only claims filed on or after April 1, 2020 shall be considered for purposes of subsection (a).

d) The applicability of this Section shall be based on the date of the reconsidered finding or determination, or decision of a Referee, the Board of Review or a court that finally reverses the finding or determination, or the reconsidered finding or determination, pursuant to which benefits were paid with respect to the claim.

EXAMPLE: The employer fails to file a timely and sufficient protest when notified initially that the claimant has filed a claim for benefits and does not preserve party status. A separation issue is detected on the claim application. The claims adjudicator mails out an "Allow" determination. The claimant collects benefits for several weeks. The employer then submits a request for

reconsideration and appeal. On December 3, 2020, the claims adjudicator mails out a "Deny" reconsidered determination. The claimant does not submit a request for reconsideration and appeal. The reconsidered determination becomes final on January 4, 2021. The application of this Section will be based on the date of the reconsidered determination, December 3, 2020, and not the date when the reconsidered determination became final on January 4, 2021.

e) This Section will apply regardless of whether the employer has contracted with one or more attorneys or other representatives for representation in connection with benefit claims.

(Source: Added at 44 Ill. Reg. 8234, effective April 28, 2020)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: Sexually Violent Persons

2) Code Citation: 59 Ill. Adm. Code 299

3)

| Section Numbers: | Adopted Actions: |
|---|---|
| 299.120 | Amendment |
| 299.130 | Amendment |
| 299.200 | Amendment |
| 299.210 | Amendment |
| 299.220 | Amendment |
| 299.230 | Amendment |
| 299.300 | Amendment |
| 299.310 | Amendment |
| 299.320 | Amendment |
| 299.330 | Amendment |
| 299.340 | Amendment |
| 299.345 | New Section |
| 299.350 | Amendment |
| 299.400 | Amendment |
| 299.410 | Amendment |
| 299.420 | Amendment |
| 299.430 | Amendment |
| 299.500 | Amendment |
| 299.600 | Amendment |
| 299.610 | Amendment |
| 299.620 | Amendment |
| 299.630 | Amendment |
| 299.640 | Amendment |
| 299.650 | Amendment |
| 299.655 | New Section |
| 299.660 | Repealed |
| 299.665 | New Section |
| 299.670 | Repealed |
| 299.680 | Amendment |
| 299.690 | Amendment |
| 299.700 | Amendment |
| 299.800 | Amendment |
| 299.810 | Amendment |
| 299.820 | Amendment |

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

| | |
|---|---|
| 299.830 | Amendment |
| 299.840 | Amendment |
| 299.850 | Amendment |
| 299.900 | Amendment |
| 299.920 | Amendment |
| 299.1000 | New Section |
| 299.1010 | New Section |
| 299.1020 | New Section |
| 299.1030 | New Section |
| 299.1040 | New Section |
| 299.1050 | New Section |
| 299.1060 | New Section |
| 299.1070 | New Section |
| 299.Appendix A | Amendment |
| 299.Table A | New Section |

4) Statutory Authority: Implementing and authorized by the Sexually Violent Persons Commitment Act [725 ILCS 20].

5) Effective Date of Rules: April 28, 2020

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in the *Illinois Register*: 43 Ill. Reg. 11815; October 18, 2019

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: Various technical and gramattical changes were made to the text of this rulemaking.

12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: 59 Ill. Adm. Code 299 provides guidance for the implementation of the Sexually Violent Persons Program. This rulemaking is being done to make the rule consistent with current Department policy and practices. Specifically, this rulemaking implements a resident reimbursement system for residents to pay part of their cost of care; revises the resident management system; eliminates the use of summary restrictions by staff; adds provisions for behavior adjustments by the Program Unit Hearing Officer; adds provisions for emergency mental health care; updates evaluator standards to reflect current law; updates resident rights; modifies the grievance procedures; and updates the overall management of the Program to reflect the treatment focused (non-correctional) nature of the Program.

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

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

217/785-9772

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

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

TITLE 59: MENTAL HEALTH
CHAPTER I: DEPARTMENT OF HUMAN SERVICES

PART 299
SEXUALLY VIOLENT PERSONS

SUBPART A: GENERAL PROVISIONS

Section
299.100 Purpose
299.110 Incorporation by Reference
299.120 Definitions
299.130 Records

SUBPART B: DETENTION AND EVALUATION

Section
299.200 Detention Facility
299.210 Temporary Detention by Court Order
299.220 Evaluator Standards
299.230 Evaluation

SUBPART C: SECURE RESIDENTIAL

Section
299.300 Secure Residential Facility
299.310 Treatment
299.320 Periodic Re-evaluation
299.330 Rights
299.340 Medical Care
299.345 Emergency Mental Health Care
299.350 Security

SUBPART D: CONDITIONAL RELEASE

Section
299.400 Conditional Release Plans
299.410 Conditional Release ~~Orders~~
299.420 Community Monitoring

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

299.430 Revocation

SUBPART E: NOTIFICATION OF VICTIMS

Section
299.500 Notification of Victims

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AUTHORITY: Implementing and authorized by the Sexually Violent Persons Commitment Act [725 ILCS 20].

SOURCE: Adopted by emergency rulemaking at 22 Ill. Reg. 19608, effective October 26, 1998, for a maximum of 150 days; adopted at 23 Ill. Reg. 4231, effective March 23, 1999; emergency amendment at 23 Ill. Reg. 14038, effective November 10, 1999, for a maximum of 150 days; amended at 24 Ill. Reg. 6567, effective April 5, 2000; amended at 44 Ill. Reg. 8246, effective April 28, 2020.

SUBPART A: GENERAL PROVISIONS

**Section 299.120 Definitions**

"Act" means the Sexually Violent Persons Commitment Act [725 ILCS 207].

~~"Act of sexual violence" means an act or attempted act that is a basis for an allegation made in a petition under of Section 15(b)(1) of the Act.~~

"Administrative Officer on Call" or "AOC" means the designated management

staff responsible for responding to after-hours and weekend emergency calls from an on-duty facility staff.

"Administrative Officer on Duty" or "AOD" means the designated management staff responsible for the daily operation of the Program and/or responding to emergency calls.

"Allowable Reserve" means an amount set by the Department that is exempt from services charges. This amount shall not be less than the exemptions from garnishment set forth in Part 7 of Article 12 of the Code of Civil Procedure [735 ILCS 5] or otherwise provided under Section 299.1030(e) or (f).

"Ancillary Services" means services not covered under the Sex Offender Evaluation and Treatment Provider Act [225 ILCS 109], such as general healthcare, education/vocational, recreation, rehabilitation, anger management, mental health treatment, substance use and abuse treatment, victim empathy, tactics, penile plethysmograph, etc.

"Annual Income" means adjusted gross income as defined by Section 2-203 of the Illinois Income Tax Act [35 ILCS 5].

"Assault" means conduct described in Sections 12-1 and 12-2 of the Criminal Code of 2012 [720 ILCS 5].

"Assets" means:

any property, tangible or intangible, real or personal:

belonging to or due to a service recipient from social security, worker's compensation, veteran's compensation, or pension benefits; or

from any other source whatsoever; and

any and all assets and property of whatever character held in the name of the service recipient, held for the benefit of the service recipient, or payable or otherwise deliverable to the service recipient.

Any trust, or portion of a trust, of which a recipient is a beneficiary shall be

construed as an asset of the recipient if, under terms of the trust, benefits may be paid to the recipient.

"Attempt to Resolve" or "ATR" means the process a resident uses to try to resolve incidents, problems or general complaints. Complaints concerning behavior management proceedings are not handled through the ATR process.

"Average Per Capita Cost" means the amount calculated for the daily average per capita cost of operation, as applicable, of either:

the secure residential facility, for the fiscal year immediately preceding the period of State care for which the rate is being calculated; or

the average daily costs associated with the service recipient's conditional release.

"Battery" means the conduct described in Sections 12-3 and 12-3.05 of the Criminal Code of 2012 [720 ILCS 5].

"Behavior Committee" consists of~~means the resident's primary therapist,~~ a security representative and at least two members~~one other member~~ of the clinical staff~~resident's treatment team~~.

"Behavioral Intervention" means a response to a violation of the facility rules.

~~"Behavioral restriction" means the withdrawal of positive incentives (e.g., restrictions of privileges and liberties) as a consequence to inappropriate behavior.~~

~~"Body search" means the removal and search of all outer garments such as coats, jackets, sweaters covering shirts, shoes, hats and gloves and a pat down of the person subsequent to removal of the outer garments.~~

"Chemical Agent" means a compound such as mace, pepper spray, etc., utilized to manage a resident who is violent, disruptive and/or out of control.

~~"Chief Administrative Officer" means the highest ranking official (i.e., warden) of a correctional facility where a secure residential facility is located, or that person's designee.~~

"Clinical Director" means the staff member responsible for the oversight and provision of sex offender specific treatment and certain ancillary services at the facilityAssociate Director for Clinical Services for the Division of Disability and Behavioral Health Services of the Department, or that person's designee.

"Clinical File" consists of the records relating to sex offender treatment and certain ancillary services.

"Close Status" means a management status to which residents are assigned as a step-up from special management or reassignment after rule violations. Residents will remain on Close Status for a period of time determined by the Behavior Committee for observation of their ability to successfully reintegrate. Any rule violation at this level may result in either an extension of this status or a change of management status.

"Committed Personperson" means a person who has been committed toby the custody of the Department under the Sexually Violent Persons Commitment Actcourt as a sexually violent person.

"Conditional Release" means a committed person who has been placed into the community on court ordered supervision, treatment and related services as authorized by the Act.

"Contraband" means any item that isitems that are proscribed by criminal law, Department rules,departmental or facility rules or posted notices; an itemitems that a resident has no authorization to possess; or property that is in excess of that authorized by the facility. This includes, but is not limited to, any:

altered property; property fashioned into a weapon; property not being used for its intended design or its initial purpose; or

object, item or food/beverage product that has been determined to pose a therapeutic, fire, health and/or safety risk.

"Corporal punishment" means physical contact intended to inflict pain for purposes of punishment.

"Correctional facility" means that correctional facility where a secure residential facility is located.

"Deadly Force" means force that is likely to cause death or great bodily harm.

"Department" or "DHS" means the Illinois Department of Human Services.

"Detained Person~~person~~" means a person who the court has sent to a detention facility~~,~~ approved by the Department, pursuant to a detention order or after a probable cause hearing under Section 30 of the Act.

"DHS Victim-Notification Coordinator" means the person who is responsible for securely and confidentially maintaining all victim requests for notification and for following the procedures for notifying victims (see Section 299.500).

"Discharge" means the court-ordered release of a committed person from the custody of DHS.

"Emergency Mental Health Care" refers to those interventions used to protect the life and health of residents who are at risk to harm themselves or others as the result of mental illness or mental disorder. Harm is defined as physical injury. Residents may be at risk of harming themselves or others when they are physically or verbally assaultive or aggressive; engage in or threaten to engage in self-injurious behavior; use, misuse or destroy property in a fashion that could be used to harm oneself or others (e.g., use glass shards to cut or stab); or refuse direction to the point that force is needed to secure the resident's compliance.

"Emergency Mental Health Status" is the emergency placement of a resident on either Mental Health Status 1 or Mental Health Status 2, as ordered by a mental health professional pursuant to Section 299.345.

"Employee" means any person providing services at the direction of the DHS Secretary or Program Director, on or off site. For the purposes of this Part only, this includes payroll personnel, contractors, subcontractors and volunteers. Under no circumstances does this definition intend to confer employment status upon contractors, subcontractors or volunteers.

"Estate of Recipient" means all income and assets of a service recipient, including, but not limited to, real property.

"Force" means physical contact used to coerce or prevent some action on the part

of a resident, including the use of chemical agents.

~~"Immediate family" means the spouse, child, parent or sibling(s) of the resident.~~

~~"Individual services plan" means a plan of treatment individualized for each resident that is formulated and periodically reviewed by the treatment team.~~

"General Status" means a management status to which residents are assigned after they have completed admission/orientation evaluations or as a reassignment from Close or Intermediate Status. Residents remain on this status when they are without a major rule violation, or without more than two minor rule violations, for 180 consecutive days.

"Grievance Examiner" means the employee or employees designated by the Program Director to review and, as appropriate, resolve problems and grievances that residents have been unable to resolve through routine channels.

"Ill-1, Financial Questionnaire" means a designation assigned to a set of schedules developed for the purpose of collecting financial data on service recipients.

"Incident Report" means a report that must be completed by an employee when he/she observes any unusual occurrence or situation that may pose a threat to the safety or security of the facility, staff, residents, visitors or others.

"Individualized Treatment Plan" or "ITP" or "Treatment Plan" means the set of goals and levels of progress within the Program for each resident. The Treatment Plan is reviewed every six months and includes recommendations relative to the treatment phase, testing, diagnosis, resident cooperation and participation, as well as levels of programming.

"Informed Consent" means consent of the resident to treatment and ancillary services after being advised of the attendant risks and benefits.

"Intermediate Status" means a management status to which residents are assigned after they have completed general status. Residents remain on this status when they are without a major rule violation, and without more than two minor rule violations, for 180 consecutive days.

"Internal Security Investigator" means the person who investigates, as assigned by

the Program Director, incidents within the secure residential facility or incidents that affect recipients on conditional release.

"Legal Dependents" means those persons:

dependent on the recipient for more than one-half of their support; and

shown as dependents on the recipient's U.S. Individual Income Tax Return.

"Management Status~~status~~" means the provision of different levels of privileges, responsibilities and activities to provide a greater degree of individualization in the treatment of residents. These levels include Admission Status; General Status; Intermediate A, B, and C Status; Close Status; and Special Management Status. ~~(e.g., admission status, secure management status, general status, high privilege status).~~

"Medical Director" means the physician responsible for the oversight and provision of medical treatment in the Program, or that person's designee.

"Medical File" consists of the records relating to health care services. The provision of psychotropic medication is a health care service.

"Medical Professional" means a person who provides medical care under the overall supervision of the Medical Director. This could include a physician licensed to practice medicine in all its branches under the Medical Practice Act of 1987 [225 ILCS 60], a nurse licensed under the Nurse Practice Act [225 ILCS 65], or a physician assistant licensed under the Physician Assistant Practice Act of 1987 [225 ILCS 95].

"Mental Disorder~~disorder~~" means a congenital or acquired condition affecting the emotional or volitional capacity that predisposes a person to engage in acts of sexual violence.

"Mental Health Professional" or "MHP" means a person who provides mental health services under the overall supervision of the Clinical Director. This could include a physician, a psychiatrist, a psychologist or other clinical staff.

"Mental Health Status 1" is a level of special observation in which one staff

person will be assigned to continuously observe and monitor one, and only one, resident. The staff person shall remain no more than 12 feet away. In all instances, the staff person must maintain sight of the resident, including during bathing or using the toilet. No staff person shall be assigned to provide 1:1 observation for a continuous period exceeding two hours without at least a 15-minute period of alternative assignment. At each 15-minute interval, the staff member observing the resident shall enter a note in the resident's clinical file concerning the status and condition of the resident.

"Mental Health Status 2" is a level of special observation in which the resident is observed and monitored by staff every 15 minutes. At each 15-minute interval, the staff member observing the resident shall enter a note in the resident's clinical file concerning the status and condition of the resident.

"Notice of Determination" means notification sent to a service recipient when charges have been established for services (see Section 90 of the Act).

"Physician" means any person licensed by the State of Illinois to practice medicine in all its branches and includes any person holding a temporary license, as provided in the Medical Practice Act of 1987. ~~Physician includes a psychiatrist as defined in this Section.~~

"Primary Therapist~~therapist~~" means the clinical staff person responsible for implementing the resident's~~resident's~~ ITP~~treatment plan~~.

"Program" means the Sexually Violent Persons Treatment and Detention Program. The term "Program" encompasses recipients in the secure facility and recipients living in the community on a court-ordered plan of conditional release.

"Program Administrator" means the person within DHS - Division of Mental Health appointed by the Secretary to oversee~~responsible for~~ the ~~Department's Sexually Violent Persons Treatment~~ Program, or his/her~~that person's~~ designee.

"Program Director" means the chief administrative officer of the Treatment and Detention Facility~~highest ranking official of a secure residential facility~~, or his/her~~that person's~~ designee. The designee may be the:

Medical Director;

Assistant Program Director;

Security Director; or

Administrative Officer on Call.

"Program Unit Hearing Officer" means the person designated by the Program Director to hear allegations of minor rule violations that do not result in reassignment of management status.

"Provider Act" means the Sex Offender Evaluation and Treatment Provider Act [225 ILCS 109].

"Psychiatrist" means a physician who has at least 3 years of formal training or primary experience in the diagnosis and treatment of mental illness.

"Psychologist" means a person who is licensed under the Clinical Psychologist Licensing Act [225 ILCS 15], or the Provider Act.

"Psychotropic Medication~~medication~~" means medication whose use for antipsychotic, antidepressant, antimanic, antianxiety, antiandrogenic, behavior modification or behavioral management purposes is listed in the most recent edition of the Physician's Desk Reference (2019 edition) available at www.PDR.net~~, 1999 edition,~~ or that are administered for any of these purposes. It also includes those tests and related procedures that are essential for ~~the~~ safe and effective administration ~~of a psychotropic medication~~.

"Recipient" or "Service Recipient" means a person receiving services at the secure residential facility or while on a court-ordered plan of conditional release.

~~"Qualified professional" means a physician, psychiatrist or psychologist, with at least two years of experience in the treatment and evaluation of persons who have committed acts of sexual violence.~~

"Resident" means either a detained person or a committed ~~sexually violent~~ person placed in a facility.

"Residential Unit" means the area of a facility in which residents reside.

"Restriction" means constraining, reducing or eliminating activities of a resident (e.g., setting limits on or removal of certain privileges, behaviors or activities).

"Secretary" means the Secretary of the Department of Human Services, or his/her~~that person's~~ designee.

~~"Secure residential facility" or "facility" refers to the program operated by the Department within the building supplied by the Illinois Department of Corrections in accord with Section 50 of the Act.~~

"Security Director" means the employee, and his/her designee, responsible for the safety and security of residents, staff, visitors and State property. The designee may be the AOD.

"Sex Offender Evaluation" or "Evaluation" means a sex-offender specific evaluation as that term is used in the Provider Act.

"Sex Offender Evaluator" or "Evaluator" means a person licensed under the Provider Act to conduct sex offender evaluations.

"Sex Offender Specific Treatment" or "Sex Offender Treatment" or "Treatment" means a comprehensive set of planned therapeutic interventions and experiences to reduce the risk of further sexual offending and abusive behaviors by the offender. The treatment must be provided by, or under the supervision of, a person licensed under the Provider Act. Treatment specifically excludes matters such as security, health care, housing, food service, religious accommodations, management status, behavioral intervention and ancillary services.

"Sexual Activity" means an activity involving two or more persons for the sexual gratification of any participant.

"Sexually Violent Person" or "SVP" means a person who has been convicted of a sexually violent offense, has been adjudicated delinquent for a sexually violent offense, or had been found not guilty of a sexually violent offense by reason of insanity and who is dangerous because he/she suffers from a mental disorder that makes it substantially probable that the person will engage in acts of sexual violence. "Sexually violent offense" has the same meaning as set forth in the Act.

"Shift Supervisor" has the same meaning as "Administrative Officer on Duty".

~~"Strip search" means the removal or arrangement of some or all of a person's clothing so as to permit a visual inspection of the body or undergarments of such person.~~

"Special Management Status" means an assigned management status utilized for the safe containment and effective management of a resident who is presenting a risk of harm to self or others. Residents may remain on Special Management Status until the Behavior Committee determines that the resident is no longer a risk to self or others or while criminal charges are being investigated or pending.

"Transferring Authority~~authority~~" means the agency with jurisdiction, as defined in Section 10 of the Act, that had custody and control of the person prior to an order of detention issued under Section 30 of the Act.

~~"Treatment" means an effort to accomplish an improvement in the mental disorder of a committed person. This includes, but is not limited to, individual and group therapy, behavior modification programs, and medication.~~

"Treatment and Detention Facility" or "TDF" or "Secure Residential Facility" or "Facility" means the secure facility provided by the Department of Corrections and operated by DHS pursuant to Section 50 of the Act for the detention and treatment of persons alleged or determined to be sexually violent and at risk of re-offending.

"Treatment Review Committee" means the committee appointed by the Program Director~~Administrator~~ for the review of orders for~~of~~ the administration of psychotropic medications.

"Treatment Team~~team~~"~~ or "team"~~ means a cross-functional, multi-disciplinary group composed~~, at a minimum,~~ of the resident's team leader and~~resident's~~ primary therapist, a medical representative, a security representative,~~ a recreation therapist or substance abuse counselor,~~ and other clinical staff involved in the resident's treatment~~a psychologist~~.

"Victim" means a person against whom an act of sexual violence has been committed and includes a person who has requested notification under the Act or under the Rights of Crime Victims and Witnesses Act [725 ILCS 120].

"Working Day" means Monday through Friday and excludes State holidays and days when the facility may not be fully open due to order of the Governor.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.130 Records**

a) Required Admission Documents −

1) When a resident~~ or detained person~~ is delivered to the custody of the Department, the following documents shall be requested:

A~~1~~) Of the court:

i~~A~~) A copy of the detention order or the court order finding probable cause which orders the person evaluated in a detention facility or the court order that commits the person to the custody of the Department.

ii~~B~~) A copy of the petition.

iii~~C~~) All additional matters that the court directs the clerk to transmit.

B~~2~~) Of the transferring authority:

i~~A~~) Admissions~~:~~
Prior to the admission of a new resident, the Department shall request a detention summary from the transferring authority. The Department shall request that the detention summary contain any relevant medical, psychiatric or psychological information in the transferring authority's records to allow Department treatment and evaluation staff to prepare for behavioral or health needs of the resident. The Department shall further request that the transferring authority share the master file, medical file, and clinical and field services information pertaining to the resident as necessary for the proper evaluation and treatment to the resident and for program safety and security. Prior to the

admission of a new resident, the Department shall request a copy of the report recommending commitment and/or petition seeking commitment from the Attorney General and/or ~~petition seeking commitment from the Attorney General and/or~~ State's Attorney filing the petition.

ii~~B~~) Probable Cause~~:~~
Following a probable cause hearing in which the court enters a finding of probable cause, the Department shall request the Attorney General's Office or appropriate State's Attorney to provide documents in its possession which were provided as required under the Act in support of the transferring authority's recommendation for commitment and/or records gathered by the Attorney General or State's Attorney in preparation for filing the petition seeking commitment. The Department shall further request upon a finding of probable cause that the transferring authority make the resident's criminal history, disciplinary history, mental health records, escape risk and other relevant information accessible to the Department if the Attorney General or State's Attorney has not already provided this information.

iii~~C~~) Juveniles~~:~~
Prior to the admission of a juvenile, the Department shall request that the Attorney General or State's Attorney of the appropriate county ~~to~~ seek a court order allowing the Attorney General or State's Attorney to provide juvenile records which were provided to the Attorney General or State's Attorney in support of the transferring authority's recommendation for commitment pursuant to the Act to the Department and to further enter an order allowing the transferring authority to make the master file, medical file, and clinical records of the juvenile accessible to the Department for purposes of the juvenile's custody, care and treatment.

iv~~D~~) Confidentiality~~:~~
The Department is responsible for maintaining the

confidentiality and security of any and all documents and records that are made accessible and/or provided to the Department.

b) Access to Records

1) Records of a resident may be accessed by authorized facility~~the resident, treatment~~ staff,~~ and persons~~ authorized conditional release staff, Department evaluators, and staff from the Illinois Attorney General or other Illinois prosecutorial staff.

2) Records of a resident may be accessed:

A) by the resident~~,~~ and persons authorized by the resident;~~as necessary to complete the functions of the Act~~ or

B) as otherwise ordered by a court. ~~2)~~The Department may require payment of copying costs for any records it is asked to produce, except that each resident is entitled to receive, upon request, one free copy of his/her clinical file and medical file. ~~3)~~The Department shall maintain a record in each resident's clinical ~~resident's~~ file that indicates:

i~~A~~) The parties who have requested to inspect and/or copy clinical records under the provisions of this subsection (b) and their authorization; and

ii~~B~~) The clinical records inspected and/or copied under this subsection (b).

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

SUBPART B: DETENTION AND EVALUATION

**Section 299.200 Detention Facility**

The Department may utilize a secure residential facility as a detention facility.~~ To the extent possible considering operational, programmatic and security needs, detained persons shall be kept separate from committed persons.~~

a) The Department also approves all~~ Illinois~~ Department of Corrections and Department of Juvenile Justice~~correctional~~ facilities for the detainment of residents~~individuals~~ until they complete any term of imprisonment imposed for a criminal conviction or finding~~adjudication~~ of delinquency that may run parallel to either an order for detention under Section 30 of the Act or an order of commitment under Section 40 of the Act. While in the Department of Corrections or the Department of Juvenile Justice, the Department with custody shall be~~of Corrections remains~~ responsible for the control,~~their~~ care and custody of the resident.

b) The Department also approves the use of a county jail as~~for~~ a detention facility when~~where~~ there is a written agreement between the Department and the county sheriff authorizing that~~such~~ usage. Any written agreement shall outline responsibilities assigned to both parties. The Department shall determine which detention facilities it will use based upon geographic area, space availability, willingness of the local officials to participate, and adequacy of the facility to meet the needs of the detained person~~individual~~.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.210 Temporary Detention by Court Order**

During the course of a trial, or when the detained person or committed person is ordered by the court to be present~~ in a county~~, the county jail or federal detention facility is approved for use as a temporary detention site. While the detained person is in the county jail or detention facility, the jail or detention facility is responsible for the control,~~their~~ care and custody of the resident.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.220 Evaluator Standards**

All evaluators engaged by the Department shall be licensed as sex offender evaluators pursuant to the Provider Act~~The evaluator shall be a physician, psychiatrist, or clinical psychologist who has a minimum of two years experience providing sex offender evaluation and treatment~~.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.230 Evaluation**

An evaluation shall be conducted pursuant to Section 30 of the Act for the purpose of determining whether a detained person meets the criteria for commitment as a sexually violent person under the Act. The evaluation shall comply with 20 Ill. Adm. Code 1905~~consist of, but not be limited to, a mental status examination, standardized psychological tests, a social history including information concerning sexual behaviors, an assessment of alleged and self-reported sexual behaviors, and a review of available records. The evaluation may also include an objective sexual assessment~~.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

SUBPART C: SECURE RESIDENTIAL

**Section 299.300 Secure Residential Facility**

The secure residential facility shall be operated by the Department~~ in a facility provided by the Department of Corrections pursuant to Section 50 of the Act~~. Standards for living conditions shall include the following provisions:

a) All double-room assignments shall be screened for appropriateness based on safety, security and treatment considerations.

b) Minimally, each resident room~~cell~~ shall be furnished with:

1) A bed securely fastened to the wall and/or floor, with the exception being a medical type bed~~cell~~;

2) Clean bedding, including a mattress, blanket, sheets, pillow and pillow case;

3) A wash basin with running water and flushable toilet facilities (controls may be located outside the room~~cell~~); and

4) Adequate lighting for reading and observation purposes.

c) Rooms~~Cells~~ shall be located at or above ground level~~,~~ and shall have heat and ventilation consistent with the climate.

d) Each room~~cell~~ shall have a single door and may have a food passage. When only

a solid door is available, it shall be provided with a vision panel.

e) Cleaning materials shall be made available to residents on an as-needed~~on a regular~~ basis.

f) Personal health and hygiene needs of the resident shall be addressed as follows:

1) A shower and shave shall be offered no less than once every three days~~per week~~.

2) Access to State issued toilet tissue, soap, shampoo, shaving cream, towel, toothbrush, and toothpaste~~ for daily use if the resident has insufficient commissary funds to purchase these items~~.

3) A weekly exchange of clean facility~~institutional~~ clothes and bed linens or availability of laundry services at least weekly.

4) False teeth, eye glasses, prosthetic devices and other essential items of personal hygiene and health shall be permitted unless they are a threat to safety or security.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.310 Treatment**

a) A resident shall be provided with adequate and humane care and treatment services pursuant to an ITP~~individual services plan~~, which shall be formulated and periodically reviewed by the treatment team with the participation of the resident to the extent feasible and, when~~where~~ appropriate, the~~such~~ resident's guardian. A licensed sex-offender treatment provider~~qualified professional~~ shall be responsible for overseeing the implementation of the~~such~~ plan.

b) Although all treatment offerings require informed consent, residents are encouraged to~~Residents shall~~ attend scheduled individual and group therapy sessions, objective sexual assessment appointments, and other programming as set forth in the ITP~~individualized services plans. A resident may be excused from attendance requirements by the Program Director for illness, pursuant to the Resident Behavior Management System or for other good cause~~.

c) If the ITP~~services plan~~ includes the administration of medication, a medical professional may~~the physician shall~~ advise the resident, in writing, of the side effects of the medication to the extent the~~such~~ advice is consistent with the nature and frequency of the side effects and the resident's ability to understand the information communicated.

d) Care and treatment shall include the regular use of sign language for any hearing-impaired resident~~individual~~ for whom sign language is a primary mode of communication and an interpreter for residents~~persons~~ who do not understand English.

e) If the resident refuses to consent to~~ or enter recommended~~ treatment, withdraws from treatment, or demonstrates disinterest in treatment or a lack of progress in~~attributable to poor motivation within~~ treatment, the treatment team may revise~~reassign~~ the ITP as necessary to encourage and improve the resident's participation in treatment~~resident to another management status~~.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.320 Periodic Re-evaluation**

a) The Department shall conduct an evaluation~~examination of the mental condition~~ of a committed person not less than~~within 6 months after an initial commitment and again at least~~ once each 12 months for the purpose of determining whether the person may~~has made sufficient progress to~~ be conditionally released or the person's condition has changed, since the most recent periodic re-examination, to the extent that he/she is no longer a sexually violent person~~discharged~~.

b) Any evaluator conducting an evaluation under this Section or~~examination under~~ Section 55 of the Act shall prepare a written report of the evaluation~~examination~~ no later than 30 days after the date of the evaluation~~examination~~. The evaluator shall:

1) send a copy to the DHS - Health Information Department, which will place a copy of the report in the person's clinical file;~~records~~ and~~ shall~~

2) provide a copy of the report to the Office of Attorney General or other prosecutorial agency for filing with the court that committed the person.

c) All evaluations conducted by the Department shall comply with Section 10 of the Provider Act and 20 Ill. Adm. Code 1905.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.330 Rights**

a) No resident shall be presumed incompetent, nor shall such person be held legally disabled, except as determined by a court. This~~Such~~ determination shall be separate from a judicial proceeding held to determine whether a person is subject to commitment as a sexually violent person.

b) Residents shall be provided reasonable opportunities to pursue their religious beliefs and practices, subject to the Program's legitimate concerns regarding security, safety, rehabilitation, facility~~institutional~~ order, space~~,~~ and resources. A resident who is an adherent or a member of any well-recognized religious denomination, the principles and tenets of which teach reliance upon services by spiritual means through prayer alone for healing by a duly accredited practitioner thereof, shall have the right to choose those~~such~~ services. As appropriate, the~~The~~ parent or guardian of a resident who is a minor, or a guardian of a resident who is not a minor, shall have the right to choose services by spiritual means through prayer for the resident.

c) A resident may volunteer to perform tasks that benefit the resident community as a whole~~labor to which he consents~~, if the professional responsible for overseeing the implementation of the ITP~~services plan~~ for the resident determines that the task~~labor~~ would be consistent with the ITP~~such plan~~. A resident who volunteers to perform a communal task may~~performs labor which is of any consequential economic benefit to the Department shall~~ be~~ adequately~~ compensated through the provision of reward points redeemable at the facility~~commensurate with the value of the work performed, in accordance with applicable federal and State statutes and regulations~~. A resident may be required to perform tasks of a personal housekeeping nature without compensation.

d) Residents may only acquire personal property in accordance with this Part. The Program Director at the facility where the resident is assigned may post these rules or explanations of these rules in a conspicuous location within the facility. Every resident who resides in a secure residential facility shall be permitted to receive, possess and use personal property and shall be provided with a

reasonable amount of storage space for that property, except for those limitations provided in Department rules and explained in the Resident Handbook, or as posted by the Program Director.

1) Possession and use of certain classes of property may be restricted by the Program Director when necessary to assure the safety and security of the facility.

2) The professional responsible for overseeing the implementation of a resident's ITP may, with the approval of the Program Director, restrict the right to property when necessary to assure implementation of the ITP, protect the resident or others from harm, or as part of the Resident Behavior Management System.

3) When a resident is discharged from the facility, all of his/her lawful personal property that is in the custody of the facility shall be returned.

4) A resident may use his/her funds as he/she chooses, unless he/she is a minor or prohibited from doing so under a court guardianship order. A resident may deposit, with the Department, or cause to be deposited in his/her name, money. When a resident is discharged from the Department, all of his/her unspent money, including interest on trust fund monies (if any), shall be returned subject to a set-off for any outstanding restitution or repayment as may have been ordered by the Program Director or Behavior Committee.

e) A resident shall be permitted reasonable communication with persons of choice by mail, telephone and visitation. Communications may be reasonably restricted, censored, screened or monitored to protect the resident or others from harm, harassment or intimidation or to ensure implementation of the resident's ITP. The Program Director shall set the times and places for the use of telephones and visits. Communications with attorneys shall not be monitored.

f) Upon admission, or as soon thereafter as the condition of the resident permits, every resident or the parent or guardian of a resident, as appropriate, shall be informed orally and in writing of the rights guaranteed by this Part that are relevant to the nature of the ITP. Every facility shall also post, in the Resident Handbook or conspicuously in common areas, a summary of the rights that are relevant to the services delivered by that facility.

g) The Program Director of each secure residential facility shall adopt in writing policies and procedures deemed necessary for the safe and secure operation of the facility. The policies and procedures may amplify or expand, but shall not restrict or limit, the rights of residents as set forth in this Section.

h) An adult resident, or~~, if the resident is under guardianship,~~ the resident's guardian, may refuse generally accepted treatment services.~~, except~~ Housing assignments, the Resident Behavior Management System and Assignment of Living Status may not be refused.

~~1) Administration of Psychotropic Medication~~

~~A) Psychotropic medication shall not be administered to any resident against his or her will or without the consent of the parent or guardian of a minor who is under the age of 18, unless:~~

~~i) A psychiatrist, or in the absence of a psychiatrist a physician, has determined that: the resident suffers from a mental illness or mental disorder; and the medication is in the medical interest of the resident; and the resident is either gravely disabled or poses a likelihood of serious harm to self or others; and~~

~~ii) The administration of such medication has been approved by the Treatment Review Committee after a hearing (see subsection (d)(2) of this Section). However, no such approval or hearing shall be required when the medication is administered in an emergency situation. An emergency situation exists whenever the required determinations listed in subsection (d)(1)(A)(i) of this Section have been made and a psychiatrist, or in the absence of a psychiatrist a physician, has determined that the resident poses an imminent threat of serious physical harm to self or others. In all emergency situations, the procedures set forth in subsection (d)(5) of this Section shall be followed.~~

~~B) Whenever a physician orders the administration of psychotropic medication to a resident against the person's will, the physician~~

~~shall document in the resident's clinical file the facts and underlying reasons supporting the determination that the standards in subsection (d)(1)(A) of this Section have been met and:~~

~~i) the Program Administrator shall be notified as soon as practicable; and~~

~~ii) unless the medication was administered in an emergency situation, the Chairperson of the Treatment Review Committee shall be notified in writing within three days.~~

~~2) Treatment Review Committee Hearing Procedures~~
~~The Treatment Review Committee shall be comprised of three members appointed by the Program Administrator, two of whom shall be mental health professionals and one of whom shall be a physician. One member shall serve as Chairperson of the Committee. None of the Committee members may be involved in the current decision to order the medication. The members of the Committee shall have completed a training program in the procedural and mental health issues involved that has been approved by the Clinical Director.~~

~~A) The Program Administrator shall designate a member of the program staff not involved in the current decision to order medication to assist the resident. The staff assistant shall have completed a training program in the procedural and mental health issues involved that has been approved by the Clinical Director.~~

~~B) The resident and staff assistant shall receive written notification of the time and place of the hearing at least 24 hours prior to the hearing. The notification shall include the tentative diagnosis and the reasons why the medical staff believes the medication is necessary. The staff assistant shall meet with the resident prior to the hearing to discuss the procedural and mental health issues involved.~~

~~C) The resident shall have the right to attend the hearing unless the Committee determines that it is likely that the person's attendance would subject the person to substantial risk of serious physical or emotional harm or pose a threat to the safety of others. If such a~~

~~determination is made, the facts and underlying reasons supporting the determination shall be documented in the resident's clinical file. The staff assistant shall appear at the hearing whether or not the resident appears.~~

~~D)~~ ~~The documentation in the clinical file referred to in subsection (d)(1)(B) of this Section shall be reviewed by the Committee and the Committee may request the physician's personal appearance at the hearing.~~

~~E)~~ ~~Prior to the hearing, witnesses identified by the resident and the staff assistant may be interviewed by the staff assistant after consultation with the resident as to appropriate questions to ask. Any such questions shall be asked by the staff assistant unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility.~~

~~F)~~ ~~Prior to the hearing, the resident and the staff assistant may request in writing that witnesses be interviewed by the Committee and may submit written questions for witnesses to the Chairperson of the Committee. These questions shall be asked by the Committee unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility. If any witness is not interviewed, a written reason shall be provided.~~

~~G)~~ ~~Prior to the hearing, the resident and the staff assistant may request in writing that witnesses appear at the hearing. Any such request shall include an explanation of what the witnesses are expected to state. Reasonable efforts shall be made to have such witnesses present at the hearing, unless their testimony or presence would be cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility, or for other reasons including, but not limited to, unavailability of the witness or matters relating to institutional order. In the event requested witnesses are unavailable to appear at the hearing but are otherwise available, they shall be interviewed by the Committee as provided for in subsections (d)(2)(F) and (d)(2)(I) of this Section.~~

~~H)~~ ~~At the hearing, the resident and the staff assistant may make~~

~~statements and present documents that are relevant to the proceedings. The staff assistant may direct relevant questions to any witnesses appearing at the hearing. The resident may request that the staff assistant direct relevant questions to any witnesses appearing at the hearing and the staff assistant shall ask such questions unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility.~~

~~I)~~ ~~The Committee shall make such investigation as it deems necessary. The staff assistant shall be informed of any investigation conducted by the Committee and shall be permitted to direct relevant questions to any witnesses interviewed by the Committee. The staff assistant shall consult with the resident regarding any statements made by witnesses interviewed by the Committee and shall comply with requests by the resident to direct relevant questions to such witnesses unless cumulative, irrelevant, or a threat to the safety of individuals or the security of the facility.~~

~~J)~~ ~~The Committee shall consider all relevant information and material that has been presented in deciding whether to approve administration of the medication.~~

~~K)~~ ~~A written decision shall be prepared and signed by all members of the Committee that contains a summary of the hearing and the reasons for approving or disapproving the administration of the medication. Copies of the decision shall be given to the resident, the staff assistant, and the Program Administrator. Any decision by the Committee to approve involuntary administration of psychotropic medication must be unanimous. The Program Administrator shall direct staff to comply with the decision of the Committee.~~

~~L)~~ ~~If the Committee approves administration of the medication, the resident shall be advised of the opportunity to appeal the decision to the Clinical Director by filing a written appeal with the Chairperson within five days after the resident's receipt of the written decision.~~

~~3)~~ ~~Review by Clinical Director~~

A) If the resident appeals the Treatment Review Committee's decision, staff shall continue to administer the medication as ordered by the physician and approved by the Committee while awaiting the Clinical Director's decision on the appeal.

B) The Chairperson of the Committee shall promptly forward the written notice of appeal to the Clinical Director or a physician designated by the Clinical Director.

C) Within five working days after receipt of the written notice of appeal, the Clinical Director shall:

i) Review the Committee's decision, make such further investigation as deemed necessary, and submit a written decision to the Program Administrator; and

ii) Provide a copy of the written decision to the resident, the staff assistant, and the Chairperson of the Committee.

D) The Program Administrator shall direct staff to comply with the decision of the Clinical Director.

4) Periodic Review of Medication

A) Whenever any resident has been involuntarily receiving psychotropic medication continuously or on a regular basis for a period of six months, the administration of such medication shall, upon the resident's written request, be reviewed by the Treatment Review Committee in accordance with the procedures enumerated in subsections (d)(2) and (d)(3) of this Section. Every six months thereafter, for so long as the involuntary medication continues on a regular basis, the resident shall have the right to a review hearing upon written request.

B) Every resident who is involuntarily receiving psychotropic medication shall be evaluated by a psychiatrist at least every 30 days, and the psychiatrist shall document in the resident's clinical file the basis for the decision to continue the medication.

~~5) Emergency Procedures~~
~~Subsequent to the involuntary administration of psychotropic medication in an emergency situation:~~

~~A) The basis for the decision to administer the medication shall be documented in the resident's clinical file and a copy of the documentation shall be given to the resident and to the Clinical Director for review.~~

~~B) A mental health professional shall meet with the resident to discuss the reasons why the medication was administered and to give the resident an opportunity to express any concerns he or she may have regarding the medication.~~

~~6) Documentation~~
~~Copies of all notifications and written decisions concerning involuntary administration of psychotropic medication shall be placed in the resident's clinical file.~~

~~7) Minors~~
~~In the case of a resident who is a minor under the age of 18, the parent or guardian shall be sent the documentation and written decisions that are provided to the resident pursuant to this Section and shall be permitted to attend and participate in any proceedings required by this Section. Notice of any Treatment Review Committee hearing shall be promptly sent to the parent or guardian and reasonable attempts shall be made to provide such notice at least 72 hours prior to the hearing.~~

~~e) Residents may only acquire personal property in accordance with provisions of this Part or posted rules established by the Program Director where the resident is assigned. Every resident who resides in a secure residential facility shall be permitted to receive, possess and use personal property and shall be provided with a reasonable amount of storage space therefor, except as provided in posted rules established by the Program Director.~~

~~1) Possession and use of certain classes of property may be restricted by the Program Director when necessary to protect the resident or others from harm.~~

~~2) The professional responsible for overseeing the implementation of a resident's services plan may, with the approval of the Program Director, restrict the right to property when necessary to insure implementation of the services plan, protect such resident or others from harm, or as part of the Resident Behavior Management System.~~

~~3) When a resident is discharged from the facility, all of his or her lawful personal property that is in the custody of the facility shall be returned.~~

~~4) A resident may use his or her funds as he chooses, unless he or she is a minor or prohibited from doing so under a court guardianship order. A resident may deposit or cause to be deposited money in his or her name with the Department or a financial institution with the approval of the Department and the financial institution. When a resident is discharged from the Department, all of his unspent money, including earnings, shall be returned.~~

~~f) A resident shall be permitted reasonable communication with persons of choice by mail, telephone and visitation. Communications may be reasonably restricted, censored, screened or monitored to protect the resident or others from harm, harassment or intimidation or to insure implementation of the resident's services plan. The Program Director, in conjunction with the Chief Administrative Officer, shall set the times and places for the use of telephones and visits.~~

~~g) Upon commencement of services, or as soon thereafter as the condition of the resident permits, every resident who is 12 years of age or older and the parent or guardian of a minor or person under guardianship shall be informed orally and in writing of the rights guaranteed by this Part which are relevant to the nature of the services plan. Every facility shall also post conspicuously in public areas a summary of the rights that are relevant to the services delivered by that facility.~~

~~h) Whenever the rights of a resident that are specified in this Section are restricted, the professional responsible for overseeing the implementation of the resident's services plan shall be responsible for promptly giving notice of the restriction.~~

~~i) The Program Administrator and the Program Director of each secure residential facility shall adopt in writing such policies and procedures as are necessary. Such policies and procedures may amplify or expand, but shall not restrict or limit, the~~

~~rights of residents.~~

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.340 Medical Care**

a) Emergency medical care~~treatment~~ shall be available to residents 24 hours per~~a~~ day, seven days per week.

b) Residents shall be informed of the facility~~institutional~~ procedures for obtaining medical or dental services.

c) Persons housed at a~~committed to the~~ secure residential facility~~facilities~~ shall be provided all necessary medical and dental treatment, with the consent of the parent or guardian where applicable, as prescribed by a facility physician or dentist.

d) A resident who has, or is suspected of having, a communicable disease may be isolated from other residents. This determination shall be made by a physician or medical professional on the basis of medical necessity~~as deemed medically necessary~~.

e) In case of critical illness or major surgery, the Program Director shall attempt to notify the person designated by the resident to be contacted in case of an emergency and, when~~where~~ applicable, the parent or guardian.

f) A record of all medical and dental examinations, findings~~,~~ and treatment shall be maintained in the resident's medical file.

g) Administration of Psychotropic Medication

1) Psychotropic medication shall not be administered to any resident without the informed consent of the resident or guardian unless:

A) A psychiatrist or, in the absence of a psychiatrist, a physician has determined that:

i) the resident suffers from a serious mental illness or mental disorder;

ii) the administration of psychotropic medication is in the immediate medical interest of the resident; and

iii) the resident is either gravely disabled or poses an immediate threat of harm to self or others; or

B) The administration of psychotropic medication has been approved by the Treatment Review Committee after a hearing (see subsection (h)). However, no such approval or hearing shall be required when the medication is administered in an emergency situation. An emergency situation exists when the required determinations listed in subsection (g)(1)(A) have been made.

2) Whenever a physician orders the administration of psychotropic medication to a resident in an emergency, the physician shall document in the resident's medical file the facts and underlying reasons supporting the determination that the standards in subsection (g)(1)(A) of this Section have been met.

A) The Program Director shall be notified as soon as practicable.

B) The Chairperson of the Treatment Review Committee shall be notified in writing within three working days.

h) Treatment Review Committee Hearing Procedures

1) The Treatment Review Committee shall be comprised of three members appointed by the Program Director, two of whom shall be mental health professionals and one of whom shall be a physician. One member shall serve as Chairperson of the Committee. None of the Committee members may be involved in the current decision to order the medication. The members of the Committee shall have reviewed this Part and shall be familiar with the procedures created in this Part.

2) The Program Director shall designate a medical professional not involved in the current decision to order psychotropic medication to assist the resident. The assigned medical professional shall have reviewed this Part.

3) The resident and assigned medical professional shall receive written notification of the time and place of the hearing at least 24 hours in advance. The notification shall include the tentative diagnosis and the reasons why the medical staff believes the administration of psychotropic medication is in the best interests of the resident, absent the resident's informed consent to administration of the medication. The assigned medical professional shall meet with the resident prior to the hearing to discuss the procedural and mental health issues involved.

4) The resident shall have the right to attend the hearing unless the Committee determines that it is likely that the person's attendance would subject him/her to substantial risk of serious physical or emotional harm, pose a threat to the health or safety of others, or threaten the overall security of the facility. If such a determination is made, the facts and underlying reasons supporting the determination shall be documented in the resident's medical file. The assigned medical professional shall appear at the hearing regardless of whether the resident appears.

5) The documentation in the medical file referred to in subsection (g)(2) shall be reviewed by the Committee and the Committee may request the psychiatrist's/physician's personal appearance at the hearing.

6) Prior to the hearing, witnesses identified by the resident and the assigned medical professional may be interviewed by the assigned medical professional after consultation with the resident as to appropriate questions to ask. Any such questions shall be asked by the assigned medical professional unless the question is cumulative or irrelevant, or would pose a threat to the safety of others or the security of the facility.

7) Prior to the hearing, the resident and the assigned medical professional may request in writing that witnesses. be interviewed by the Committee and may submit to the Chairperson of the Committee written questions for witnesses. These questions shall be asked by the Committee unless the question is cumulative or irrelevant, or would pose a threat to the health or safety of others or the overall security of the facility. If any witness is not interviewed, a written reason shall be provided.

8) Prior to the hearing, the resident and the assigned medical professional may request in writing that witnesses appear at the hearing. Any such

request shall include an explanation of what the witnesses are expected to state. Reasonable efforts shall be made to have the witnesses present at the hearing, unless their testimony or presence would be cumulative or irrelevant, or would pose a threat to the health or safety of others or the overall security of the facility, or for other reasons including, but not limited to, unavailability of the witness or matters relating to facility order. In the event requested witnesses are unavailable to appear at the hearing but are otherwise available, they shall be interviewed by the Committee as provided for in subsections (h)(7) and (9) through (10).

9) At the hearing, the resident and the assigned medical professional may make statements and present documents that are relevant to the proceedings. The assigned medical professional or resident may direct relevant questions to any witnesses appearing at the hearing. The resident may request that the assigned medical professional direct relevant questions to any witnesses appearing at the hearing. The assigned medical professional shall ask those questions unless the question is cumulative or irrelevant, or would pose a threat to the health or safety of others or the overall security of the facility.

10) The Committee shall make such inquiry as it deems necessary. The assigned medical professional and resident shall be informed of any inquiry conducted by the Committee and shall be permitted to direct relevant questions to any witnesses interviewed by the Committee. The assigned medical professional shall consult with the resident regarding any statements made by witnesses interviewed by the Committee and shall comply with requests by the resident to direct relevant questions to those witnesses unless the question is cumulative or irrelevant, or would pose a threat to the health or safety of others or to the overall security of the facility.

11) The Committee shall consider all relevant information and material that has been presented in deciding whether to approve administration of the medication in the absence of the informed consent of the resident.

12) A written decision shall be prepared and signed by all members of the Committee that contains a summary of the hearing and the reasons for approving or disapproving the administration of the medication. Copies of the decision shall be given to the resident, assigned medical professional

and Program Director and shall be placed in the resident's medical file. Any decision by the Committee to approve administration of psychotropic medication without the informed consent of the resident shall be based upon a preponderance of the evidence and must be unanimous. The Program Director shall direct the appropriate medical staff to comply with the decision of the Committee.

13) If the Committee approves administration of the medication, the resident shall be placed on an appropriate mental health status (if not already so assigned) and shall also be advised of the opportunity to appeal the decision to the Medical Director by filing a written appeal with the Chairperson within five days after the resident's receipt of the Committee's written decision.

i) Review by Medical Director

1) If the resident appeals the Treatment Review Committee's decision, medical staff shall continue to administer the medication as ordered by the physician and approved by the Committee while awaiting the Medical Director's decision on the appeal.

2) The Chairperson of the Committee shall promptly forward the written notice of appeal to the Medical Director or his/her designee.

3) Within 10 working days after receipt of the written notice of appeal, the Medical Director shall:

A) Review the Committee's decision, make further investigation deemed necessary, and submit a written decision to the Program Director; and

B) Provide a copy of the written decision to the resident, the assigned medical professional and the Chairperson of the Committee and shall place a copy in the resident's medical file.

4) The Program Director shall direct medical staff to comply with the decision of the Medical Director.

j) Periodic Review of Medication

1) Whenever any resident has been receiving psychotropic medication continuously or on a regular basis for a period of six months in the absence of informed consent, the administration of the medication shall be reviewed by the Treatment Review Committee in accordance with subsections (h) and (i). Every six months thereafter, for as long as the medication continues on a regular or continuous basis, the Treatment Review Committee shall review the continued need for the administration of psychotropic medication in the absence of informed consent.

2) Every resident who is receiving psychotropic medication in the absence of informed consent shall be evaluated by a psychiatrist or physician at least every 30 days, and the psychiatrist/physician shall document in the resident's medical file the basis for the decision to continue the medication.

k) Emergency Procedures
Subsequent to the administration of psychotropic medication in an emergency situation pursuant to subsection (g)(1)(A):

1) The basis for the decision to administer the medication on an emergency basis shall be provided to the resident and to the Medical Director for review.

2) A medical professional shall meet with the resident to discuss the reasons why the medication was administered on an emergency basis and to give the resident an opportunity to express any concerns he/she may have regarding the medication.

l) Documentation
Copies of all notifications and written decisions concerning involuntary administration of psychotropic medication shall be placed in the resident's medical file.

m) Parents and Guardians
In the case of a resident who is a minor (under 18) or has a guardian, the parent or guardian shall be sent the documentation and written decisions that are provided to the resident pursuant to this Section and shall be permitted to attend and participate in any proceedings required by this Section. Notice of any Treatment

Review Committee hearing shall be promptly sent to the parent or guardian and reasonable attempts shall be made to provide that notice at least 72 hours prior to the hearing.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.345 Emergency Mental Health Care**

a) Residents in Need of Emergency Mental Health Care

1) When medical, treatment or security staff believe a resident is in need of emergency mental health care to prevent self injury, the AOD shall be notified.

2) The AOD shall immediately initiate placement of that resident into Mental Health Status 1 and provide continuous observation of the resident.

b) Resident Placement, Property Restriction and Observation Requirements

1) Placement. After placement in Mental Health Status 1 is initiated, and prior to the completion of the one-hour assessment by an MHP, the resident shall be placed in an empty, designated observation room. Following the one-hour mental health assessment, continued room placement of the resident shall be determined by consultation between security staff and the MHP assigning the resident to Mental Health Status 1 or 2. The decision regarding where to place the resident, and his/her movement while on Mental Health Status, shall be based on the level of risk the resident presents, as well as the institutional management challenges presented by the resident once placement is initiated.

2) Property. During initiation, the AOD may limit or restrict the personal or facility-provided property items, including clothing, the resident is permitted to possess. Once the mental health assessment is complete, the MHP assigning Mental Health Status shall indicate the appropriate, allowable personal or facility-provided property. This decision shall be approved by the Program Director.

3) Observation. The resident shall be under continuous visual observation once these procedures regarding Emergency Mental Health Status

(EMHS) are initiated, and will remain under continuous visual observation until, in the opinion of an MHP, observation is not necessary.

c) Notification of Clinical Director or Designee

1) As soon as practicable, the AOD will notify the Clinical Director or designee that EMHS was initiated and shall request that an assessment of the resident's behavior be performed by an MHP.

2) If the need to initiate EMHS occurs when there is no MHP on-site, the AOD shall request that the duty nurse perform the assessment.

3) An on-site assessment of the resident's mental health needs shall be performed within one hour after placement in EMHS.

4) If EMHS is initiated after normal business hours, upon completion of the one-hour assessment, the duty nurse shall notify the Clinical Director or designee.

5) In all situations, an MHP will become the lead person in management of the resident through resolution of the crisis. The MHP will determine necessary interventions, including the need for continued observation, the type of observation, the need for a psychiatric consult, and/or any other appropriate mental health interventions. All measures taken shall be documented in the resident's clinical file.

d) Contacting Psychiatrist on Call

1) The Clinical Director or designee may, at his/her discretion, contact the psychiatrist on call and consult with him/her regarding the resident's apparent emergency mental health care needs.

2) The Clinical Director, AOC and psychiatrist on call, within their respective scopes of practice, shall determine the utility of emergency medication; the interval, frequency and type of observation (e.g., medical, general, security); room placement; and permitted property. They shall also direct the security staff and health care staff accordingly.

e) Minimal Standards for Care and Observation

While the resident remains in EMHS, the following are minimal standards for care and observation, unless otherwise directed:

1) The resident will be reassessed by an MHP or the duty nurse every shift while on EMHS.

2) Security and nursing staff shall follow all instructions from the Clinical Director or designee.

3) To assure continuity of care, the MHP or duty nurse shall, every shift, write a summary progress note that includes assessment, care and status of the resident. This note shall be placed in the resident's clinical file.

4) In all cases, the resident shall be evaluated face-to-face by an MHP, within 24 hours after being placed on EMHS, to determine the resident's continuing needs.

5) A resident may not be placed on EMHS for more than 24 hours unless continued by an MHP after conducting a face-to-face assessment of the resident.

6) Residents placed on EMHS shall be restricted to the living unit or healthcare unit and may only leave the unit for medical reasons, court writs, or as otherwise approved by the Program Director. All residents on EMHS shall be provided a 1:1 escort while off the living unit.

7) When a resident has been on Mental Health Status for a continuous period of 72 hours, the Clinical Director or designee shall review the resident's ITP with the facility psychiatrist. If the resident is continued on Mental Health Status, the psychiatrist will conduct a face-to-face evaluation of the resident and, with the treatment team, shall review the ITP weekly for the time the resident remains on Mental Health Status. A resident's ITP shall:

A) address individual behaviors and special needs;

B) address the need for special observation; and

C) provide guidance to staff who provide for the daily care and treatment of the resident.

8) All direct care staff shall follow the specific guidelines set forth in the ITP, including, but not limited to, behavior observation, data collection, documenting intervals, and interaction with the resident and the resident's response. This shall occur while the direct care staff continues to provide all other day-to-day care and treatment of the resident.

f) Incident Reporting Requirements
The AOD will ensure that the staff involved in the incidents leading up to the initiation of EMHS complete incident reports or chart notes as needed before they leave their shift. The shift supervisor shall ensure that all incident reports are delivered to the Program Director before the end of his/her shift.

g) Notification of Resident's Reassignment

1) On the first subsequent business day after a resident reassignment, the Clinical Director or designee shall notify the resident's primary therapist and facility psychiatrist of the reassignment and the behavior necessitating placement on EMHS.

2) On the first business day after placement on EMHS, the Clinical Director, primary therapist, or facility psychiatrist shall review the resident's continuing need for emergency mental health care.

A) If there is evidence of continued risk, the resident shall remain on EMHS. Continued assignment to EMHS shall then be reviewed every business day thereafter until the resident is reassigned to a different management status.

B) If, upon review, there is no evidence of continuing risk, the resident shall be returned to his/her previous management status with recommendations for follow-up treatment.

C) If the Clinical Director, primary therapist or facility psychiatrist determines the resident presents a risk of harm to self or others that is not related to his/her mental health, the resident will temporarily be reassigned to Special Management Status.

D) In the event of a re-assignment of the resident to Special

Management Status, the Clinical Director, primary therapist, or facility psychiatrist shall notify the AOC and refer the matter to the Behavior Committee for review.

E) When a resident is temporarily reassigned to Special Management Status, the requirements specified in the Special Management Directive will be followed.

h) Daily Contact with Resident by Primary Therapist

1) While a resident is on EMHS, his/her primary therapist shall have daily, individual contact with that resident. The contact shall, at a minimum, involve:

A) Assessment of the resident's current dangerousness;

B) Mental status and mental health needs; and

C) The coordination of physical or medical needs, as required.

2) The primary therapist shall discuss the events and decisions resulting in the resident's reassignment to EMHS. Those events and decisions shall be viewed in light of the resident's overall ITP and, as appropriate, the ITP shall be modified and additional treatment recommended to reduce the frequency of the resident's reassignment to EMHS. The resident's primary therapist is responsible for ensuring that the resident is offered the following:

A) Daily recreation time as appropriate, based on the resident's mental status and assessed dangerousness;

B) Adequate access to personal hygiene and grooming supplies; and

C) All permitted personal and facility-provided property.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.350 Security**

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

a) Use of Force

1) Force shall be employed only as a last resort or when other means are unavailable or inadequate, and only to the degree reasonably necessary to achieve a permitted purpose. Department staff shall not employ deadly force.

2) Use of force shall be terminated as soon as force is no longer necessary.

3) Medical screening and/or care shall be conducted following any use of force that results in bodily injury.

4) Any form of~~Corporal~~ punishment is prohibited.

b) Force may be used under the following circumstances:

1) To compel compliance with a lawful order given by an employee to ensure the safety and security of the facility.

2) To protect oneself or any other person from physical assaults, injury or death.

3) To prevent escapes from the facility or from the custody of employees in the community.

4) To protect State property or the property of others from unauthorized use, possession, damage or destruction.

5) To prevent or suppress a riot, revolt, mutiny or insurrection, or other serious disturbance.

6) To compel compliance with all orders issued pursuant to the Act.

c) Training
Training in procedures for use of force shall be conducted for all ~~institutional~~ security employees, along with yearly reviews.

d) Movement of Residents

1) Handcuffs, security belts and/or leg irons may be used to restrain any resident when:

A) A person confined pending a review of an incident~~ under Section 299.660~~ or in Special Management Status~~secure management status~~ (see Sections 299.650 and 299.690) is moved within the facility;~~,~~

B) A resident is transported outside the facility;~~,~~ or

C) Determined by the Program Director to be necessary for safety and/or security.

2) The Program Director has ultimate authority regarding the advisability of all writ transportation. Any writ that poses a safety and/or security concern (e.g., due to inclement weather, facility lockdown, or other circumstances) may be cancelled upon direction of the Program Director.

e) Response to Serious~~ Institutional~~ Disturbances

1) The Program Director may confine residents temporarily in all or part of the facility when determined necessary in order to maintain security of the facility or for the safety of residents, employees or other persons.~~ This decision is to be made independently of the decision by the Chief Administrative Officer to place the correctional facility on lock-down status.~~

2) The decision to impose a temporary facility confinement shall be reviewed and approved by the Program Administrator, whenever possible, prior to the imposition of the temporary facility confinement, but in any event, promptly thereafter.

3) Continuation of the temporary facility confinement shall be reviewed every 7~~10~~ days by the Program Director and the Program Administrator.

f) Searches for Contraband

1) Searches of Visitors

A) All persons and items brought onto State property are subject to search. Prominent notices to this effect shall be posted at each facility. ~~Visitors are also subject to the rules of the Department of Corrections (20 Ill. Adm. Code 501 and 525) and rules and policies governing the correctional facility where the secure residential facility is located.~~

B) A visitor may refuse to submit to a search. However, failure to submit to a search may result in denial, suspension or restriction of visiting privileges.

2) Searches of Residents

A) All residents and their clothing, property, housing and task~~work~~ assignments are subject to search at any time.

B) All residents are subject to testing for alcohol or substance use, including but not limited to urinalysis.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

SUBPART D: CONDITIONAL RELEASE

**Section 299.400 Conditional Release Plans**

a) Following notification by the court that a committed person is appropriate for conditional release, the Department shall prepare a plan that identifies the treatment and services that the person will receive in the community. The plan shall address the person's need, if any, for sex offender treatment, ancillary services, monitoring, supervision, surveillance, counseling, medication, community support services, residential services, vocational services, polygraph services, and alcohol or other drug screening~~abuse treatment~~. The Department may contract with a county health department, with another public agency and/or with a private agency to provide the treatment and services identified in the plan. The plan shall specify who will be responsible for providing the treatment and services identified in the plan.

b) All sex offender specific treatment provided to a sexually violent person while on conditional release shall be conducted in conformance with standards developed

under the Sex Offender Management Board Act [20 ILCS 4026] by a provider licensed under the Provider Act.

c~~b~~) For a committed person who is to be conditionally released under an initial commitment order or following an order for commitment to a secure facility, ~~the plan shall be presented to the court for its approval within 21 days after the court finding that the person is appropriate for conditional release, unless the Department and the person to be released request additional time to develop the plan. c)For a committed person who is to be conditionally released from a secure residential facility,~~ the plan shall be presented to the court for its approval within 60 days after the court finding that the person is appropriate for conditional release, unless the Department and the person to be released request additional time to develop the plan.

d) All plans for conditional release shall, at a minimum, contain those conditions set forth in Section 40(b)(5) of the Act. In addition, no person being supervised on conditional release shall reside at the same street address as another sex offender being supervised under the Act or on mandatory supervised release, parole, aftercare release, probation or any other manner of court supervision, except supervision for an offense listed in the Illinois Vehicle Code.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.410 Conditional Release ~~Orders~~**

An order for conditional release places the committed person in the custody and control of the Department, and the person is subject to the conditions set by the court and the rules of the Department. Upon the recommendation of the resident's evaluator or the facility's Clinical Director, the Program Director may file a petition for conditional release on behalf of the resident. The recommendation may be based upon changes in the mental and/or physical condition of the resident, including, but not limited to, changes in the health needs of the resident. Regardless of such recommendation and/or filing, the Department shall, at all times, follow the court's orders regarding the need for secure care.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.420 Community Monitoring**

The Department may contract with or utilize the services of~~a~~ county, municipality and/or~~health~~

~~department, or with~~ other public or private entities~~agencies,~~ to provide surveillance, monitoring, polygraph, drug and alcohol screening, and other related~~treatment and~~ services to a person ordered to a plan of conditional release.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.430 Revocation**

a) In addition to the methods of revocation outlined in Section 40 of the Act, if the Program Director determines~~If the Department alleges~~ that a released person has violated any condition or rule, and/or that the safety of others requires that conditional release be immediately suspended~~revoked~~, he/~~ or~~ she may be taken into custody and transported to a secure facility pending judicial review~~pursuant to Section 40 of the Act~~.

b) Within 48 hours after returning a person ordered to conditional release to a secure facility, the Program Director shall prepare~~The Department shall submit~~ a statement showing probable cause for the detention to the Attorney General or State's Attorney with a request that he/she immediately file~~and~~ a petition to revoke the order for conditional release with~~to~~ the committing court~~ within 48 hours after the detention~~.

c) Pending the revocation hearing under Section 40(b)(4) of the Act, a person ordered to a plan of conditional release~~, the person~~ may be detained in a jail,~~ a~~ hospital or~~ treatment~~ facility.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

SUBPART E: NOTIFICATION OF VICTIMS

**Section 299.500 Notification of Victims**

a) If the court places a committed person on conditional release under Section 40 or 60 of the Act, or discharges a person under Section~~ 60 or~~ 65~~,~~ of the Act, upon any other court-ordered change in custody status, upon the escape of a resident, upon an inability to locate a person on a plan of conditional release, or upon the death of any detained or committed person, the Department shall notify all of the following who have requested notification under the Act or under the Rights of Crime Victims and Witnesses Act:

1) The victim of the act of sexual violence.

2) An adult member of the victim's family, if the victim died as a result of the act of sexual violence.

3) The victim's parent or legal guardian, if the victim is younger than 18 years.

4) The Department of Corrections (DOC) or the Department of Juvenile Justice (DJJ) as appropriate.

b) The notice to the DOC/DJJDepartment of Corrections and the persons to be notified shall state the name of the detained or committed person committed under this Act and the date the person wasis placed on conditional release or discharged, was the subject of a court-ordered change in custody status, died, escaped, or could not be located while on a court-ordered plan of conditional release. The Department shall send the notice, postmarked within one business day after the conditional release, discharge, court-ordered change in custody status, escape, death or inability to locate a person on conditional releaseat least 7 days before the date the person committed under the Act is placed on conditional release or discharged, to DOC/DJJthe Department of Corrections and the last-known address of the persons to be notified under subsection (a) of this Part.

c) When possible, the Department shall dispatch the notice within one business day after issuance of the court order requiring the preparation of the conditional release plan and a second notice within one business day after the date the court approves the plan of conditional release. When circumstances do not permit advance notice, notice shall be provided as soon as practicable after any conditional release, discharge, court-ordered change in custody status, death, escape, or inability to locate a person on a court-ordered plan of conditional release.

dc) The Department shall design and prepare cards for persons specified in subsection (a) of this Part to send to the Department. The cards shall have space for these persons requesting notification to provide their names and addresses, the name of the person committed under thethis Act, and any other information the Department determines is necessary. The Department shall provide the cards, without charge, to the Attorney General and State's Attorneys. The Attorney

General and State's Attorneys shall provide the cards, without charge, to persons specified in subsection (a)~~ of this Section~~. These persons may send completed cards to the Department. All records or portions of records of the Department that relate to mailing addresses of these persons are not part of the resident's file nor subject to inspection or copying under Section 3 of the Freedom of Information Act.

e~~d~~) The Department may request victim impact statements for use in conducting evaluations and providing sex offender specific treatment and/or ancillary services, as well as in preparing the ITP.

f) The Department may utilize the Statewide Victim and Witness Notification System described in the Rights of Crime Victims and Witnesses Act. That utilization shall, in all respects, constitute compliance with this Part.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

SUBPART F: RESIDENT BEHAVIOR MANAGEMENT SYSTEM

**Section 299.600 Resident Behavior Management System**

The Resident Behavior Management System is a milieu treatment program designed to promote a safe and secure environment for treatment, as well as to preserve facility safety and security. Abiding by this Part and the requirements of the living unit and participating in treatment may be encouraged through the use of positive incentives (e.g., increased level of privileges, special activities, etc.). Behavior that violates this Part or the rules of the Program or the living unit shall be discouraged through the withdrawal of positive incentives (e.g., restrictions of privileges and liberties) and redirection to appropriate activities. As determined by the Program Director, the Program may establish differing management levels (e.g., Admission Status, Close Status, Special Management Status, Intermediate C, B and A Status~~admission status, secure management status, general status, high privilege status~~) to provide a greater degree of individualization in the Resident Behavior Management System.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.610 Violations of Criminal Law**

When~~Where~~ reasonable grounds exist to suspect that a resident has committed a violation of criminal law, that violation~~it~~ shall be reported to the State's Attorney of the county in which the

incident occurred or to the appropriate law enforcement agency official. The~~Such~~ referral is independent of any action under the Resident Behavior Management System.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.620 Applicability**

a) Program and living unit rules are to promote a safe and secure environment for treatment, as well as to preserve facility safety and security. All residents are expected to comply with the Program and living unit rules, as well as all staff orders.~~ Disagreement with a staff order will be discussed only after the resident has complied with the order. If off unit, disagreements will be discussed only upon return to the unit.~~ In a situation in which~~where~~ one or more residents are not following staff orders, staff will implement security measures to ensure facility~~everyone's~~ safety and security (e.g., staff may direct all residents to their rooms).

b) All residents will be given adequate notice of the Program rules and living unit rules either directly by staff or presumptively by publication of this Part, provision of a handbook, or posted notice in the living units~~posting of the rules~~. Residents shall be informed of the rules upon admission. The~~ and the~~ location specific Program and living unit rules shall be either printed in the handbook or posted on the living units. Changes in rules that do not appear in the handbook shall~~ also~~ be posted in~~on~~ the living units. Only those rules of which the residents~~that~~ have received notice~~been posted~~ may be enforced.

c) Rules apply equally to all residents in similar circumstances. Differences in circumstances~~situations that are relevant to differences in limitations~~ are within staff discretion; however, the~~such~~ differences must be documented and applied when~~for~~ determining aggravating and mitigating circumstances surrounding a rule violation.

d) Progressive actions taken to address residents who violate facility rules involve warnings and, if ineffective, formal restrictions. When the severity of the rule violation warrants action be taken for the safety of the resident or others, staff may offer the resident a "cool down" period, which consists of voluntary confinement to the resident's room, or placement of the resident on Temporary Special Management Status pending review by the Behavior Committee. Whenever staff have reason to believe that a resident has violated facility rules,

staff shall inform the resident of the specific rules and of the determination that the resident violated the rules, and shall offer one of the following:

1) Warnings

A) For a minor rule violation only, a warning may be issued if:

i) staff determines that:

• the resident is unfamiliar with the rules; or

• the resident's behavior was a technical violation of the rules; and

ii) staff determines that the objective of the rules would not be met by formal behavioral interventions.

B) A warning is to help the resident identify the rule violations, the consequences of the rule violations, and appropriate alternative behaviors. Warnings are to help the resident identify and modify the conduct that led to the rule violations in order to avoid imposition of formal behavioral interventions.

2) An intervention in the form of a "cool down" may be offered by the staff and may be accepted or rejected by the resident. If the intervention is rejected, staff will notify their supervisor immediately for further direction and or assistance. Staff involved in the cool down process shall complete incident reports and forward them to the shift supervisor for review before the end of the shift. Staff shall conduct a wellness check on the resident approximately 15 minutes after placement on a cool down. Within two hours after commencement of the cool down, a supervisor shall conduct an assessment of the resident's behavior to see if the cool down should be terminated or extended. All information gathered during this process shall be documented and may lead to imposition of formal behavioral interventions such as placement on Special Management Status or referral to the Behavior Committee.

3) Temporary assignment to Special Management Status may occur when the AOD has determined that a cool down was not appropriate or effective.

Within two working days after being notified of a temporary assignment to Special Management Status, the Behavior Committee shall meet to review the incident and the need to maintain and continue the resident on Temporary Special Management Status. Staff shall conduct a wellness check of the resident approximately 15 minutes after assignment to Temporary Special Management Status. In addition, a mental health assessment shall be completed by a mental health professional within one hour after assignment to Temporary Special Management Status, and again at 12 hours.

e) Residents that may be faced with a change in management status upon the finding of a rule violation (i.e., "major" rule violation or third "minor" rule violation that leads to a reduction in management status/privileges) must be provided an opportunity to appear before the Behavior Committee and are entitled to 24 hours advance notice prior to that appearance. The notice shall be in writing and shall identify:

1) the rules alleged to be violated;

2) the date, approximate time, and location of the alleged violations;

3) a description of the incident/conduct; and

4) any witnesses identified in the incident report.

f) A resident facing a change in management status upon the finding of a rule violation may request that the Behavior Committee interview additional witnesses and, subject to health, safety and security concerns, appear before the Behavior Committee to testify and present documentation. Pending an appearance before the Behavior Committee, a resident may be temporarily assigned to Special Management Status.

g~~d~~) The decision that a resident has violated a rule shall be based upon the best available evidence and that evidence must show it is more likely than not that the resident violated the rule. Staff may weigh the credibility of witnesses in making the decision. The Behavior Committee will determine the appropriate management status, make treatment recommendations, adjust privileges, or will take any combination of these actions. The decision of the Behavior Committee may be grieved, but may not be addressed as an Attempt to Resolve.

he) The following shall be prohibited from consideration under the Resident Behavior Management System:

1) punishment~~Corporal punishment;~~

2) restrictions on diet; and~~,~~

3) access to medical or sanitary facilities, showers, shaving, hygiene products, clothing, bedding,~~ or legal~~ mail, approved religious activities, ~~or access to~~ legal work, or counsel.~~ and reductions in the frequency of use of toilets, washbowls and showers shall be prohibited from consideration under the Resident Behavior Management System.~~

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.630 Rule Violation~~violation~~**

a) Behavior that jeopardizes the safety of the residents, staff or others, or the security of the Program or unit, or presents significant management difficulties is considered a major rule violation. Behavior that violates this Part or the Program or living unit rules, but does not place anyone in jeopardy, compromise the security of the Program or present significant management difficulties, is a minor rule violation. When the classification is unclear, staff has the discretion to determine whether the rule violation is major or minor.

b) A description of behaviors is included as Appendix A.

c) Every resident is presumed to be responsible for any contraband or other property that is prohibited by this Part or by Program and living unit rules when that~~such~~ contraband or property is located on the resident's~~his~~ person, within his/~~ or~~ her room, or within areas of housing or task~~work~~ assignment that are under his/~~ or~~ her control.~~ Areas under a resident's control include, but are not limited to: the door track, window ledge, ventilation unit, plumbing, and the resident's desk, cabinet, shelving, storage area, bed and bedding materials in the housing assignment; and desk, cubicle, work station and locker in the work assignment.~~ If the resident produces evidence that convinces the treatment team that he/~~ or~~ she did not commit the rule violation~~offense~~, the resident shall not be given a behavioral intervention~~restriction~~.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.640 Preparation and Review of Incident Reports**

a) Every employee has the duty to observe the conduct of residents. When staff ~~persons~~ detect or observe ~~a~~ rule violations~~violation~~, they shall~~will~~ order the resident to stop or redirect the resident to appropriate behavior. Residents are required to comply with staff orders.

b) If an employee observes potential~~a resident engaging in a~~ rule violations~~violation~~, major or minor, discovers evidence of violation~~its~~ commission, or receives information from a reliable witness of ~~a~~ rule violations~~violation~~, he/ ~~or~~ she shall prepare an incident report.

c) The incident report must be fully completed. The reporting employee shall provide the following information to the extent known or available:

1) The name and identification number of the resident;

2) The place, approximate time, and date of the rule violation;

3) The rule violations~~violation~~ that the resident is alleged to have committed;

4) A written statement of the conduct observed;

5) The names of residents, employees and visitors who were witnesses;

6) Any statements by~~Whether~~ the resident ~~admits to the rule violation~~; and

7) The signature of the reporting employee.

d) The Program Director shall promptly review and make a determination regarding all incident reports involving residents and, when appropriate, refer resident incidents to either the Behavior Committee (for major rule violations) or the Program Unit Hearing Officer (for minor rule violations) for review of possible rule violations and make a recommendation. For the purposes of incident report review, the writer or writers of pertinent incident reports will be excluded from the Committee or serving as a Program Unit Hearing Officer.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.650 Assignment to Temporary Special~~Assignment to Secure~~ Management Status**

a) The Program Director shall determine whether it is necessary to temporarily assign the resident to Special Management Status~~secure management status~~ in accord with this Section, pending a review of the incident report~~ in accordance with Section~~. The decision to place a resident in Temporary Special Management Status (TSMS)~~temporary secure management status~~ may be based, among other matters, on:

1) The aggressiveness of the Resident~~resident~~;

2) The threat posed to the safety and security of the facility;

3) The need to restrict the Resident's~~resident's~~ access to the general population to protect him or her or others from injury or to conduct the review; and/or

4) The seriousness of the rule violation.

b) Residents placed on TSMS may be housed~~confined~~ in their rooms,~~cells~~ or living areas,~~ in the secure management status confinement area~~ or~~ in~~ any other area of the facility designated by the Program Director.

~~c) A resident who is charged with a criminal offense arising from rule violation in the Program may remain in secure management status until it is determined by the treatment team that the resident no longer presents an immediate risk of harm to self or others and can be effectively managed in the Program.~~

c) Behavior Committee Determination

1) The Behavior Committee shall review the decision to temporarily assign a resident to Special Management Status within two working days, whenever possible, and may:

A) Continue the reassignment pending further investigation.

Continued reassignment shall be reviewed within two working days, whenever possible. The Program Director will be notified whenever the resident's temporary reassignment has been continued;

B) Determine that the documented allegations do not meet the threshold for continuation on Special Management Status and return the resident to his/her prior management status;

C) Determine that the resident did engage in the reported rule violations and reassign the resident to Special Management Status; or

D) Determine that the resident did engage in the reported misconduct and reassign the resident to a management status that provides appropriate management, treatment and privileges relative to the resident's needs.

2) Among other matters, the factors listed in subsection (a) may be considered by the Committee in arriving at its decision.

d) A resident who has pending charges from a criminal offense arising from Program rule violations may remain in Special Management Status and be housed in any area designated by the Program Director as a special management area of the facility.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.655 Program Unit Hearing Officer Procedures**

a) The Program Unit Hearing Officer shall be either security or clinical staff designated by the Program Director to hear allegations of minor rule violations that do not result in reassignment of management status. Any person who initiated the allegations that serve as the basis for the incident report, or who conducted a formal investigation into those allegations, or who witnessed the incident, or who is otherwise not impartial shall not conduct a hearing on that report.

b) The hearing shall be convened, but need not be concluded, within 14 days after the commission of the rule violation or its discovery, whenever possible, unless the resident is unable to participate in the hearing.

c) The resident shall receive a 24-hour written notice of the allegations and violations being presented against him/her prior to the hearing.

d) The hearing may be continued to obtain additional information or upon the resident's written request based on good cause shown.

e) The resident shall have the right to appear before and address the Program Unit Hearing Officer.

f) The Program Unit Hearing Officer may interview witnesses and review any information relevant to the violation.

g) The Program Unit Hearing Officer may return the report to the Program Director with a recommendation for a hearing before the Behavior Committee.

h) The Program Unit Hearing Officer may decide upon any of the actions authorized in Section 299.665(c)(3), except that he/she may not change the resident's management status.

i) A recommended decision shall be signed by the Program Unit Hearing Officer that contains a summary of oral and written statements and other evidence presented, the decision, and the behavior action implemented. The Program Director shall review the recommendation and render a final decision.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.660 Review of Incident Reports (Repealed)**

~~a) The Behavior Committee shall review all incident reports involving residents. For the purposes of incident report review, the writer or writers of pertinent incident reports will be excluded from the Committee.~~

~~b) The Behavior Committee shall review the decision to temporarily reassign a resident to secure management status within two business days, whenever possible, and may:~~

~~1) Continue the reassignment pending further investigation. Such continued reassignment shall be reviewed within two business days, whenever possible. The Program Director will be notified whenever the resident's temporary reassignment has been continued.~~

~~2) Determine that the documented allegations of misconduct do not meet the threshold established in Section (d) and return the resident to his or her prior management status.~~

~~3) Determine that the resident did engage in the reported misconduct and reassign the resident to secure management status.~~

~~4) Determine that the resident did engage in the reported misconduct and reassign the resident to a management status that provides appropriate management, treatment, and disciplinary capabilities relative to the resident's misconduct.~~

~~Among other matters, the factors listed in Section (a) may be considered by the Committee in arriving at its decision.~~

~~c) Whenever possible a resident who is the subject of an incident report shall be allowed to address the Behavior Committee in order to present his or her views regarding the reported incident. This may be denied if it is determined to be clinically contraindicated, would place a resident or others at risk of harm, or would jeopardize the security of the Program.~~

~~d) The Behavior Committee shall document its decision and the reason for that decision in the resident's clinical record. The incident report(s) will be attached to the Committee's documented decision and identifiably referenced within the Committee's documented decision.~~

(Source: Repealed at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.665 Behavior Committee Procedures**

a) Whenever practicable, a resident who is the subject of an incident report shall be allowed to address the Behavior Committee in order to present his/her views regarding the reported incident. This may be denied if it is determined to be

clinically contraindicated, would place a resident or others at risk of harm, or would jeopardize the safety or security of the Program.

b) The Behavior Committee shall document its decision and the reason for that decision in the Resident's behavioral record.

c) Violations of facility or living unit rules shall be addressed through specific treatment recommendations and/or referral to ancillary services (e.g., anger management); reassignment of management status; adjustment of privileges; or any combination of these three actions. The Behavior Committee shall determine which interventions are most appropriate.

1) Treatment recommendations and/or ancillary services to address rule violation must be logically related to the rule violation (e.g., anger management for reactive, anger-based aggression), must be available, and must have a reasonable expectation of success.

2) The Behavior Committee may reassign residents to a different management status whenever rule violations indicate that they cannot be effectively managed at their current management status.

3) Although progressive in nature, privileges may be adjusted upon the increased risk of harm or disruption to Program security. Behavioral interventions may include the removal of a privilege that the resident has earned through good behavior. The behavioral interventions should be reasonably related to the rule violation.

d) Upon determination that a resident has violated a facility rule, the Behavior Committee shall determine appropriate management status, determine appropriate treatment recommendations and/or ancillary services, adjust privileges, or take any combination of these actions. The Committee may also establish time limits on the management status, or behavioral intervention, or conditions imposed.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.670 Consequences for Rule Violation (Repealed)**

~~a) Violations of this Part or of Program or unit rules shall be addressed through: specific, time-limited treatment (e.g., anger management); reassignment of~~

~~management status; a progressive process of behavioral restrictions; or all three. The Behavior Committee shall determine which consequences are most appropriate.~~

~~1) Treatment recommendations for rule violation must be logically related to the rule violation (e.g., anger management for reactive, anger-based aggression), must be available, and must have a reasonable expectation of success.~~

~~2) The Behavior Committee may reassign residents to a more secure management status whenever rule violations indicate that they cannot be effectively managed at their current management status.~~

~~3) Although progressive in nature, more severe behavioral restrictions may be imposed upon the increased risk of harm or disruption of Program security. Behavioral restrictions may be the restriction of a right for a set period of time, removal of a privilege that the resident has earned through good behavior, or a combination of the two. When possible, the behavioral restrictions should be intrinsically related to the violation of the rules (e.g., a violation of smoking rules could result in a restriction of smoking privileges).~~

~~b) Upon determination that a resident has violated this Part or a Program or unit rule, the Behavior Committee shall determine appropriate management status, determine appropriate treatment recommendations, impose behavioral restrictions, or any combination thereof. The Committee shall also establish time limits on the management status or behavioral restriction or conditions that must be met before removal from a behavior management status or behavioral restriction.~~

~~c) Progressive discipline for residents involves counseling, warnings, and then either summary or formal restrictions. When the severity of the misconduct warrants immediate restrictions, staff may initiate behavioral restrictions subject to approval by the Behavior Committee. Whenever staff has reason to believe that a resident has misbehaved, staff shall inform the resident of the rule violation, the rule(s) that were violated and the fact that it was determined that the resident violated the rule(s), and offer one of the following:~~

~~1) For minor rule violation only, counseling and warning may occur if staff determines that the resident is unfamiliar with the rule(s) or that the~~

~~resident's behavior was a technical violation of the rule(s), and if staff determines that the objective of the rule(s) would not be met by behavior restrictions. Counseling and warning may occur only once per rule. Counseling is to help the resident identify the rule violations, the consequences of the rule violation and appropriate alternative behaviors. Warnings are to help the resident identify and modify the rule violation to avoid behavioral restrictions. Counseling and warning shall be documented in the resident's clinical record, as shall be the resident's response to the counseling and warning.~~

~~2)~~ ~~A summary restriction may be offered by the staff and may be accepted or rejected by the resident. Staff must discuss the rule violation and proposed summary with the shift supervisor before offering the summary restriction to the resident. If the summary restriction is rejected, a formal behavioral restriction shall be implemented. Because a summary restriction can be rejected by the resident, it is not reviewable. Summary restrictions cannot last more than 30 days. A summary restriction may be determined inappropriate when it has been previously applied and was ineffective in reducing rule violation or when the Behavior Committee has determined that summary restriction is clinically contraindicated.~~

~~3)~~ ~~A formal behavioral restriction is imposed when a summary restriction is rejected or when the shift supervisor has determined that summary restrictions are not appropriate. Upon being notified of the application of a formal behavioral restriction, the resident may request a review of the formal behavioral restriction by the treatment team and/or to present information to the treatment team regarding the violation of rule(s), including aggravating or mitigating circumstances. Such request must be in writing and submitted within 24 hours after the notification of formal behavioral restriction. The restriction remains in effect during the review period. The treatment team shall schedule a review within three working days. The resident may present written documentation and discuss circumstances. The resident does not have a right to an advocate, to confront witnesses or to present witnesses. If the treatment team determines the formal behavioral restrictions to be reasonable, it will remain in effect. If the treatment team determines the formal behavioral restriction to be unreasonable it may be increased, reduced or lifted.~~

(Source: Repealed at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.680 Restitution Procedures**

a) The Behavior Committee may recommend that the resident make restitution in any amount not to exceed actual out-of-pocket expenses or loss caused by the conduct of the resident. Restitution may include restoration for damage to property or person caused by the resident~~performing repairs and cleaning instead of monetary reimbursement~~. ~~Restitution that consists of labor shall not be compensated.~~ The ~~Behavior~~ Committee shall determine the amount and the conditions of payment.

b) If the ~~Program Director concurs with the recommendation of the~~ Behavior Committee ~~and~~ determines that restitution for damage to property or person is appropriate, it shall ask the resident to agree to ~~perform the necessary labor or~~ authorize disbursement from his/ ~~or~~ her trust fund or from any other account of the resident or, when appropriate, agree to restore the damaged items to the condition the items were in before the damage occurred.

1) If the resident agrees to make restitution, he/she shall sign an agreement to restore the damaged items~~perform labor~~ or authorize~~an authorization for~~ disbursement of funds to either ~~to~~ the State or the appropriate individual.

2) If the resident refuses to agree to either restore the damaged items~~perform labor~~ or authorize disbursement of his/ ~~or~~ her current funds or future earnings in accordance with the Behavior Committee's~~Program Director's~~ determination, the Committee~~Program Director~~ may recommend to the Business Administrator that a hold be placed on the resident's account for the owed~~such~~ amount.~~, and~~ The Committee may further recommend to the Business Administrator that commissary privileges and/or award of reward points~~State pay~~ be suspended, in whole or in part, for a ~~definite~~ period of time. The Business Administrator is authorized to take~~However, the resident shall be permitted to retain a sufficient amount of funds to purchase basic personal hygiene items if~~ such action as he/she deems necessary to recoup payment, including debits to the resident's trust fund~~items are not provided by the facility~~.

c) The Behavior Committee may consider the resident's willingness to make restitution when considering~~in imposing~~ any other behavioral intervention~~restrictions~~.

d) A resident shall not be subjected to greater behavioral intervention~~restrictions~~ because he/she is without funds and therefore unable to make restitution.

e) In the event a resident is released prior to full~~ payment of~~ restitution, arrangements shall be made to address~~for~~ payment of the balance of the authorized restitution by the resident.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.690 Placement in Special~~Secure~~ Management Status**

Residents whose behaviors threaten the safety~~place themselves~~ or security of the facility~~others in immediate risk of harm~~ or who cannot otherwise be effectively managed in their current management status may be confined in their rooms, in their assigned residential units, or relocated to another~~cells or living areas, in the secure management status~~ area of the facility~~or in any other area~~ designated by the Program Director. Placement in Special Management Status does not supersede or~~secure management status confinement does not~~ eliminate any other informal~~summary restriction~~ or formal behavioral intervention~~restriction~~ that has been previously offered by staff, the Program Unit Hearing Officer or the Behavior Committee~~placed on a resident~~.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.700 Special~~Secure~~ Management Status~~ Confinement~~ Standards**

Standards for living conditions in Special Management Status~~secure management status confinement~~ shall include the following~~ provisions~~:

a) Residents in SMS~~secure management status confinement~~ shall be permitted personal property as allowed and ordered by the Program Director for safety and security reasons.

b) Notwithstanding the foregoing, residents in SMS shall be permitted access to writing instruments, incoming and outgoing mail, legal mail, their legal materials, courts and legal counsel.~~Commissary privileges comparable to those applicable to the general population shall be allowed, except for restrictions on certain items that may be ordered by the Program Director for safety and security reasons.~~

c) Residents in SMS~~secure management status confinement~~ shall receive food comparable to that provided to the general population. Approved religious or medical diets shall not be interrupted.

d) Movement outside the special management area~~Visits~~ shall be permitted as approved by the Program Director after considering safety and security concerns.

e) Healthcare~~Medical~~ personnel shall visit residents on SMS as often as necessary~~the secure management status confinement area~~ to address any health related concerns~~screen requests for medical attention, and a physician or psychiatrist shall visit the area on a weekly basis~~.

f) Requests by a resident to perform religious rituals or other matters of religious observance shall be accommodated when they do not interfere with the health and safety of residents or staff or otherwise pose a risk to overall safety or security of the facility. When a religious observance request is in conflict with reasonable facility rules, an alternate accommodation may be sought.~~A chaplain designated by the Program Director shall visit the secure management status confinement area when a chaplain is present on institutional grounds, when possible, but not less than once a week~~.

g) Each resident in SMS~~secure management status confinement~~ shall be contacted by a member of the clinical staff~~primary therapist~~ at least once every seven days,~~week~~ or more often if clinically warranted.

h) Continued involvement in sex offender specific treatment and ancillary services~~programs~~ may be permitted on an individual basis, as approved by the Program Director after considering the attendant safety and security concerns.

i) Residents shall be afforded the opportunity for a minimum of one hour exercise outside their rooms~~cells~~ per week. However,~~ out of cell~~ exercise may be temporarily restricted or suspended, unless medically contraindicated, if the Program Director determines the activity to be a threat to the health or safety of any person or to the overall~~and~~ security of the facility~~ or any person~~.

j) Residents in SMS~~secure management status confinement~~ shall be permitted a shower and shave not less often than once every three days and shall be~~have the same mail privileges as those~~ provided with clean bedding and clothing at least once per week~~for other residents~~.

k) Residents in SMS~~secure management status confinement~~ shall be permitted reading materials approved by clinical staff and security staff.

l) Residents in SMS shall not be subjected to excessive heat or cold and shall be provided with adequate ventilation, plumbing facilities and light.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

SUBPART G: RESIDENT GRIEVANCES

**Section 299.800 Filing of Grievances**

a) A resident shall first attempt to resolve incidents, problems or complaints, other than complaints concerning behavior review proceedings, through filing an Attempt to Resolve (ATR)~~his or her primary therapist~~. If a resident is unable to resolve a complaint through the ATR process~~informally~~, or if the complaint concerns a~~ disciplinary~~ proceeding before the Program Unit Hearing Officer or the Behavior Committee, the resident~~he or she~~ may file a written grievance on a grievance form that shall be made available in all living units. A grievance shall be filed within one month after the discovery of the incident, occurrence, or problem that gives rise to the grievance or within one month after the receipt of a decision~~ concerning an informal resolution thereof~~. However, if a resident can demonstrate that a grievance was, for good cause, not timely filed~~ for good cause~~, the grievance shall be considered.

b) The grievance form shall be addressed to the Grievance Examiner~~Program Director~~ and shall be deposited in the living unit mailbox or other designated repository.

c) Staff assistance shall be available for those residents who cannot prepare their grievances unaided, as determined by facility~~institutional~~ staff.

1) All residents shall be entitled to invoke the grievance procedure regardless of their management status~~status~~ or classification.

2) Each facility shall take reasonable steps to ensure that the grievance procedure is accessible to residents who are impaired or disabled.

d) Residents must be informed of the grievance procedure and may request further information regarding the procedure from their primary therapists.

1) The written procedure shall be available to all residents.

2) A resident unable to speak or read the English language may request that the procedure be explained in his/~~ or~~ her own language.

e) Actions or reprisals may not be taken against a resident for using the grievance procedure. A resident may submit a grievance alleging that a reprisal has been made against him/~~ or~~ her.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.810 Grievance Examiner**

a) The Program Director shall appoint two or more employees to~~who may~~ serve as a Grievance Examiner who shall~~to~~ attempt to resolve problems, complaints and grievances that residents have been unable to resolve through the ATR process~~routine channels~~.

b) No person who is directly involved in the subject matter of the grievance, who was the Program Unit Hearing Officer,~~ or~~ who was a member of the Behavior Committee that heard an~~a~~ incident report concerning the grievance, or who is otherwise not impartial, may serve as the Grievance Examiner reviewing that particular case.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.820 Grievance Procedures**

a) A Grievance Examiner~~Program Director~~ shall review grievances at least weekly, provided that one or more grievances have been filed. The Grievance Examiner~~Program Director~~ shall determine whether to process~~refer~~ a grievance or return the grievance as not grievable~~to a Grievance Examiner or to the treatment team for resolution~~.

b) If the Grievance Examiner determines further clarification is necessary, he/she may meet with the resident.~~The Program Director shall submit a copy of any~~

~~grievance alleging discrimination based on disability to the facility Americans With Disabilities Act (ADA) Coordinator. The facility ADA Coordinator shall conduct such investigation as deemed appropriate and make recommendations to the Program Director for resolution of the grievance.~~

~~c)~~ ~~A resident may be afforded an opportunity to appear before the Grievance Examiner or treatment team. The Examiner may call witnesses as deemed appropriate.~~

c~~d~~) The Grievance Examiner~~ or treatment team~~ shall consider the grievance and review all~~report~~ findings and recommendations~~ in writing to the Program Director~~ within 15 working days after receipt of the grievance, whenever practicable. The~~is received by the~~ Grievance Examiner shall submit, in writing, to the Program Director, within five working days, the findings and recommendations~~or treatment team, whenever possible~~. The Program Director shall make~~advise the resident of~~ the decision as to whether the grievance is resolved, denied, upheld or not indicated and shall provide that determination, in writing, to the Grievance Examiner within 10 working days. The Grievance Examiner shall advise the resident of the Program Director's decision, in writing, within 10 working days ~~after receiving the Grievance Examiner's or treatment team's report~~, whenever possible.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.830 Emergency Grievance Procedures**

a) All grievances marked as emergency shall be reviewed by a Grievance Examiner every working day after receipt.

b) The Grievance Examiner shall review and immediately forward all grievances determined to be an emergency to the Program Director.

c~~a~~) If the Program Director determines that there is a substantial risk of imminent personal injury or other serious or irreparable harm to the resident, or others~~resident~~, the Program Director shall notify the Grievance Examiner that the grievance shall be handled on an emergency basis.

d~~b~~) The Program Director shall respond to the resident within three working days after receipt of the grievance, indicating what action shall be or has been taken.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.840 Grievance Appeals**

a) If, after receiving the decision~~response~~ of the Program Director, the resident is of the opinion~~resident still feels~~ that the~~ problem, complaint or~~ grievance has not been resolved to his/~~ or~~ her satisfaction, he/~~ or~~ she may appeal in writing to the Program Administrator within 30 days after receipt of the decision~~response~~. Copies of the Grievance Examiner's~~ or treatment team's~~ report and the Program Director's decision shall~~should~~ be attached.

b) The Program Administrator shall review the grievance and the decision of the Program Director.~~responses of the Grievance Examiner and Program Director. If it is determined that the grievance is without merit, the resident shall be advised of this disposition, in writing, within 30 working days after receipt of the grievance. c)~~ The Program Administrator may call witnesses or examine records at his/~~ or~~ her discretion. The Program Administrator shall make a final determination of the appeal~~grievance~~ within 45 working days, whenever practicable~~possible~~. The resident shall be sent a written copy of the Program Administrator's decision.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.850 Grievance Records**

~~a)~~Records regarding the filing and disposition of grievances shall be collected and maintained by the facility as required by State record retention and confidentiality laws~~institution for at least three years following final disposition of the grievance~~.

~~b) Records regarding the participation of a resident during the grievance process shall be handled in a manner designed to protect confidentiality as determined by the Program Director.~~

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

SUBPART H: EVALUATION AND RESEARCH

**Section 299.900 Program Evaluation**

The Department may evaluate the whole, or any part of, the~~ Sexually Violent Persons Treatment~~ Program for the purpose of quality assurance and improvement.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.920 Requirements for Submitting Research Proposals**

a) Any request to conduct research or an evaluation study involving former or present residents and/or employees, programs or facilities, whether originating inside or outside the Department, shall be in writing and shall be submitted to the Secretary for review and authorization.

b) The person or entity requesting the research or study shall provide the following written documentation prior to approval of the request:

1) A formal research proposal including names~~name(s)~~ and vitae of the researchers~~researcher(s)~~; abstract of the project, including purpose, methodology, duration, the number of subjects, amount of time required for each subject, and dissemination plan; and Department resources to be utilized;

2) Approval obtained from a Human Subjects Research Committee and Institutional Review Board, when~~where~~ applicable;

3) A signed Research Agreement that shall contain a statement that any rights of privacy, informed consent, confidentiality and protection from harm are met in accordance with accepted professional and scientific ethics and that the requirements of any applicable Illinois and federal statute or regulation have and will continue to be met; and

4) Any other information deemed necessary to the authorization process.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

SUBPART I: REIMBURSEMENTS

**Section 299.1000 Charges for Services in a Secure Residential Facility**

a) The maximum charge for services to be assessed against a recipient, or the estate of a recipient, in a Department-operated secure residential facility, shall be 100% of the average per capita cost of the secure residential facility commencing with Fiscal Year 2019 and recalculated each July 1 thereafter.

b) The maximum charge for services to be assessed against a recipient or the estate of a recipient maintained in the community on a plan of conditional release, shall be 100% of the actual cost of maintaining the recipient in the community under the plan of conditional release ordered by the committing court.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.1010 Payments**

a) The maximum rate to be used when filing claims for benefits under Title XVIII of the Social Security Act (Medicare) (42 USC 1395b-1), Title XIX of the Social Security Act (Medicaid) (42 USC 1396a), Veteran's Administration benefits (38 USC 521, 541, 542), Champus/Champva (38 USC 601), and active military is not to exceed the rate set by the Illinois Department of Healthcare and Family Services (HFS), or as approved each year for the respective program. Payments received from a benefit or federal insurance program shall be credited on a dollar for dollar basis for each covered day up to the maximum per capita cost for which the recipient has a liability or the contracted rate established by the provider, whichever is less.

b) All payments received from private hospitalization insurance shall be credited against the person's liability, on a dollar for dollar basis, up to the prevailing maximum charge established in this Section.

c) All payments on behalf of persons from any source shall be credited against Medicaid billings if for the same period of service.

d) If a spouse who is a legal dependent of a recipient is designated as payee of the recipient's benefits and is using those benefits as his/her income, charges shall be established on the total combined income in accordance with the schedule in Table A of this Part.

e) Voluntary payments in excess of required amounts will be accepted from the recipient and from persons not legally responsible.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.1020 Liability for Services Charges**

a) Recipients have the primary liability for payment of sums representing charges for services at the prevailing maximum rate determined by the Department, subject to the allowable reserve. Upon the death of the recipient, the estate of the recipient has the primary liability for payment of unpaid sums representing charges for services at the prevailing maximum rate established in Section 299.1000.

b) The recipient or, if deceased, the estate of the recipient retains liability as long as unpaid services charges remain.

c) Income accruing from a trust estate of a person shall be charged the same as other assets. If the income from the trust is not sufficient to meet the maximum cost of services to the person, the Department shall, in those cases in which the trust agreement specifically states that the principal, if needed, may be used, establish charges against both the income and the corpus of the trust.

d) When a person under the age of 22 receives benefits from a federal government agency that are to provide for the recipient's care and maintenance needs, those funds, when the law allows, shall be applied toward the State's cost of providing care, less any applicable personal allowance.

e) If the recipient is also a Medicaid recipient and receives benefits from a federal government agency, the federal funds, less the applicable personal allowance specified in 89 Ill. Adm. Code 113.247, must be applied toward the Medicaid charges in accordance with 42 CFR 435.732. Claims submitted by the Department to HFS shall be reduced by the amount of these net benefits.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.1030 Determination of Ability to Pay Services Charges**

a) The Department, in determining the ability of the person to pay services charges, will assemble any necessary information pertaining to his/her financial status and will then set the amount for which the person will be held liable. The person must

furnish financial information on admission or as soon thereafter as possible to enable the Department to make a proper determination of the sources available for reimbursement of the cost of services charges. The Department will require the person to update his/her financial information on not less than an annual basis. The liability for payment of services charges shall be based on information available at the time of determination. (The data may include savings, trusts, wills, evidence of indebtedness, evidence of court-ordered payments, and the like.) Each person for whom a determination has been made shall be issued a Notice of Determination, notifying the person of his/her liability. The notice shall be issued even when current determined liability is $0.00.

b) When there is a demonstrated ability to pay, payment for services is an obligation, established by Section 90 of the Act, against the person, guardians, trustees and/or payees.

c) Subsequent review may be initiated by the recipient prior to the annual redetermination due to changes in ability to pay or as a result of an administrative hearing. Service recipients have a duty to inform the Department of any changes in their financial status.

d) The determination of the ability to pay and amount of liability of the person for services charges, up to the prevailing maximum rate, shall be based on all assets and income of the person. After considering the person's legal dependent's financial needs (see subsection (h)), all resources and assets are reduced to the allowable reserve exemption in accordance with subsection (e).

e) The allowable reserve exemption is determined by the amount of assets owned at the time of initiation of services, except that the allowable reserve exemption from all sources cannot exceed that established by HFS (see 89 Ill. Adm. Code 120.382). The service recipient's allowable reserve exemption can only be increased by the unused portions of the monthly personal and clothing allowance or unspent workshop or other monetary incentive funds, such as living skills program funds. Amounts to be paid by the service recipient for services charges may not be deferred to build a reserve to the maximum amount allowed.

f) If the person becomes eligible and is approved for Medicaid, 42 CFR 430 (2016) and HFS rules at 89 Ill. Adm. Code 120.382 govern the allowable reserve and personal and clothing allowance.

g) The Department shall allow deductions from income for a community spouse maintenance needs allowance and a family maintenance needs allowance for each dependent family member who does not have enough income to meet his/her needs. Family members include dependent children under age 21, dependent adult children, dependent parents, or dependent siblings of either spouse, who are living with the community spouse. To determine the amount of the deduction:

1) The deduction for the community spouse maintenance needs allowance, as set forth in 89 Ill. Adm. Code 120.61(d), is equal to the community spouse maintenance needs standard less any non-exempt monthly income of the community spouse. The deduction is allowed only to the extent that income of the spouse who is receiving services at a Department-operated facility is contributed to the community spouse. However, the deduction for the community spouse maintenance needs allowance shall not be less than the amount ordered by the court for support of the community spouse or the amount determined as the result of the fair hearing.

2) The deduction for the family maintenance needs allowance for each dependent family member is equal to one-third of the difference between the family maintenance needs standard and any non-exempt income of the family member as set forth in 89 Ill. Adm. Code 120.61(d).

h) Prior to the assessment of services charges against a recipient, the Department shall review the financial needs of the recipient's legal dependents. The financial needs of these legal dependents shall be based on amounts expended up to an amount equal to the minimum yearly income for which a person would be subject to a charge as shown in Table A of this Part. Any amounts allowed that are not expended for support of legal dependents claimed on the recipient's U.S. Individual Income Tax Return shall be subject to services charges.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.1040 Computing Monthly Costs of Services Charges**

The liability of recipients and the estates of recipients for services shall be computed in the following manner:

a) Monthly liability established against a service recipient in order to secure care is determined by multiplying the per diem rate for the secure residential care service

provided by the number of actual days of service received by the person during the month. The per diem rate will be recalculated annually.

b) Monthly liability established against a service recipient ordered to conditional release is determined by calculating the actual cost of services provided during that month. The phrase "actual cost" includes both the administrative costs associated with maintaining the service recipient on the conditional release program and the total cost of supporting the person in the community, which includes, but is not limited to:

1) sex offender specific treatment and ancillary services;

2) transportation costs;

3) food and groceries;

4) medical/dental care;

5) housing and utilities;

6) polygraph and/or drug testing;

7) electronic monitoring/surveillance costs;

8) spending cash;

9) cell phone and other methods of maintaining contact; and

10) any other costs incurred specific to the service recipient.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.1050 Allowances for Unusual Expenses and/or Exceptional Circumstances in Determining Ability to Pay Services Charges**

a) If an examination or re-examination reveals unusual and/or exceptional circumstances indicating that the recipient's income and assets, as reported on schedules B and C of the Financial Questionnaire, are not an adequate measure to determine ability to pay services charges, allowances for the following unusual

and/or exceptional circumstances shall be made in the application of the schedule of charges:

1) Transfer to prison for revocation of probation or subsequent conviction;

2) Provable reduction in income;

3) Additional dependents; and

4) Unforeseen catastrophic expenses.

b) All service recipients requesting allowance under subsection (a) must furnish proof of the unusual and/or exceptional circumstances.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.1060 Petition for Release from or Modification of Services Charges**

Any service recipient who has been issued a Notice of Determination of sums due as service charges may petition the Department for a review of that determination. The appeal process is detailed in 89 Ill. Adm. Code 508, with the exception that a petitioner has 90 days to file an appeal request. The petitioner cannot be represented by another service recipient.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.1070 Actions for Collection of Services Charges**

a) When it is necessary for the Department to disclose information in order to collect services charges, that disclosure shall be limited to information needed to pursue collection, and the information disclosed shall not be used for any other purpose, nor shall it be redisclosed except in connection with collection activities.

b) Upon request of the Department, the Office of Attorney General, or the State's Attorney of the county in which a service recipient who is liable under the Act for payment of services charges resides, shall institute appropriate legal action against any such recipient, or, within the time provided by law, shall file a claim against the estate of a deceased recipient for unpaid services charges.

c) The court shall order the payment of sums due for services charges for such

period or periods as the circumstances require. The order may be:

1) entered against any person; and

2) based upon the proportionate ability of each person to contribute to the payment of sums representing services charges, including the actual charges for services in facilities outside the Department when the Department has paid those charges.

d) Orders for the payment of money may be enforced by garnishment, attachment, contempt and/or any other mechanism authorized by law. In addition, other judgments for the payment of money, pre- and post-judgment interest, and costs may be adjudged against the person.

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

**Section 299.APPENDIX A Rule Violations**

Willfully disobeying any rule of the facility is prohibited. Rule violations that do not affect the safety or security of the facility may be deemed minor rule violations and may be addressed by the Program Unit Hearing Officer. Conversely, rule violations that impact the safety and security of the facility are deemed major rule violations and require an appearance before the Behavior Committee to determine the appropriate behavioral intervention.

~~AIDING AND ABETTING, ATTEMPT, SOLICITATION OR CONSPIRACY~~

~~Definition:~~ Aiding and abetting any person in the commission of any of these rule violations; attempting to commit any of these rule violations; soliciting another to commit any of these rule violations; or conspiring to commit any of these rule violations, shall be considered the same as the commission of the rule violation itself.

MAJOR RULE VIOLATIONS~~VIOLATION:~~

ARSON

~~Definition:~~ Setting fire anywhere outside~~in any location, whether public~~ or inside the facility,~~private, including but not limited to any part of~~ the~~ institution, its~~ grounds or State vehicles is not allowed.

BATTERY TO ANY PERSON

~~Definition:~~ Causing a person or an object to come into contact with another person in an offensive, provocative or injurious manner, or fighting with a weapon is not allowed.

BRIBERY & EXTORTION

~~Definition:~~ Asking for~~Demanding~~ or receiving anything of value in exchange for protection, to avoid harm or~~bodily~~ injury, or through coercion is not allowed~~duress or pressure~~. Giving or receiving money or anything of value may additionally be deemed trading and trafficking~~, to violate State or federal law or to commit any act prohibited under this Part~~.

CELL PHONE OR COMPUTER/INTERNET USAGE

Receiving, possessing or using a cell phone or internet capable device (this also includes wireless connections such as data, Bluetooth or WIFI) or a similar technology medium is not allowed. In

addition, e-mail and social networking is not allowed. Homemade computers are not allowed. Residents are not allowed to create, make, assemble or build a computer or similar device or maintain any device capable of storing electronic data or images.

COMMUNICATION, MISUSE OR POSSESSION OF STAFF PERSONAL INFORMATION OR ITEMS

Seeking or giving out any personal information to another resident, staff member or visitor about a staff member (former or current) of the TDF is not allowed. This includes talking or writing anything of a personal nature about a staff member.

CONCEALMENT OR MISREPRESENTATION OF IDENTITY

~~Definition:~~ Wearing a disguise or a mask, impersonating another, or otherwise concealing one's identity is not allowed. This includes residents refusing to identify themselves with their ID, when requested by an employee, or wearing a hat or wig, make-up or sunglasses inside the facility without authorization.

DAMAGE OR MISUSE OF PROPERTY

~~Definition:~~ Destroying, damaging, defacing, removing, altering, tampering with, or otherwise misusing State property, ~~or~~ the property of another person, or the resident's own property, including the obstruction of locks or security devices, is not allowed.

DANGEROUS CONTRABAND

~~Definition:~~ Possessing, manufacturing, introducing, selling, supplying to others, or using without authorization any explosive, acid, caustic material for incendiary devices, ammunition, dangerous chemical, escape material, knife, sharpened instrument, gun, firearm, razor, glass, bludgeon, brass knuckles, ~~or~~ any other dangerous or deadly weapon or substance of like character, or any object that is made to appear to be a deadly or dangerous weapon or substance is not allowed.

DANGEROUS DISTURBANCES

~~Definition:~~ Causing, directing or participating in any action, either within the facility or in the community, that may seriously disrupt facility operations or threaten~~endanger~~ the health or safety of any~~institution,~~ persons or the condition of property is not allowed.~~,~~ This includes ~~including~~ the taking or holding of hostages by force or threat of force.

DISOBEYING A DIRECT ORDER (MAY ALSO BE A MINOR VIOLATION)

Willfully refusing to comply with an order, including the refusal to participate in testing for drug abuse required under Section 45 of the Act, is not allowed.

DRUGS AND DRUG PARAPHERNALIA

~~Definition:~~ Possessing, manufacturing, introducing, selling, giving~~supplying~~ to others, or receiving alcohol, any intoxicant, inhalant, narcotic, syringe, needle, controlled substance or marijuana, or being under the influence of any of these~~the above~~ substances is not allowed. This violation includes medication misuse, e.g., the possession or use of unauthorized amounts of prescribed medication and~~, or~~ selling, ~~or~~ supplying, or receiving prescribed medication to/from others.

ESCAPE

~~Definition:~~ Leaving or failing to return to lawful custody of the facility without authorization is not allowed.

~~FAILURE TO REPORT~~

~~Definition: Failure to report for a scheduled work or program assignment without good cause.~~

FIGHTING

~~Definition:~~ Unauthorized fighting with another consenting person, which is not likely to cause serious bodily injury to one or the other, and that~~which~~ does not involve the use of a weapon, is not allowed.

FORGERY

~~Definition:~~ Forging, counterfeiting or reproducing any signature,~~without authorization any~~ document, article of identification, money, security or official paper without authorization is not allowed.

~~GANG OR UNAUTHORIZED ORGANIZATIONAL ACTIVITY~~

~~Definition: Engaging or pressuring others to engage in gang or unauthorized organizational~~

~~activities or meetings; displaying, wearing, possessing or using gang or unauthorized organizational insignia or materials; or giving gang or unauthorized organizational signs.~~

~~GIVING FALSE INFORMATION TO AN EMPLOYEE~~

~~Definition: Lying or knowingly providing false information to an employee that impedes an investigation or otherwise interferes with the management of the Program.~~

HEALTH, SMOKING OR SAFETY VIOLATIONS

Smoking and chewing tobacco of any kind are not allowed in the facility. All eating, living and work areas are to be kept clean and free of items or trash. Tattooing or body piercing is not allowed.

INTERFERING WITH FACILITY OPERATIONS

Behavior that interferes with the smooth and orderly operation of the facility is not allowed. This includes movement to or from the living unit, movement during med line and count, escorted movement, or when a resident is asked to be secured in his/her room, etc. This also includes refusing to accept a room assignment and refusing to follow any drills and/or emergency procedures.

INTIMIDATION OR THREATS

~~Definition:~~ Expressing, by words, actions or other behavior, an intent to injure any person that creates the reasonable belief that physical, monetary or economic harm to that person or to another will result is not allowed.

PETITIONS AND BUSINESS VENTURES

Writing, signing or circulating a petition without authorization is not allowed. Engaging in a business venture without express authorization from the Program Director is not allowed.

POSSESSION OF MONEY OR CASH EQUIVALENTS

Possessing or causing to be brought into the facility, United States currency/coins or other negotiable instruments is not allowed. This includes credit cards, debit cards, gift cards, money orders, cash, etc.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

PROVIDING FALSE INFORMATION TO STAFF

Giving false information, directly or indirectly, in the course of an investigation that would mislead an employee is not allowed.

SEXUAL MISCONDUCT AND SEXUAL CONTACT

~~Definition:~~ Residents are not allowed to have sexual activity or sexual contact or ask for sexual activity with other persons in the facility. Self-gratifying sexual behavior, such as masturbation, can only occur in the privacy and confines of a resident's own room and cannot be done within view of employees or other residents, including the resident's roommate. Touching anyone's genital area over or under the clothing, kissing, hugging, patting, fondling of any sort, including sexual activity, is not allowed. Being in the shower with another resident is not allowed. Sexual talk, sexual horseplay, sexual language and comments that are offensive are not allowed.~~Engaging in sexual intercourse, sexual conduct or fondling, or touching done to sexually arouse either or both persons; or engaging in any of these activities with an animal.~~

STAFF MANIPULATION OR SPLITTING

Attempting to bribe, convince, trick, sway or talk an employee into going against the facility or living unit rules, or the policies and procedures set forth in the Resident Handbook, is not allowed. Going from one employee to another in order to split staff or in order to "shop around" for an answer the resident likes, is not allowed.

STALKING

Willful and repeated following, watching, calling and/or harassing of another resident or employee is not allowed.

STEALING – MAJOR

Taking any items from the facility, another resident or employee without authorization is not allowed. Stealing that threatens the safety or security of the facility is a major rule violation.

~~THEFT~~

~~Definition: Taking property belonging to another person, entity, or the institution without the owner's authorization.~~

TRADING AND TRAFFICKING – MAJOR

The exchange (giving, accepting, loaning or borrowing) of any item, personal items or services is not allowed. Residents may not trade or traffic with any employee, visitor or other resident. Trading or trafficking that threatens the safety or security of the facility is a major rule violation.

TRANSFER OF FUNDS

Causing money to be moved from one resident's trust fund account to another resident's account, or having someone outside of the facility place money in the account of another resident, is not allowed.

UNAUTHORIZED COMMUNICATION

~~Definition:~~ Communicating, without prior authorization, or engaging in unwelcome communication (e.g., by ~~any means (~~mail, telephone, or through other persons~~intermediaries~~) with any victim or the family of any victim of sexual violence is not allowed. Unapproved or unwanted communication with any employee~~, staff (except at the Program)~~ or the family of an employee~~staff~~, or any person who~~party that~~ has requested no further communication must be respected at all times. Sending unauthorized requests or correspondence is not allowed; this includes repeated and/or excessive written requests or correspondence. In addition, written material containing sexual language is not allowed.

UNAUTHORIZED MOVEMENT – MAJOR

~~Definition:~~ Unauthorized movement is being~~Being~~ anywhere that is not allowed~~without authorization,~~ or being absent from where the resident is supposed to be~~required to be~~. Unauthorized movement that threatens the safety or security of the facility is a major rule violation.

UNAUTHORIZED ORGANIZATIONAL ACTIVITY

Engaging or coercing others to engage in unauthorized organizational activities or meetings; displaying, wearing, possessing or using unauthorized organizational insignia or materials; or giving unauthorized organizational signs is not allowed.

UNAUTHORIZED PROPERTY

~~Definition:~~ Possessing, giving, loaning, receiving or using property that a resident~~an inmate~~ has

no authorization to have or to receive and that was not issued to him/~~ or~~ her through regular procedures, including the unauthorized possession of food or clothing, or the possession of property in excess of that authorized by the facility, is not allowed~~institution~~.

VIOLATING STATE OR FEDERAL LAWS

~~Definition:~~ Committing any act that would constitute a violation of State or federal law is not allowed.~~ If the specific violation is stated elsewhere in this Part, a committed person may not be accused of this violation. The State or federal offense must be specified in the disciplinary report.~~

VIOLATION OF RULE – MAJOR

Any other behavior or activity that, in the opinion of the Program Director, Security Director, or Treatment Team, poses a therapeutic, fire, health and/or safety risk is a major rule violation.

MINOR RULE VIOLATIONS~~VIOLATION:~~

ABUSE OF PRIVILEGES

~~Definition:~~ Violating any rule that governs the use of privileges at the facility is not allowed. This includes, but is not limited to,~~regarding~~ visits,~~ mail,~~ yard, commissary, telephone,~~ or~~ recreational activities, and use of State computers.~~ However, if the conduct also constitutes a criminal offense under federal or State law, a committed person may also be charged under Violation of State or Federal Laws.~~

CONFERENCE CALLS/3-WAY CALLS

Unauthorized participation in a conference call or 3-way call is not allowed.

CURSING AND YELLING

Swearing, shouting, yelling, cursing, threatening, or saying anything aggressive or offensive to residents or employees is not allowed.

~~DISOBEYING A DIRECT ORDER~~

~~Definition: Willfully refusing to comply with an order, including the refusal to participate in testing for drug abuse or to accept a housing assignment.~~

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

DISPLAYING OR PRACTICING MARTIAL ARTS

Displaying, instructing, or practicing martial arts, such as karate, tae kwon do, kickboxing, jiu jitsu, judo, etc., is not allowed.

FAILURE TO MAINTAIN APPROPRIATE PERSONAL HYGIENE

Residents must always keep themselves clean and groomed. Residents must make sure their clothing and bedding is washed on a regular basis.

FAILURE TO NOTIFY STAFF

Concealing or failing to let an employee know of any rule violation by another resident is a violation of facility rules.

FAILURE TO REPORT

Failure to report for a scheduled group or Program assignment without good cause is not allowed.

GAMBLING

~~Definition:~~ Gambling of any kind is not allowed.~~Operating or playing a game of chance or skill for anything of value, making a bet upon the outcome of any event, or possessing any gambling device.~~

~~HEALTH, SMOKING OR SAFETY VIOLATIONS~~

~~Definition: Smoking in an unauthorized area; tattooing or ear or body piercing; or disregarding basic hygiene of person, cell, living or work area, or other place in the facility or on its grounds.~~

HORSEPLAY

Rowdy, loud or rough play, wrestling, or physical contact is not allowed.

INSOLENCE

~~Definition:~~ Communicating~~Talking~~, touching, gesturing or other behavior that harasses, annoys

or shows disrespect to any person is not allowed. This includes referring to employees by their first names.

~~PETITIONS AND BUSINESS VENTURES~~

~~Definition: Writing, signing or circulating a petition without authorization or engaging in an unauthorized business venture.~~

LOITERING

Loitering (to stand idle or linger) is not allowed. Hiding or standing out of staff's view in order to read or hear what an employee is writing or saying is considered loitering.

POSSESSION OF CONTRABAND – MINOR

Possession of contraband is not allowed. Possession of contraband is considered a minor violation if it involves personal property that does not threaten the safety or security of the facility.

~~POSSESSION OF MONEY~~

~~Definition: Possessing or causing to be brought into the institution, United States coin or currency or a negotiable instrument.~~

ROOM VISITING

Standing, sitting, lying down, etc., outside another resident's door in order to talk or visit is not allowed.

STEALING − MINOR

Taking any items from the facility, another resident or an employee without authorization is not allowed. To be considered a minor violation, the property must not pose a risk to the safety or security of the facility.

TRADING AND~~OR~~ TRAFFICKING − MINOR

The exchange (giving, accepting, loaning or borrowing) of any item, personal items, or services is not allowed. A resident may not trade or traffic with any employee, visitor or other resident.

To be considered a minor violation, the property must not pose a risk to the safety or security of the facility~~Definition: Trading or trafficking with any employee, visitor or resident~~.

~~TRANSFER OF FUNDS~~

~~Definition: Causing money to be transferred from one trust fund to another or through an outside source to the account of another resident or an inmate.~~

UNAUTHORIZED MOVEMENT – MINOR

Unauthorized movement is being anywhere that is not allowed or being absent from where a resident is supposed to be. Unauthorized movement that does not threaten the safety or security of the facility is a minor rule violation.

VIOLATION OF RULES – MINOR

~~Definition:~~ Willfully disobeying any rule of the facility is prohibited. Any other behavior or activity that, in the opinion of the Program Director, Security Director, or Treatment Team, does not pose a therapeutic, fire, health and/or safety risk is a minor rule violation.

(Source: Amended at 44 Ill. Reg. 8246, effective April 28, 2020)

DEPARTMENT OF HUMAN SERVICES

NOTICE OF ADOPTED AMENDMENTS

**Section 299.TABLE A Responsible Relative Liability**

TABLE A

Responsible Relative Liability

Number in Family (including recipient)

| Annual Income Range | | | Family Size | | | | | |
|---|---|---|---|---|---|---|---|---|
| | | | 2 | 3 | 4 | 5 | 6 | 7 |
| $ 7,000 | - | $ 7,500 | $ 5 | - | - | - | - | - |
| 7,501 | - | 8,000 | 10 | - | - | - | - | - |
| 8,001 | - | 8,500 | 15 | - | - | - | - | - |
| 8,501 | - | 9,000 | 20 | $ 5 | - | - | - | - |
| 9,001 | - | 9,500 | 25 | 10 | - | - | - | - |
| 9,501 | - | 10,000 | 30 | 15 | - | - | - | - |
| 10,001 | - | 10,500 | 35 | 20 | $ 5 | - | - | - |
| 10,501 | - | 11,000 | 40 | 25 | 10 | - | - | - |
| 11,001 | - | 11,500 | 45 | 30 | 15 | - | - | - |
| 11,501 | - | 12,000 | 50 | 35 | 20 | $ 5 | - | - |
| 12,001 | - | 12,500 | 55 | 40 | 25 | 10 | - | - |
| 12,501 | - | 13,000 | 60 | 45 | 30 | 15 | - | - |
| 13,001 | - | 13,500 | 65 | 50 | 35 | 20 | $ 5 | - |
| 13,501 | - | 14,000 | 70 | 55 | 40 | 25 | 10 | - |
| 14,001 | - | 14,500 | 75 | 60 | 45 | 30 | 15 | - |
| 14,501 | - | 15,000 | 80 | 65 | 50 | 35 | 20 | $ 5 |
| 15,001 | - | 15,500 | 85 | 70 | 55 | 40 | 25 | 10 |
| 15,501 | - | 16,000 | 90 | 75 | 60 | 45 | 30 | 15 |
| 16,001 | - | 16,500 | 95 | 80 | 65 | 50 | 35 | 20 |
| 16,501 | - | 17,000 | 100 | 85 | 70 | 55 | 40 | 25 |
| 17,001 | - | 17,500 | 105 | 90 | 75 | 60 | 45 | 30 |
| 17,501 | - | 18,000 | 110 | 95 | 80 | 65 | 50 | 35 |
| 18,001 | - | 18,500 | 115 | 100 | 85 | 70 | 55 | 40 |
| 18,501 | - | 19,000 | 120 | 105 | 90 | 75 | 60 | 45 |
| 19,001 | - | 19,500 | 125 | 110 | 95 | 80 | 65 | 50 |
| 19,501 | - | 20,000 | 130 | 115 | 100 | 85 | 70 | 55 |
| 20,001 | - | 20,500 | 135 | 120 | 105 | 90 | 75 | 60 |
| 20,501 | - | 21,000 | 140 | 125 | 110 | 95 | 80 | 65 |
| 21,001 | - | 21,500 | 145 | 130 | 115 | 100 | 85 | 70 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 21,501 | - | 22,000 | 150 | 135 | 120 | 105 | 90 | 75 |
| 22,001 | - | 22,500 | 155 | 140 | 125 | 110 | 95 | 80 |
| 22,501 | - | 23,000 | 160 | 145 | 130 | 115 | 100 | 85 |
| 23,001 | - | 23,500 | 165 | 150 | 135 | 120 | 105 | 90 |
| 23,501 | - | 24,000 | 170 | 155 | 140 | 125 | 110 | 95 |
| 24,001 | - | 24,500 | 175 | 160 | 145 | 130 | 115 | 100 |
| 24,501 | - | 25,000 | 180 | 165 | 150 | 135 | 120 | 105 |
| 25,001 | - | 25,500 | 185 | 170 | 155 | 140 | 125 | 110 |
| 25,501 | - | 26,000 | 190 | 175 | 160 | 145 | 130 | 115 |
| 26,001 | - | 26,500 | 195 | 180 | 165 | 150 | 135 | 120 |
| 26,501 | - | 27,000 | 200 | 185 | 170 | 155 | 140 | 125 |
| 27,001 | - | 27,500 | 205 | 190 | 175 | 160 | 145 | 130 |
| 27,501 | - | 28,000 | 210 | 195 | 180 | 165 | 150 | 135 |
| 28,001 | - | 28,500 | 215 | 200 | 185 | 170 | 155 | 140 |
| 28,501 | - | 29,000 | 220 | 205 | 190 | 175 | 160 | 145 |
| 29,001 | - | 29,500 | 225 | 210 | 195 | 180 | 165 | 150 |
| 29,501 | - | 30,000 | 230 | 215 | 200 | 185 | 170 | 155 |
| 30,001 | - | 30,500 | 235 | 220 | 205 | 190 | 175 | 160 |
| 30,501 | - | 31,000 | 240 | 225 | 210 | 195 | 180 | 165 |
| 31,001 | - | 31,500 | 245 | 230 | 215 | 200 | 185 | 170 |
| 31,501 | - | 32,000 | 250 | 235 | 220 | 205 | 190 | 175 |
| 32,001 | - | 32,500 | 255 | 240 | 225 | 210 | 195 | 180 |
| 32,501 | - | 33,000 | 260 | 245 | 230 | 215 | 200 | 185 |
| 33,001 | - | 33,500 | 265 | 250 | 235 | 220 | 205 | 190 |
| 33,501 | - | 34,000 | 270 | 255 | 240 | 225 | 210 | 195 |
| 34,001 | - | 34,500 | 275 | 260 | 245 | 230 | 215 | 200 |
| 34,501 | - | 35,000 | 280 | 265 | 250 | 235 | 220 | 205 |
| 35,001 | - | 35,500 | 285 | 270 | 255 | 240 | 225 | 210 |
| 35,501 | - | 36,000 | 290 | 275 | 260 | 245 | 230 | 215 |
| 36,001 | - | 36,500 | 295 | 280 | 265 | 250 | 235 | 220 |
| 36,501 | - | 37,000 | 300 | 285 | 270 | 255 | 240 | 225 |
| 37,001 | - | 37,500 | 305 | 290 | 275 | 260 | 245 | 230 |
| 37,501 | - | 38,000 | 310 | 295 | 280 | 265 | 250 | 235 |
| 38,001 | - | 38,500 | 315 | 300 | 285 | 270 | 255 | 240 |
| 38,501 | - | 39,000 | 320 | 305 | 290 | 275 | 260 | 245 |
| 39,001 | - | 39,500 | 325 | 310 | 295 | 280 | 265 | 250 |
| 39,501 | - | 40,000 | 330 | 315 | 300 | 285 | 270 | 255 |
| 40,001 | - | 40,500 | 335 | 320 | 305 | 290 | 275 | 260 |
| 40,501 | - | 41,000 | 340 | 325 | 310 | 295 | 280 | 265 |

| | | | | | | | | |
|---|---|---|---|---|---|---|---|---|
| 41,001 | - | 41,500 | 345 | 330 | 315 | 300 | 285 | 270 |
| 41,501 | - | 42,000 | 350 | 335 | 320 | 305 | 290 | 275 |
| 42,001 | - | 42,500 | 355 | 340 | 325 | 310 | 295 | 280 |
| 42,501 | - | 43,000 | 360 | 345 | 330 | 315 | 300 | 285 |
| 43,001 | - | 43,500 | 365 | 350 | 335 | 320 | 305 | 290 |
| 43,501 | - | 44,000 | 370 | 355 | 340 | 325 | 310 | 295 |
| 44,001 | - | 44,500 | 375 | 360 | 345 | 330 | 315 | 300 |
| 44,501 | - | 45,000 | 380 | 365 | 350 | 335 | 320 | 305 |
| 45,001 | - | 45,500 | 385 | 370 | 355 | 340 | 325 | 310 |
| 45,501 | - | 46,000 | 390 | 375 | 360 | 345 | 330 | 315 |
| 46,001 | - | 46,500 | 395 | 380 | 365 | 350 | 335 | 320 |
| 46,501 | - | 47,000 | 400 | 385 | 370 | 355 | 340 | 325 |
| 47,001 | - | 47,500 | 405 | 390 | 375 | 360 | 345 | 330 |
| 47,501 | - | 48,000 | 410 | 395 | 380 | 365 | 350 | 335 |
| 48,001 | - | 48,500 | 415 | 400 | 385 | 370 | 355 | 340 |
| 48,501 | - | 49,000 | 420 | 405 | 390 | 375 | 360 | 345 |
| 49,001 | - | 49,500 | 425 | 410 | 395 | 380 | 365 | 350 |
| 49,501 | - | 50,000 | 430 | 415 | 400 | 385 | 370 | 355 |
| 50,001 & over (continues at $5.00 increments) | | | | | | | | |

More than 7 in a family continues at $5.00 increments

Annual income shall be adjusted gross income as defined in Section 2-203 of the Illinois Income Tax Act [35 ILCS 5]

(Source: Added at 44 Ill. Reg. 8246, effective April 28, 2020)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

1) Heading of the Part: County Motor Fuel Tax

2) Code Citation: 86 Ill. Adm. Code 695

3)

| Section Numbers: | Adopted Actions: |
|---|---|
| 695.101 | Amendment |
| 695.105 | Amendment |
| 695.115 | Amendment |

4) Statutory Authority: 55 ILCS 5/5-1035.1

5) Effective Date of Rules: April 28, 2020

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

7) Does this rulemaking contain incorporations by reference? No

8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Notice of Proposal published in *Illinois Register*: 43 Ill. Reg. 13276; November 15, 2019

10) Has JCAR issued a Statement of Objection to this rulemaking? No

11) Differences between Proposal and Final Version: The only changes made were the ones agreed upon with JCAR. Only grammatical and technical changes were made. No substantive changes were made.

12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? None were made.

13) Will this rulemaking replace an emergency rule currently in effect? No

14) Are there any rulemakings pending on this Part? No

15) Summary and Purpose of Rulemaking: This rulemaking implements the changes to the County Motor Fuel Tax Law [55 ILCS 5/5-1035.1] made by PA 101-32. PA 101-32 expands the authority to impose a tax on persons engaged in the county in the business of selling motor fuel to include Lake and Will Counties (in addition to the existing counties

of DuPage, Kane, and McHenry). It also provides that the initial rate imposed may not be less than 4 cents per gallon (previously capped at 4 cents per gallon) and may not exceed 8 cents per gallon. Finally, PA 101-32 provides for automatic annual increases in the tax rate.

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

Samuel J. Moore
Associate Counsel
Legal Services Office
Illinois Department of Revenue
101 West Jefferson
Springfield IL 62794

217/782-2844

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUE

PART 695
COUNTY MOTOR FUEL TAX

Section

695.101 Nature of the County Motor Fuel Tax
695.105 Registration and Returns
695.110 Claims to Recover Erroneously Paid Tax
695.115 Jurisdictional Questions
695.120 Incorporation of Retailers' Occupation Tax Regulations by Reference
695.125 Penalties, Interest and Procedures
695.130 Effective Date

AUTHORITY: Implementing Section 5-1035.1 of the Counties Code [55 ILCS 5] and authorized by Section 2505-95 of the Civil Administrative Code of Illinois [20 ILCS 2505].

SOURCE: Adopted at 25 Ill. Reg. 4922, effective March 23, 2001; emergency amendment at 38 Ill. Reg. 4164, effective January 22, 2014, for a maximum of 150 days; emergency expired June 20, 2014; amended at 38 Ill. Reg. 14428, effective June 25, 2014; amended at 44 Ill. Reg. 8336, effective April 28, 2020.

**Section 695.101 Nature of the County Motor Fuel Tax**

a) Authority to Impose Tax
Under the County Motor Fuel Tax Law ("Law") [55 ILCS 5/5-1035.1], *the county board of the counties of DuPage, Kane, Lake, Will and McHenry may, by an ordinance or resolution adopted by the affirmative vote of a majority of the members elected or appointed to the county board, impose a tax upon all persons engaged in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law* [35 ILCS 505], *at retail for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways. Kane County may exempt diesel fuel from the tax imposed pursuant to this Section. The initial tax rate may not be less than~~If imposed, such tax shall only be imposed in half-cent increments, at a rate not exceeding~~ 4 cents per gallon of motor fuel sold at retail within the county for the purpose of use or consumption and not for the purpose of resale and may not exceed 8 cents per gallon of motor fuel sold at retail within the county for the purpose of use or*

*consumption and not for the purpose of resale*. *The proceeds from the tax shall be used by the county solely for the purpose of operating, constructing and improving public highways and waterways, and acquiring real property and rights-of-way for public highways and waterways within the county imposing the tax*. The County Motor Fuel Tax imposed under the ~~County Motor Fuel Tax~~ Law is an occupation tax upon retailers of motor fuel and is administered by the Illinois Department of Revenue ("Department") in the same manner as the Retailers' Occupation Tax. The tax imposed by a county board under the County Motor Fuel Tax Law and this Part, and all civil penalties that may be assessed as an incident thereof, shall be collected and enforced by the Department.

b) Annual Rate Increase
*By June 1, 2020, and by June 1 of each year thereafter, the Department of Revenue will determine an annual rate increase to take effect on July 1 of that calendar year and continue through June 30 of the next calendar year. Not later than June 1 of each year, the Department of Revenue will publish on its website the rate that will take effect on July 1 of that calendar year. The rate shall be equal to the rate in effect increased by an amount equal to the percentage increase, if any, in the Consumer Price Index for All Urban Consumers for all items, published by the United States Department of Labor for the12 months ending in March of each year. The rate shall be rounded to the nearest one-tenth of one cent. Each new rate may not exceed the rate in effect on June 30 of the previous year plus one cent.* (Section (a-5) of the Law)

1) With respect to rate increases, if the rate in effect on June 30, 2020 is 4 cents per gallon, then the rate that takes effect on July 1, 2021 as a result of the annual rate increase may not exceed 5 cents per gallon. If, however, the county board adopts an ordinance or resolution to increase the rate on July 1, 2021 to 6 cents per gallon, then the 6 cents per gallon rate shall take effect on July 1, 2021, notwithstanding that it exceeds the rate in effect on June 30, 2020 by more than one cent per gallon.

2) While the rate set by the county board by ordinance or resolution may not exceed 8 cents per gallon, the rate in effect thereafter may exceed 8 cents per gallon as a result of the annual rate increase provision.

c)~~b)~~ Passing on the Tax
The legal incidence of the ~~County Motor Fuel Tax~~ Law is on the seller. Nevertheless, the General Assembly has authorized persons subject to any tax

imposed pursuant to the authority granted in the ~~County Motor Fuel Tax~~ Law to reimburse themselves for their County Motor Fuel Tax liability by separately stating such tax as an additional charge, which charge may be stated in combination, in a single amount, with State tax that~~which~~ sellers are required to collect under the Use Tax Act [35 ILCS 105], pursuant to such bracket schedules as the Department has prescribed (see 86 Ill. Adm. Code 150.Table A).

d)~~e)~~ Exclusion from "Gross Receipts"
Any amount added to the selling price of motor fuel by the seller because of a County Motor Fuel Tax, or because of the Illinois Retailers' Occupation Tax [35 ILCS 120], the Illinois Use Tax [35 ILCS 105], or any local occupation or use tax administered by the Department and collected from the purchaser, shall not be regarded as a part of the seller's gross receipts that are subject to such County Motor Fuel Tax.

(Source: Amended at 44 Ill. Reg. 8336, effective April 28, 2020)

**Section 695.105 Registration and Returns**

a) Separate Registration Not Required
A retailer's registration under the Illinois Retailers' Occupation Tax Act [35 ILCS 120] is sufficient for the County Motor Fuel Tax Law. No special registration for the ~~County Motor Fuel Tax~~ Law is required.

b) Requirements as to Returns

1) The information required for the ~~County Motor Fuel Tax~~ Law shall be furnished on the return form prescribed by the Department.

2) On or before the 20th~~twentieth~~ day of each calendar month, every person engaged in the business of selling motor fuel, as now or hereafter defined in the Motor Fuel Tax Law [35 ILCS 505], at retail in the counties of DuPage, Kane, Lake, Will or McHenry for the operation of motor vehicles upon public highways or for the operation of recreational watercraft upon waterways during the preceding calendar month shall file a return with the Department for the~~such~~ preceding month, stating the name of the seller; the address of his or her principal place of business, the address of the principal place of business (if that is a different address) from which he or she is engaged in the business of selling the~~such~~ motor fuel at retail; total

gallons of motor fuel sold; deductions allowed by law; and amount of tax due.

3) If the retailer files his or her Illinois Retailers' Occupation Tax returns on the gross receipts basis, he or she must report County Motor Fuel Tax information in his or her returns on the same basis. If the retailer files his or her Illinois Retailers' Occupation Tax returns on the gross sales basis, he or she must report County Motor Fuel Tax information in his or her returns on the gross sales basis.

(Source: Amended at 44 Ill. Reg. 8336, effective April 28, 2020)

**Section 695.115 Jurisdictional Questions**

a) Definitions

When used in this Part, "County" means any one of the counties of DuPage, Kane, Lake, Will or McHenry authorized under the County Motor Fuel Tax Law ~~[55 ILCS 5/5-1035.1]~~ to impose a County Motor Fuel Tax.

When used in this Part, "Selling Activities" refers to those activities that comprise "an occupation, the business of which is to sell tangible personal property at retail". "Selling Activities" includes "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943).

b) Retailer's Selling Activities Determine Taxing Jurisdiction

1) Occupation of Selling. The ~~County Motor Fuel Tax~~ Law authorizes the county boards of the counties of DuPage, Kane, Lake, Will and McHenry to impose a tax on those engaged in the county in the business of selling motor fuel at retail within the county. Because the statute imposes a tax on the retail business of selling, and not on specific sales, the jurisdiction in which the sale takes place is not necessarily the jurisdiction where the County Motor Fuel Tax is owed. Rather, it is the jurisdiction where the seller is engaged in the business of selling that can impose the tax. Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951) ("In short, the tax is imposed on the "occupation" of the retailer and not upon the "sales"

as such.") (citing Mahon v. Nudelman, 377 Ill. 331 (1941) and Standard Oil Co. v. Dep't of Finance, 383 Ill. 136 (1943)); see also Young v. Hulman, 39 Ill. 2d 219, 225 (1968) ("the retailers occupational tax . . . imposes liability upon the occupation of selling at retail and not on the sale itself").

2) Composite of Selling Activities. The occupation of selling is comprised of "the composite of many activities extending from the preparation for, and the obtaining of, orders for goods to the final consummation of the sale by the passing of title and payment of the purchase price". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Thus, establishing where "the taxable business of selling is being carried on" requires a fact-specific inquiry into the composite of activities that comprise the retailer's business. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 32 (citing Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943)).

3) Multijurisdictional Retailers. Some retailers are engaged in retail operations with selling activities in multiple jurisdictions within the State, or in jurisdictions located in more than one state. The selling activities that comprise these businesses "are as varied as the methods which men select to carry on retail business". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321 (1943). Consequently, "it is… not possible to prescribe by definition which of the many activities must take place in [a jurisdiction] to constitute it an occupation conducted in [that jurisdiction]… [I]t is necessary to determine each case according to the facts which reveal the method by which the business was conducted". Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 321-22 (1943); see also Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 36.

4) Statutory Intent. It is the intent of the County Motor Fuel Tax that retailers will incur County Motor Fuel Tax in a jurisdiction in Illinois if they "enjoyed the greater part of governmental [services and] protection" in that jurisdiction. Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 34 (quoting Svithiod Singing Club v. McKibbin, 381 Ill. 194, 197 (1942)). By allowing the Counties of DuPage, Kane, Lake, Will and McHenry to impose tax on retailers who conduct business in the county, the ~~County Motor Fuel Tax~~ Law links the retailer's tax liability to where it principally enjoys the benefits of government services. Svithiod Singing Club v. McKibbin, 381 Ill. 194, 199 (1942).

5) Determination of Taxing Jurisdiction. Applying the provisions in subsections (b)(1) and (b)(4), a seller incurs County Motor Fuel Tax in the county if its predominant and most important selling activities take place in the county. Isolated or limited business activities within a jurisdiction do not constitute engaging in the business of selling in that jurisdiction when other more significant selling activities occur outside the jurisdiction, and the business predominantly takes advantage of government services provided by other jurisdictions. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316, 322-23 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraphs 30 through 35.

6) Substance over Form. The Department "may look through the form of a putatively [multijurisdictional] transaction to its substance" to determine where "enough of the business of selling took place" and, thus, where the seller is subject to local retailers' occupation tax. Marshall & Huschart Mach. Co. v. Dep't of Revenue, 18 Ill. 2d 496, 501 (1960); Fed. Bryant Mach. Co. v. Dep't of Revenue, 41 Ill. 2d 64, 67 (1968); Int'l-Stanley Corp. v. Dep't of Revenue, 40 Ill. App. 3d 397, 406 (1st Dist. 1976); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31. For example, the Department will not look to the location of a party that is owned by or has common ownership with a supplier or a purchaser if that party does not, in substance, conduct the selling activities related to the sales.

7) Same Standard Applies to Intrastate and Interstate Retailers. For purposes of determining where a retailer is engaged in the business of selling, it does not matter whether the retailer is engaged in selling activities in taxing jurisdictions in multiple states, or in multiple jurisdictions in this State. The legal standard is the same. The retailer is engaged in the business of selling in the taxing jurisdiction where its predominant and most important selling activities take place. Ex-Cell-O Corp. v. McKibbin, 383 Ill. 316 (1943); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 30 ("the location of the business of selling inside or outside the [S]tate controls…"). If a retailer engages in some selling activities in a taxing jurisdiction in this State, but that retailer's predominant selling activities are outside the State, the retailer's obligation to collect and remit taxes on Illinois sales is governed by the Illinois Use Tax Act [35 ILCS 105/2] (defining "retailer maintaining a place of

business in the State"); Hartney Fuel Oil Co. v. Hamer, 2013 IL 115130, paragraph 31 ("some combination of activities within the [S]tate are insufficient for the retail occupation tax to apply") (citing Automatic Voting Machs. v. Daley, 409 Ill. 438, 447 (1951)).

8) Because it is not practicable for retailers to divide County Motor Fuel Tax among competing jurisdictions, a retailer subject to the County Motor Fuel Tax is engaged in the business of selling in only one location in Illinois for each sale.

c) Application of Composite of Selling Activities Test to Retailers Conducting Selling Activities in Multiple Taxing Jurisdictions. Every retailer maintaining a place of business in this State shall determine the taxing jurisdictions in which it is engaged in the business of selling with respect to each of its sales by applying the standards set forth in this subsection (c), except when a retailer is engaged in particular selling activities identified by a statute that specifies the taxing jurisdiction where retailers engaged in those activities shall remit County Motor Fuel Tax. These retailers shall remit County Motor Fuel Tax as directed by statute, notwithstanding anything in this Part to the contrary.

1) Primary Selling Activities. Without attempting to anticipate every kind of fact situation that may arise, taxpayers that divide selling activities among personnel located in multiple jurisdictions shall consider the following selling activities to determine where they are engaged in the business of selling with respect to each sale. A retailer is engaged in the business of selling in only one location for each sale, but may be engaged in the business of selling in different locations for different sales:

A) Location of sales personnel exercising discretion and authority to solicit customers on behalf of a seller and to bind the seller to the sale;

B) Location where the seller takes action that binds it to the sale, which may be acceptance of purchase orders, submission of offers subject to unilateral acceptance by the buyer, or other actions that bind the seller to that sale;

C) The location where payment is tendered and received, or from which invoices are issued with respect to each sale;

D) Location of inventory if tangible personal property that is sold is in the retailer's inventory at the time of its sale or delivery, and

E) The location of the retailer's headquarters, which is the principal place from which the business of selling tangible personal property is directed or managed. In general, this is the place at which the offices of the principal executives are located. When executive authority is located in multiple jurisdictions, the place of daily operational decision making is the headquarters.

2) A retailer engaging in three or more primary selling activities in one location in the State for a particular sale shall remit the County Motor Fuel Tax imposed by the taxing bodies with authority to impose County Motor Fuel Tax on those engaged in the business of selling in that location for that sale. A retailer engaging in three or more primary selling activities for a particular sale outside the State shall collect and remit tax to the State to the extent required by the Illinois Use Tax Act [35 ILCS 105] for that sale, except as provided in subsection (d).

3) Application of Primary Selling Activities to Common Selling Operations. Retailers engaged in selling operations with a single location where the primary selling activities predominate constitute the vast majority of retailers in the State. Subsections (c)(3)(A) and (B)~~through (c)(3)(C)~~ apply the primary selling activities to certain common selling operations and identify the location where the Department will presume the seller is engaged in the business of selling with respect to each sale.

A) Over the Counter Sales. If a purchaser is present at a place of business owned or leased by a retailer and there enters into an agreement with the retailer's sales personnel to purchase tangible personal property, and makes payment for that property at the same place of business, then the County Motor Fuel Tax for that sale is incurred at the retailer's place of business where the sale occurred regardless of whether the purchaser takes immediate possession of the tangible personal property, or the retailer delivers or arranges for the property to be delivered to the purchaser.

~~B) Sales through Vending Machines. A retailer is engaged in the business of selling food, beverages or other tangible personal property through a vending machine at the location where the vending machine is located when the sale is made if:~~

~~i) the vending machine is a device operated by coin, currency, credit card, token, coupon or similar device that dispenses food, beverage or other tangible personal property;~~

~~ii) the food, beverage or other tangible personal property is contained within the vending machine and dispensed from the vending machine; and~~

~~iii) the purchaser takes possession of the purchased food, beverage or other tangible personal property immediately.~~

B~~C~~) Sales from Vehicles Carrying Uncommitted Stock of Goods. The seller's place of engaging in business when making sales and deliveries (not just deliveries pursuant to previously completed sales, but actual sales and deliveries) from a vehicle in which a stock of goods is being carried for sale is the place at which the sales and deliveries actually are made. The vehicle carrying the stock of goods for sale is regarded as a portable place of business.

4) Secondary Selling Activities. If the primary selling activities listed in subsection (c)(1) occur in multiple jurisdictions, but no individual jurisdiction has more than two primary selling activities, the following additional selling activities shall be considered to determine the jurisdiction in which the retailer is engaged in the business of selling.

A) Location where marketing and solicitation occur;

B) Location where the seller engages in activities necessary to procure goods for sale;

C) Location of the retailer's officers, executives or employees with authority to set prices or determine other terms of sale if determinations are made in a location different than that identified in subsection (c)(1)(A);

D) Location where purchase orders or other contractual documents are received when purchase orders are accepted, processed, or fulfilled in a location or locations different from where they are received;

E) Location where title passes; and

F) Location where the retailer displays goods to prospective customers, such as a showroom.

5) Except as provided in subsection (d), a retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) is engaged in the business of selling in the jurisdiction where its inventory is located under subsection (c)(1)(D), or where its headquarters is located under subsection (c)(1)(E), whichever jurisdiction is the location where more selling activities occur, considering both primary and secondary selling activities.

6) A retailer that is not engaged in the business of selling in a jurisdiction under subsection (c)(2) or (c)(5) is presumed to be engaged in the business of selling at the location of its headquarters absent clear and convincing evidence to the contrary.

d) Presumptions Applying to Certain Selling Operations

1) For certain classes of retailers with unique, complicated or widely dispersed selling activities, determining appropriate tax situs in every situation presents substantial administrative difficulties for both retailers and tax enforcement personnel. Subsection~~Subsections~~ (d)(2) provides an ~~through (d)(5) provide~~ administrative "short cut~~cuts~~" that balances~~balance~~ the administrative difficulties presented by certain selling operations against the need for accurate tax assessment.

2) In-State Inventory/Out of State Selling Activity. If a retailer's selling activities take place in taxing jurisdictions outside this State, except that the tangible personal property that is sold is in an inventory in the possession of the retailer located within a jurisdiction in Illinois at the time of its sale (or is subsequently produced by the retailer in the jurisdiction), then delivered in Illinois to the purchaser, the jurisdiction where the

property is located at the time of the sale or when it is subsequently produced by the retailer will determine where the retailer is engaged in business with respect to that sale. Chemed Corp., Inc. v. Department of Revenue, 186 Ill. App. 3d 402 (4th Dist. 1989).

(Source: Amended at 44 Ill. Reg. 8336, effective April 28, 2020)

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULES

1) Heading of the Part: Cannabis Regulation and Tax Act

2) Code Citation: 8 Ill. Adm. Code 1300

3)

| Section Numbers: | Emergency Actions: |
|---|---|
| 1300.300 | Amendment |
| 1300.400 | Amendment |
| 1300.510 | Amendment |

4) Statutory Authority: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705].

5) Effective Date of Emergency Rules: April 30, 2020

6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which it is to expire: The emergency rulemaking became effective on January 1, 2020. The rulemaking is set to expire at the end of the 180-day period in accordance with the Illinois Administrative Procedure Act [5 ILCS 100/5-45(gg)]. The rulemaking is not set to expire before the 180-day period.

7) Date Filed with the Index Department: April 29, 2020

8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Reason for the Emergency: Amends the Department's emergency rules (44 Ill. Reg. 1466-1/17/20) to comport with the requirements of two Executive Orders issued in by the Governor, EO 2020-03 and EO 2020-17, in response to the COVID-19 crisis.

10) A Complete Description of the Subjects and Issues Involved: The Executive Orders, and this emergency amendment to the emergency rules extend the due date for applications for Craft Growers, Infusers, and Transporters, and specifies that applicants must submit their applications to the Department by certified mail.

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

12) Statement of Statewide Policy Objective: It does not create or expand a State mandate under the State Mandates Act [30 ILCS 805].

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULES

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

Albert A. Coll
Illinois Department of Agriculture
State Fairgrounds, P. O. Box 19281
Springfield IL 62794-9281

217/782-5051
fax: 217/785-4505

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

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULES

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: ILLINOIS DEPARTMENT OF AGRICULTURE
SUBCHAPTER v: LICENSING AND REGULATIONS

PART 1300
CANNABIS REGULATION AND TAX ACT

SUBPART A: GENERAL PROVISIONS

Section
1300.10 Definitions and Incorporations
1300.20 Referenced Materials
1300.30 Scope and Application
1300.40 Operation of a Cannabis Business Establishment

SUBPART B: ADULT USE CULTIVATION CENTERS

Section
1300.100 Application, Selection, and Operation of Early Adult Use Cultivation Center License
1300.102 Application for Conditional Adult Use Cultivation Center License
1300.103 Financial Disclosure
1300.105 License Selection Criteria
1300.110 License Denial and Prohibitions
1300.115 License Award, Issuance and Transferability
1300.120 License Renewal
1300.130 Modifications and Alterations
1300.145 Background Check
1300.150 Specifications
1300.155 Records
1300.160 Signage
1300.165 Agents and Identification Cards
1300.170 Operations – Plant Production
1300.175 Operations – Infused or Processed Products
1300.180 Inventory
1300.185 Security
1300.195 Transportation

SUBPART C: COMMUNITY COLLEGE

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULES

CANNABIS VOCATIONAL PILOT PROGRAM

Section
1300.200 Definitions
1300.202 License Application
1300.205 License Selection Criteria
1300.215 License Transferability
1300.220 License Renewal
1300.230 Modifications and Alterations
1300.235 License Awards and Denials
1300.245 Agents and Identification Cards
1300.265 Background Check
1300.275 Program Operations
1300.280 Enforcement
1300.295 Requests for Information

SUBPART D: CRAFT GROWER

Section
1300.300 License Application
EMERGENCY
1300.305 Financial Disclosure
1300.307 License Selection Criteria
1300.310 License Denial and Prohibitions
1300.315 License Award, Issuance and Transferability
1300.320 License Renewal
1300.330 Modifications and Alterations
1300.345 Background Check
1300.350 Specifications
1300.355 Records
1300.360 Signage
1300.365 Agents and Identification Cards
1300.370 Operations – Plant Production
1300.375 Operations – Infused or Processed Products
1300.380 Inventory
1300.385 Security
1300.395 Transportation

SUBPART E: INFUSERS

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULES

Section
1300.400 License Application
EMERGENCY
1300.405 Financial Disclosure
1300.407 License Selection Criteria
1300.410 License Denial and Prohibitions
1300.415 License Award, Issuance and Transferability
1300.420 License Renewal
1300.430 Modifications and Alterations
1300.445 Background Check
1300.450 Specifications
1300.455 Records
1300.460 Signage
1300.465 Agents and Identification Cards
1300.470 Operations – General Requirements
1300.475 Operations – Infused Products
1300.480 Inventory
1300.485 Security
1300.495 Transportation

SUBPART F: TRANSPORTERS

Section
1300.500 License Requirements
1300.510 License Application
EMERGENCY
1300.520 License Selection Criteria
1300.530 License Denial and Prohibitions
1300.540 License Issuance and Transferability
1300.550 License Renewal
1300.560 Modifications and Alterations
1300.570 Background Check
1300.580 Records
1300.590 Agents and Identification Cards
1300.595 Operations

SUBPART G: ENFORCEMENT AND IMMUNITIES

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULES

Section
1300.600 Investigations
1300.610 License Suspension
1300.620 License Revocation
1300.630 Fines
1300.640 Administrative Hearings
1300.650 Petition for Rehearing

SUBPART H: LABORATORY TESTING

Section
1300.710 Laboratory Testing

SUBPART I: DESTRUCTION OF CANNABIS

Section
1300.800 Scope
1300.810 Notice to the Department
1300.820 Method of Destruction
1300.830 Records
1300.840 Disposal

SUBPART J: CANNABIS PACKAGING AND LABELING

Section
1300.900 Registration
1300.910 Registration Fee
1300.920 Container and Packaging Requirements
1300.930 Labeling Requirements
1300.940 Warnings

1300.APPENDIX A Authorized Pesticides

AUTHORITY: Implementing and authorized by the Cannabis Regulation and Tax Act [410 ILCS 705].

SOURCE: Emergency rules adopted at 44 Ill. Reg. 1466, effective January 1, 2020, for a maximum of 180 days; emergency amendment to emergency rule at 44 Ill. Reg. 8349, effective April 30, 2020, for the remainder of the 180 days.

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULES

SUBPART D: CRAFT GROWER

**Section 1300.300 License Application**
**EMERGENCY**

a) A craft grower license shall be obtained for each facility prior to commencement of any production activities. The license shall, along with any other certificate, business license or other authorization required to conduct production activities, be posted in a conspicuous place within the facility.

b) On February 14, 2020 the Department will begin accepting applications for craft grower licenses. The license acceptance period shall close on April 30, 2020, pursuant to COVID-19 Executive Order No. 17~~March 16, 2020~~. ~~An application will be considered submitted on the date in which it was received, if received on or before 5 p.m. Central Time. If received after 5 p.m. Central Time, the application will be considered received on the next business day.~~

1) The Department will accept all craft grower license applications postmarked on or before April 30, 2020, via certified US Mail at:~~Submissions shall be made electronically.~~

Illinois Department of Agriculture
c/o Bureau of Medicinal Plants
P.O. Box 19281
Springfield IL 62794-9281

2) Notification of the availability of applications will be posted on the Department's website at www.agr.state.il.us/.

c) An applicant applying for a craft grower license shall electronically submit the following (See also 410 ILCS 705/30-10):

1) Nonrefundable application fee of $5,000, unless the applicant is eligible for a fee waiver as a Social Equity Applicant pursuant to Section 7-20 of the Act;

2) Legal name of the craft grower;

3) Proposed physical address of the craft grower;

4) Name, address, social security number, and date of birth of each principal officer and board member of the craft grower; each principal officer and board member shall be at least 21 years of age;

5) The details of any administrative or judicial proceeding in which any of the principal officers or board members of the craft grower:

A) Pled guilty, were convicted, fined, or had a registration or license suspended or revoked; or

B) Managed or served on the board of a business or non-profit organization that pled guilty, was convicted, fined, or had a registration or license suspended or revoked;

6) Proposed operating bylaws that include procedures for the oversight of the craft grower, including the development and implementation of a plant monitoring system, accurate recordkeeping, staffing plan, and security plan approved by the ISP;

7) Verification from the ISP that all background checks of the prospective principal officers, board members, and agents of the cannabis business establishment have been conducted. If ISP has not completed the background check, then the applicant shall provide written verification that the request has been submitted to ISP;

8) A copy of the current local zoning ordinance or permit and verification that the proposed craft grower is in compliance with the local zoning rules and distance limitations established by the local jurisdiction;

9) Proposed employment practices, in which the applicant must demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, and persons with disabilities, engage in fair labor practices, and provide worker protections;

10) A statement that the applicant can demonstrate experience in or business practices that promote economic empowerment in Disproportionately Impacted Areas;

11) Experience with the cultivation of agricultural or horticultural products, operating an agriculturally related business, or operating a horticultural business;

12) A description of the enclosed, locked facility where cannabis will be grown, harvested, manufactured, packaged, or otherwise prepared for distribution to a dispensing organization or other cannabis business establishment;

13) A survey of the enclosed, locked facility, including the space used for cultivation;

14) Cultivation, processing, inventory, and packaging plans;

15) A description of the applicant's experience with agricultural cultivation techniques and industry standards;

16) A list of any academic degrees, certifications, or relevant experience of all prospective principal officers, board members, and agents of the related agricultural or horticultural business;

17) The identity of every person having a financial or voting interest of 5% or greater in the craft grower operation, whether a trust, corporation, partnership, limited liability company, or sole proprietorship, including the name and address of each person;

18) A plan describing how the craft grower will address each of the following:

A) Energy needs, including estimates of monthly electricity and gas usage, to what extent it will procure energy from a local utility or from on-site generation, and if it has or will adopt a sustainable energy use and energy conservation policy;

B) Water needs, including estimated water draw and if it has or will adopt a sustainable water use and water conservation policy; and

C) Waste management, including if it has or will adopt a waste reduction policy.

19) A recycling plan that addresses each of the following:

A) Purchaser packaging, including cartridges, that shall be accepted by the applicant and recycled;

B) Any recyclable waste generated by the craft grower facility shall be recycled per applicable State and local laws, ordinances, and rules; and

C) Any cannabis waste, liquid waste, or hazardous waste shall be disposed of in accordance with 8 Ill. Adm. Code 1000.460, except, to the greatest extent feasible, all cannabis plant waste will be rendered unusable by grinding and incorporating the cannabis plant waste with compostable mixed waste to be disposed of in accordance with 8 Ill Adm. Code 1000.460(g)(1).

20) A commitment to comply with local waste provisions. A craft grower facility must remain in compliance with applicable State and federal environmental requirements, including, but not limited to:

A~~C~~) Storing, securing, and managing all recyclables and waste, including organic waste composed of or containing finished cannabis and cannabis-infused products, in accordance with applicable State and local laws, ordinances, and rules; and

B~~D~~) Disposing liquid waste containing cannabis or byproducts of cannabis processing in compliance with all applicable State and federal requirements, including, but not limited to permits under Title X of the Environmental Protection Act.

21) A commitment to a technology standard for resource efficiency of the craft grower facility:

A) Lighting. The Lighting Power Densities (LPD) for cultivation space commits to not exceed an average of 36 watts per gross square foot of active and growing space canopy, or all installed lighting technology shall meet a photosynthetic photon efficacy (PPE) of no less than 2.2 micromoles per joule fixture and shall be

featured on the Design Lights Consortium (DLC) Horticultural Specification Qualified Products List (QPL). In the event that DLC requirement for minimum efficacy exceeds 2.2 micromoles per joule fixture, that PPE shall become the new standard;

B) HVAC

i) For cannabis grow operations with less than 6,000 square feet of canopy, the licensee commits that all HVAC units will be high-efficiency ductless split HVAC units, or other more energy efficient equipment;

ii) For cannabis grow operations with 6,000 square feet of canopy or more, the licensee commits that all HVAC units will be variable refrigerant flow HVAC units, or other more energy efficient equipment;

C) Water application

i~~iv~~) The craft grower facility commits to use automated watering systems, including, but not limited to, drip irrigation and flood tables, to irrigate cannabis crop;

ii~~v~~) The craft grower facility commits to measure runoff from watering events and report this volume in its water usage plan, and that on average, watering events shall have no more than 20% of runoff of water;

D) Filtration. The craft grower commits that HVAC condensate, dehumidification water, excess runoff, and other wastewater produced by the craft grower facility shall be captured and filtered to the best of the facility's ability to achieve the quality needed to be reused in subsequent watering rounds;

E) Reporting energy use and efficiency; [410 ILCS 705/30-10]

22) If a sole proprietorship, the name, residence and date of birth of the owner;

23) If a partnership, the names and addresses of all partners, both general and limited and any partnership or joint venture documents;

A) For a domestic limited partnership, a copy of the Certificate of Limited Partnership and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60-days;

B) For a foreign limited partnership, a certificate of Good Standing from the state of formation, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60-days;

24) If a limited liability partnership, the names and addresses of all partners, and any partnership or joint venture documents;

A) For a domestic limited liability partnership, a copy of the Certificate of Limited Liability Partnership and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days;

B) For a foreign limited liability partnership, a certificate of Good Standing from the state of formation, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days;

25) If a corporation based in Illinois, a copy of the Articles of Incorporation and a copy of the Certificate of Good Standing issued by the Illinois Secretary of State or obtained from the Secretary of State's website within the last 60 days. If the corporation is a foreign corporation, a copy of the Articles of Incorporation, a copy of the Certificate of Good Standing from the state or country in which the corporation is domiciled, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60 days. If using an assumed name (d/b/a), a copy of the assumed name registration issued by the Secretary of State. Additionally, applicants shall include the names and addresses of all stockholders and directors of the corporation;

26) If a limited liability company:

A) For a domestic limited liability company, a copy of the Articles of Organization, a copy of the Certificate of Good Standing issued by the Illinois Secretary of State or obtained from the Secretary of State's website within the last 60 days, and a listing of the members of the limited liability company and his, her, or its contact information;

B) For a foreign limited liability company, a copy of the Articles of Organization and a Certificate of Good Standing from the state of organization, a copy of the Application for Admission to Transact Business in Illinois, along with a Certificate of Good Standing issued by the Illinois Secretary of State, all dated within the last 60 days;

27) If another type of business entity, the same or similar information, as applicable, to that listed in subsections (25) and (26) above;

28) Property ownership records:

A) If the property is not owned but is currently leased by the applicant, the applicant shall provide: a copy of the lease; confirmation of land ownership; identification of any mortgagees and/or lienholders; a written statement from the property owner and/or landlord, certifying consent that the applicant may operate a craft grower on the premises at least through the term of the lease; and, if applicable, verification of notification by the property owner to any and all mortgagees and/or perfected lienholders that the property is to be used as a craft grower at least through the term of the financing, and consent thereto by any mortgagees and/or perfected lienholders;

B) If the property is not owned or currently leased by the applicant, the applicant shall provide: a written statement from the property owner and/or landlord certifying consent that the applicant will lease or purchase the property for the purpose of operating a craft grower for at least five years (5); and, if applicable, verification of

notification by the property owner to any and all mortgagees and/or perfected lienholders that the property is to be used as a craft grower at least through the effective dates of all agreements, and consent thereto by any mortgagees and/or perfected lienholders;

C) If the property is owned by the applicant, the applicant shall provide: confirmation of land ownership; identification of any and all mortgagees and/or perfected lienholders; and, if applicable, verification of notification to any and all mortgagees and/or perfected lienholders that the property is to be used as a craft grower at least through the expiration of financing, and consent thereto by any mortgagees and/or perfected lienholders;

29) Applicant shall submit plans and specifications drawn to scale for the interior of the building. If the building is not in existence at the time of application, the applicant shall submit a plot plan and a detailed drawing to scale of the interior and the architect's drawing of the building to be constructed;

30) Documentation that the individual or entity filing the application has at least $20,000 in liquid assets. Acceptable documentation includes a signed statement from an Illinois Licensed CPA attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying. The statement must be dated within 30 calendar days before the date the application was submitted;

31) All relevant financial information as set forth in Section 1300.305 of this Part;

32) If any principal officers or board members are currently or have previously been licensed or authorized in another state or jurisdiction to cultivate, produce, distribute or otherwise sell cannabis in any form, the following:

A) A copy of each such licensing or authorizing document verifying licensure in that state or jurisdiction;

B) A statement granting the Department permission to contact the regulatory agency that granted the license to confirm the information contained in the application; and

C) If the entity's license or authorization to conduct business was ever suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a statement that the applicant was so licensed and was never sanctioned.

33) If applicable, the applicant's status as a Social Equity Applicant, as demonstrated by:

A) Evidence of the applicant's status as an "Illinois resident" as demonstrated by incorporation documents, or, if applying as an individual, at least two of the following: (i) a signed lease agreement that includes the applicant's name, (ii) a property deed that includes the applicant's name, (iii) school records, (iv) voter registration card, (v) an Illinois driver's license, ID card, or a Person with a Disability ID card, (vi) a paycheck stub, (vii) a utility bill, or (viii) any other proof of residency or other information necessary to establish residence. A person must have been domiciled in the state for a period of 30 days to be an "Illinois resident" as used in this application; and one of the following:

i) Evidence the person or persons owning and controlling more than 51% of the proposed license have lived in a disproportionately impacted area for 5 of the preceding 10 years as demonstrated by, but not limited to, tax filings, voter registrations, leases, mortgages, paycheck stubs, utility bills, insurance forms, or school records that include the qualifying principal officers' names on them; or

ii) Evidence the person or persons owning and controlling more than 51% of the proposed license have been arrested for, convicted of, or adjudicated delinquent for any offense made eligible for expungement by the Act. If the arrest, conviction, or adjudication has been sealed or expunged, provide records of such action; or

iii) Evidence the person or persons owning and controlling more than 51% of the proposed license has had a parent, legal guardian, child, spouse, dependent, or was a dependent of an individual who prior to June 25, 2019, was arrested for, convicted of, or adjudicated delinquent for any offense made eligible for expungement by the Act. If the arrest, conviction, or adjudication has been sealed or expunged, provide records of such action. The applicant must also provide evidence of the relationship between the applicant's principal officer or officers and the person who was arrested for, convicted of, or adjudicated delinquent for any offense made eligible for expungement by the Act; or

iv) Evidence that the applicant employs 10 or more full-time employees, and evidence that 51% or more of those employees (1) currently reside in a disproportionately impacted area; (2) have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the Act; or (3) are members of an "impacted family" as that term is defined in the Act. The applicant must provide evidence as described above for each employee. The applicant shall also provide evidence the employees were engaging in full time work as of the date the application was submitted. If employee information or employment status of employees changes before licenses are awarded, the applicant has a duty to notify the Department of the change in employee information or status.

d) The applicant shall sign a notarized statement certifying that:

1) The craft grower will register with the Illinois Department of Revenue should the applicant be granted a license;

2) The application is complete and accurate; and

3) The applicant has actual notice that, notwithstanding any state law:

A) Cannabis is a prohibited Schedule I controlled substance under federal law;

B) A license is granted only to the extent provided by the strict requirements of the Act and this Part;

C) Any activity not sanctioned by the Act or this Part may be a violation of State law;

D) Growing, distributing or possessing cannabis in any capacity, except through a federally-approved research program, is a violation of federal law;

E) Use of cannabis may affect an individual's ability to receive federal licensure in other areas;

F) Use of cannabis, in tandem with other conduct, may be a violation of federal law;

G) Possessing a license does not authorize any person to violate federal law or State law and, other than as set out in Article 45 of the Act, does not provide any immunity from or affirmative defense to arrest or prosecution under federal law or State law; and

H) Applicants shall indemnify and hold harmless the State of Illinois for any and all civil or criminal penalties resulting from possessing a license.

5) All of applicant's principal officers expressly agree to be subject to service of process in Illinois with a current Illinois address on file with the Department.

e) *If the Department of Agriculture receives an application with missing information, the Department of Agriculture shall issue a deficiency notice to the applicant. The applicant shall have 10 calendar days from the date of the deficiency notice to resubmit the incomplete information. Applications that are still incomplete after this opportunity to cure will not be scored and will be disqualified.* [410 ILCS 705/30-10(c)]

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULES

(Source: Adopted by emergency rulemaking at 44 Ill. Reg. 1466, effective January 1, 2020, for a maximum of 180 days; emergency amendment to emergency rule at 44 Ill. Reg. 8349, effective April 30, 2020, for the remainder of the 180 days)

SUBPART E: INFUSERS

**Section 1300.400 License Application**
**EMERGENCY**

a) An infuser license shall be obtained for each facility prior to commencement of any production activities. The license shall, along with any other certificate, business license or other authorization required to conduct production activities, be posted in a conspicuous place within the facility.

b) The Department shall accept applications for infuser licenses beginning February 14, 2020. The Department application period shall close on April 30, 2020 pursuant to COVID-19 Executive Order No. 17~~March 16, 2020~~. ~~An application will be considered submitted on the date in which it was received, if received on or before 5 p.m. Central Time. If received after 5 p.m. Central Time, the application will be considered received on the next business day.~~

1) The Department will accept all infuser license applications postmarked on or before April 30, 2020, via certified US Mail at:~~Submissions shall be received electronically.~~

Illinois Department of Agriculture
c/o Bureau of Medicinal Plants
P.O. Box 19281
Springfield IL 62794-9281

2) Submissions received after the close of the application period shall be returned to the applicant.

3) Notification of the availability of applications will be posted on the Department's website at www.agr.state.il.us/.

c) The license application shall be submitted on the forms provided by the Department. The forms will include instructions for their completion and submission. The application will reflect the information required of applicants by

the Act and this Part and will include requests for information, plans, maps and other materials in support of the application needed by the Department to make its determination on the license request. The instructions on the application will reflect the total maximum number of points that can be awarded for each required criteria, measure and bonus point category listed in Section 1300.407. The instructions/application will also identify the total minimum number of points necessary from the required criteria and measures to be eligible for consideration of the bonus point categories. All applications will be reviewed and points awarded based upon the same point system in a fair and unbiased manner. If the Department receives an application with missing information, the Department shall issue a deficiency notice to the applicant. The applicant shall have 10 calendar days from the date of the deficiency notice to resubmit the incomplete information. Applications that are still incomplete after this opportunity to cure will not be scored and will be returned to the applicant. Once submitted, the required fee will not be returned. Upon receipt of an application deemed to be complete, the Department will engage in no further communication with the applicant until after the selection process is completed.

d) An applicant applying for an infuser license shall submit the following:

1) The nonrefundable application fee of $5,000, unless the applicant is eligible for a fee waiver pursuant to Section 7-20 of the Act;

2) The legal name of the infuser;

3) The proposed physical address of the infuser;

4) The name, address, social security number, and date of birth of each principal officer and board member of the infuser; each principal officer and board member shall be at least 21 years of age;

5) The details of any administrative or judicial proceeding in which any of the principal officers or board members of the infuser:

A) Pled guilty, were convicted, fined, or had a registration or license suspended or revoked; or

B) Managed or served on the board of a business or non-profit organization that pled guilty, was convicted, fined, or had a registration or license suspended or revoked;

6) Proposed operating bylaws that include procedures for the oversight of the infuser, including the development and implementation of a plant monitoring system, accurate recordkeeping, staffing plan, and security plan approved by ISP that are in accordance with the rules issued by the Department under the Act; a physical inventory of all cannabis shall be performed on a weekly basis by the infuser;

7) Verification from ISP that all background checks of the prospective principal officers, board members, and agents of the infuser have been conducted. If ISP has not completed the background check, then the applicant shall provide verification that the background check request has been submitted to ISP;

8) A copy of the current local zoning ordinance and verification that the proposed infuser is in compliance with the local zoning rules and distance limitations established by the local jurisdiction;

9) Proposed employment practices, in which the applicant must demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, and persons with disabilities, engage in fair labor practices, and provide worker protections;

10) Whether an applicant can demonstrate experience in or business practices that promote economic empowerment in Disproportionately Impacted Areas;

11) Experience in infusing products with cannabis concentrate;

12) A description of the enclosed, locked facility where cannabis will be infused, packaged, or otherwise prepared for distribution to a dispensing organization or other infuser;

13) Processing, inventory, and packaging plans;

14) A description of the applicant's experience with operating a commercial kitchen or laboratory preparing products for human consumption;

15) A list of any academic degrees, certifications, or relevant experience of all prospective principal officers, board members, and agents of the related business;

16) The identity of every person having a financial or voting interest of 5% or greater in the infuser operation with respect to which the license is sought, whether a trust, corporation, partnership, limited liability company, or sole proprietorship, including the name and address of each person;

17) If a sole proprietorship, the name, residence and date of birth of the owner;

18) If a partnership, the names and addresses of all partners, both general and limited and any partnership or joint venture documents;

A) For a domestic limited partnership, a copy of the Certificate of Limited Partnership and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60-days;

B) For a foreign limited partnership, a certificate of Good Standing from the state of formation, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60-days;

19) If a limited liability partnership, the names and addresses of all partners, and any partnership or joint venture documents;

A) For a domestic limited liability partnership, a copy of the Certificate of Limited Liability Partnership and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60-days;

B) For a foreign limited liability partnership, a certificate of Good Standing from the state of formation, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of

Good Standing from the Illinois Secretary of State dated within the last 60-days;

20) If a corporation based in Illinois, a copy of the Articles of Incorporation and a copy of the Certificate of Good Standing issued by the Illinois Secretary of State or obtained from the Secretary of State's website within the last 60-days. If the corporation is a foreign corporation, a copy of the Articles of Incorporation, a copy of the Certificate of Good Standing from the state or country in which the corporation is domiciled, a copy of the Certificate of Authority from the Illinois Secretary of State and a Certificate of Good Standing from the Illinois Secretary of State dated within the last 60-days. If using an assumed name (d/b/a), a copy of the assumed name registration issued by the Secretary of State. Additionally, applicants shall include the names and addresses of all stockholders and directors of the corporation;

21) If a limited liability company:

A) For a domestic limited liability company, a copy of the Articles of Organization, a copy of the Certificate of Good Standing issued by the Illinois Secretary of State or obtained from the Secretary of State's website within the last 60-days, and a listing of the members of the limited liability company and his, her, or its contact information;

B) For a foreign limited liability company, a copy of the Articles of Organization and a Certificate of Good Standing from the state of organization, a copy of the Application for Admission to Transact Business in Illinois, along with a Certificate of Good Standing issued by the Illinois Secretary of State, all dated within the last 60-days;

22) If another type of business entity, the same or similar information as required by an entity listed in this Part;

A) If the property is not owned but is currently leased by the applicant, the applicant shall provide: a copy of the lease; confirmation of land ownership; identification of any mortgagees and/or lienholders; a written statement from the property owner

and/or landlord, certifying consent that the applicant may operate an infuser on the premises through the term of the lease; and, if applicable, verification of notification by the property owner to any and all mortgagees and/or perfected lienholders that the property is to be used as an infuser at least through the term of financing, and consent thereto by any mortgagees and/or perfected lienholders.

B) If the property is not owned or currently leased by the applicant, the applicant shall provide: a written statement from the property owner and/or landlord certifying consent that the applicant will lease or purchase the property for the purpose of operating an infuser until at the end of the lease term; and, if applicable, verification of notification by the property owner to any and all mortgagees and/or perfected lienholders that the property is to be used as an infuser at least through the effective date of the effective agreement, and consent thereto by any mortgagees and/or perfected lienholders.

C) If the property is owned by the applicant, the applicant shall provide: confirmation of land ownership; identification of any and all mortgagees and/or perfected lienholders; and, if applicable, verification of notification to any and all mortgagees and/or perfected lienholders that the property is to be used as an infuser at least through the term of the financing agreement, and consent thereto by any mortgagees and/or perfected lienholders;

23) Documentation acceptable to the Department that the individual or entity filing the application has at least $20,000 in liquid assets. Documentation acceptable to the Department includes a signed statement from an Illinois Licensed CPA attesting to proof of the required amount of liquid assets under the control of an owner or the entity applying. The statement must be dated within 30 calendar days before the date the application was submitted;

24) Documentation acceptable to the Department that the individual or entity filing the application will be able to obtain insurance sufficient to indemnify and hold harmless the State and its officers and employees as required by law;

25) All relevant financial information as set forth in Section 1300.405 of this Part;

26) The name of any agent-in-charge for each work shift;

27) If any principal officers or board members are currently or have previously been licensed or authorized in another state or jurisdiction to produce or otherwise deal in the distribution of cannabis in any form, the following:

A) A copy of each such licensing/authorizing document verifying licensure in that state or jurisdiction;

B) A statement granting permission to contact the regulatory agency that granted the license to confirm the information contained in the application; and

C) If the license/authorization or application was ever denied, suspended, revoked or otherwise sanctioned, a copy of documentation so indicating, or a statement that the applicant was so licensed and was never sanctioned.

28) A plan describing how the infuser will address each of the following:

A) Energy needs, including estimates of monthly electricity and gas usage, to what extent it will procure energy from a local utility or from on-site generation, and if it has or will adopt a sustainable energy use and energy conservation policy;

B) Water needs, including estimated water draw, and if it has or will adopt a sustainable water use and water conservation policy;

C) Waste management, including if it has or will adopt a waste reduction policy;

D) A recycling plan:

i) A commitment that any recyclable waste generated by the infuser shall be recycled per applicable State and local laws, ordinances, and rules; and

ii) A commitment to comply with local waste provisions. An infuser commits to remain in compliance with applicable State and federal environmental requirements, including, but not limited to, storing, securing, and managing all recyclables and waste, including organic waste composed of or containing finished cannabis and cannabis products, in accordance with applicable State and local laws, ordinances, and rules.

29) If applicable, the applicant's status as a Social Equity Applicant, as demonstrated by:

A) Evidence of the applicant's status as an "Illinois resident" as demonstrated by incorporation documents, or, if applying as an individual, at least two of the following: (i) a signed lease agreement that includes the applicant's name, (ii) a property deed that includes the applicant's name, (iii) school records, (iv) voter registration card, (v) an Illinois driver's license, ID card, or a Person with a Disability ID card, (vi) a paycheck stub, (vii) a utility bill, or (viii) any other proof of residency or other information necessary to establish residence. A person must have been domiciled in the state for a period of 30 days to be an "Illinois resident" as used in this application; and one of the following:

i) Evidence the person or persons owning and controlling more than 51% of the proposed license have lived in a disproportionately impacted area for 5 of the preceding 10 years as demonstrated by, but not limited to, tax filings, voter registrations, leases, mortgages, paycheck stubs, utility bills, insurance forms, or school records that include the qualifying principal officers' names on them; or

ii) Evidence the person or persons owning and controlling more than 51% of the proposed license have been arrested for, convicted of, or adjudicated delinquent for any offense

made eligible for expungement by the Act. If the arrest, conviction, or adjudication has been sealed or expunged, provide records of such action; or

iii) Evidence the person or persons owning and controlling more than 51% of the proposed license has had a parent, legal guardian, child, spouse, dependent, or was a dependent of an individual who prior to June 25, 2019, was arrested for, convicted of, or adjudicated delinquent for any offense made eligible for expungement by the Act. If the arrest, conviction, or adjudication has been sealed or expunged, provide records of such action. The applicant must also provide evidence of the relationship between the applicant's principal officer or officers and the person who was arrested for, convicted of, or adjudicated delinquent for any offense made eligible for expungement by the Act; or

iv) Evidence that the applicant employs 10 or more full-time employees, and evidence that 51% or more of those employees (1) currently reside in a disproportionately impacted area; (2) have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for expungement under the Act; or (3) are members of an "impacted family" as that term is defined in the Act. The applicant must provide evidence as described above for each employee. The applicant shall also provide evidence the employees were engaging in full time work as of the date the application was submitted. If employee information or employment status of employees changes before licenses are awarded, the applicant has a duty to notify the Department of the change in employee information or status.

30) All of applicant's principal officers expressly agree to be subject to service of process in Illinois with a current Illinois address on file with the Department.

e) The applicant shall sign a notarized statement certifying that:

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULES

1) The infuser will register with the Illinois Department of Revenue should the applicant be granted a license;

2) The application is complete and accurate; and

3) The applicant has actual notice that, notwithstanding any State law:

A) Cannabis is a prohibited Schedule I controlled substance under federal law;

B) Participation in the program is licensed only to the extent provided by the strict requirements of the Act and this Part;

C) Any activity not sanctioned by the Act or this Part may be a violation of State law;

D) Growing, distributing or possessing cannabis in any capacity, except through a federally-approved research program, is a violation of federal law;

E) Use of cannabis may affect an individual's ability to receive federal or State licensure in other areas;

F) Use of cannabis, in tandem with other conduct, may be a violation of State or federal law;

G) Participation in the program does not authorize any person to violate federal law or State law and, other than as set out in Article 45 of the Act, does not provide any immunity from or affirmative defense to arrest or prosecution under federal law or State law; and

H) Applicants shall indemnify and hold harmless the State of Illinois for any and all civil or criminal penalties resulting from participation in the program.

(Source: Adopted by emergency rulemaking at 44 Ill. Reg. 1466, effective January 1, 2020, for a maximum of 180 days; emergency amendment to emergency rule at 44 Ill. Reg. 8349, effective April 30, 2020, for the remainder of the 180 days)

ILLINOIS DEPARTMENT OF AGRICULTURE

NOTICE OF EMERGENCY AMENDMENTS TO EMERGENCY RULES

SUBPART F: TRANSPORTERS

**Section 1300.510 License Application**
**EMERGENCY**

a) The Department will make the transporter license applications available beginning on the license application acceptance period listed in subsection (b)~~below~~. ~~Applications shall be submitted electronically to the Department.~~ A registration application must be submitted for each vehicle used for transportation purposes. An active registration must be in each vehicle placed into service for transportation purposes.

b) License Application Acceptance

1) License Application Acceptance Periods

A) February 14, 2020 through April 30~~March 16~~, 2020 − Acceptance Period

The Department shall accept applications for transporter licenses beginning on February 14, 2020. On April 30, 2020, pursuant to COVID-19 Executive Order No. 17~~March 16, 2020~~, the license application acceptance period will close and no further applications will be accepted by the Department. The Department will accept all transporter license applications postmarked on or before April 30, 2020, via certified US Mail at:

Illinois Department of Agriculture
c/o Bureau of Medicinal Plants
P.O. Box 19281
Springfield IL 62794-9281

B) February 15, 2021 and each year thereafter − Acceptance Period

The Department shall accept applications for transporter licenses beginning on February 15, or, if that date falls on a weekend or holiday, the business day immediately succeeding the weekend or holiday. On March 15, or, if that date falls on a weekend or holiday, the business day immediately succeeding the weekend or

holiday, the license application acceptance period will close and no further applications will be accepted by the Department until the next license application acceptance period.

2) February 15, 2021 and each year thereafter, an~~An~~ application will be considered submitted on the date in which it was received, if received on or before 5 p.m. Central Time. If received after 5 p.m. Central Time, the application will be considered received on the next business day.

3) Submissions received outside of the license application acceptance period or by a means other than required in this subsection (b) shall be returned to the applicant.

4) Notification of the availability of applications, instructions for completion and submission of applications, and application forms will be posted on the Department's website at www.agr.state.il.us/. Application forms will be made available online at that website.

c) The electronic license application shall be submitted on the forms provided by the Department. The forms will include instructions for their completion and submission. The application will reflect the information required of applicants by the Act and this Part and will include requests for information, plans, maps and other materials in support of the application needed by the Department to make its determination on the application. The instructions on the application will reflect the total maximum number of points that can be awarded for each required criteria, measure and bonus point category listed in Section 1300.520. The instructions/application will also identify the total minimum number of points necessary from the required criteria and measures to be eligible for consideration of the bonus point categories. All applications will be reviewed and points awarded based upon the same point system in a fair and unbiased manner. If all materials, documentations, fees and information required by the application form are not submitted, the application shall be returned to the applicant. Once submitted, the required fee will not be returned. Upon receipt of an application deemed to be complete, the Department will engage in no further communication with the applicant until after the selection process is completed.

d) An applicant applying for a transporter license shall electronically provide the following:

1) The nonrefundable application fee of $5,000, unless the applicant is eligible for a fee waiver pursuant to Section 7-20 of the Act;

2) The legal name of the transporter;

3) The proposed physical address of the transporter;

4) The name, address, social security number, and date of birth of each principal officer and board member of the transporter; each principal officer and board member shall be at least 21 years of age;

5) The details of any administrative or judicial proceeding in which any of the principal officers or board members of the transporter:

   A) Plead guilty, were convicted, fined, or had a registration or license suspended or revoked; or

   B) Managed or served on the board of a business or non-profit organization that pled guilty, was convicted, fined, or had a registration or license suspended or revoked;

6) Proposed operating by-laws (Operation and Management Practices Plan) that include procedures for the oversight of the transporter, including the development and implementation of an accurate recordkeeping plan, staffing plan, and security plan approved by ISP that are in accordance with the rules issued by the Department of Agriculture under the Act; a physical inventory shall be performed of all cannabis on a weekly basis by the transporter;

7) Verification from ISP that all background checks of the prospective principal officers, board members, and agents of the transporter have been conducted. If ISP has not completed the background check, then the applicant shall provide verification that the request has been submitted to ISP;

8) A copy of the current local zoning ordinance or permit and verification that the proposed transporter is in compliance with the local zoning rules and distance limitations established by the local jurisdiction, or a letter

from the local zoning jurisdiction certifying compliance, if the transporter has a local business address;

9) Proposed employment practices, in which the applicant must demonstrate a plan of action to inform, hire, and educate minorities, women, veterans, and persons with disabilities, engage in fair labor practices, and provide worker protections;

10) A statement of whether the applicant demonstrate experience in or business practices that promote economic empowerment in Disproportionately Impacted Areas;

11) The number and type (make, year, and model) of equipment the transporter will use to transport cannabis and cannabis-infused products;

12) A plan for loading, transporting, and unloading cannabis and cannabis-infused products*;*

13) A description of the applicant's experience in the distribution or security business (if applicable);

14) The identity of every person having a financial or voting interest of 5% or more in the transporter with respect to which the license is sought, whether a trust, corporation, partnership, limited liability company, or sole proprietorship, including the name and address of each person; and

15) A description of the device that the transporter plans to use to provide GPS monitoring of equipment transporting cannabis containers, as required by Section 1300.595 of this Part;

16) If applicable, the applicant's status as a Social Equity Applicant, as demonstrated by:

A) Evidence of the applicant's status as an "Illinois resident" as demonstrated by incorporation documents, or, if applying as an individual, at least two of the following: (i) a signed lease agreement that includes the applicant's name, (ii) a property deed that includes the applicant's name, (iii) school records, (iv) voter registration card, (v) an Illinois driver's license, ID card, or a

Person with a Disability ID card, (vi) a paycheck stub, (vii) a utility bill, or (viii) any other proof of residency or other information necessary to establish residence. A person must have been domiciled in the state for a period of 30 days to be an "Illinois resident" as used in this application; and one of the following:

i) Evidence the person or persons owning and controlling more than 51% of the proposed license have lived in a disproportionately impacted area for 5 of the preceding 10 years as demonstrated by, but not limited to, tax filings, voter registrations, leases, mortgages, paycheck stubs, utility bills, insurance forms, or school records that include the qualifying principal officers' names on them; or

ii) Evidence the person or persons owning and controlling more than 51% of the proposed license have been arrested for, convicted of, or adjudicated delinquent for any offense made eligible for expungement by the Act. If the arrest, conviction, or adjudication has been sealed or expunged, provide records of such action; or

iii) Evidence the person or persons owning and controlling more than 51% of the proposed license has had a parent, legal guardian, child, spouse, dependent, or was a dependent of an individual who prior to June 25, 2019, was arrested for, convicted of, or adjudicated delinquent for any offense made eligible for expungement by the Act. If the arrest, conviction, or adjudication has been sealed or expunged, provide records of such action. The applicant must also provide evidence of the relationship between the applicant's principal officer or officers and the person who was arrested for, convicted of, or adjudicated delinquent for any offense made eligible for expungement by the Act; or

iv) Evidence that the applicant employs 10 or more full-time employees, and evidence that 51% or more of those employees (1) currently reside in a disproportionately impacted area; (2) have been arrested for, convicted of, or adjudicated delinquent for any offense that is eligible for

expungement under the Act; or (3) are members of an "impacted family" as that term is defined in the Act. The applicant must provide evidence as described above for each employee. The applicant shall also provide evidence the employees were engaging in full time work as of the date the application was submitted. If employee information or employment status of employees changes before licenses are awarded, the applicant has a duty to notify the Department of the change in employee information or status.

e) Applicant shall disclose whether any principal officer and/or board member is more than 30-days delinquent in complying with a child support order [5 ILCS 100/10-65(c)];

f) The applicant shall sign a notarized statement certifying that the application is complete and accurate.

(Source: Adopted by emergency rulemaking at 44 Ill. Reg. 1466, effective January 1, 2020, for a maximum of 180 days; emergency amendment to emergency rule at 44 Ill. Reg. 8349, effective April 30, 2020, for the remainder of the 180 days)

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENT

1) Heading of the Part: Public Schools Evaluation, Recognition and Supervision

2) Code Citation: 23 Ill. Adm. Code 1

3) Section Number: 1.210 — Emergency Action: Amendment

4) Statutory Authority: 105 ILCS 5/2-3.6

5) Effective Date of Emergency Rule: May 1, 2020

6) If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire: No

7) Date Filed with the Index Department: May 1, 2020

8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.

9) Reason for Emergency: ISBE is filing emergency rules that, due to the Gubernatorial Disaster Proclamations, waives the application submission deadlines for entities that offer professional development activities, such as training organizations, institutions, regional offices of education, firms, professional associations, teachers' unions, and universities and colleges, that wish to apply to the State Board of Education for approval to conduct leadership training activities for members of Illinois boards of education or Independent Authorities. The rules allow an entity to submit an application for review by the State Board no later than 30 days after the Disaster Proclamations are no longer in effect.

10) A Complete Description of the Subjects and Issues Involved: This emergency rule amends subsections (a) and (h) of Section 1.210 to allow for this waiver and a waiver of the expiration of a provider's approval under the Section.

11) Are there any rulemaking to this Part pending? Yes

| Section Number: | Proposed Action: | *Illinois Register* Citation: |
|---|---|---|
| 1.442 | Repealed | 43 Ill. Reg. 14596; December 20, 2019 |

12) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENT

13) Information and questions regarding this emergency rule shall be directed to:

Azita Kakvand
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield IL 62777-0001

217/782-6510
rules@isbe.net

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

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1
PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: RECOGNITION REQUIREMENTS

Section
1.10 Public School Accountability Framework
1.20 Operational Requirements
1.30 State Assessment
1.40 Adequate Yearly Progress
1.50 Calculation of Participation Rate
1.60 Subgroups of Students; Inclusion of Relevant Scores
1.70 Additional Indicators for Adequate Yearly Progress
1.75 Student Information System
1.77 Educator Licensure Information System (ELIS)
1.79 School Report Card
1.80 Academic Early Warning and Watch Status
1.85 School and District Improvement Plans; Restructuring Plans
1.88 Additional Accountability Requirements for Districts Serving Students of Limited English Proficiency under Title III
1.90 System of Rewards and Recognition − The Illinois Honor Roll
1.95 Appeals Procedure
1.97 Survey of Learning Conditions
1.100 Waiver and Modification of State Board Rules and School Code Mandates
1.110 Appeal Process under Section 22-60 of the School Code

SUBPART B: SCHOOL GOVERNANCE

Section
1.210 Approval of Providers of Training for School Board Members under Section 10-16a of the School Code
EMERGENCY
1.220 Duties of Superintendent (Repealed)
1.230 Board of Education and the School Code (Repealed)

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENT

1.240 Equal Opportunities for all Students
1.242 Temporary Exclusion for Failure to Meet Minimum Academic or Attendance Standards
1.245 Waiver of School Fees
1.250 District to Comply with 23 Ill. Adm. Code 180 (Repealed)
1.260 Commemorative Holidays to be Observed by Public Schools (Repealed)
1.270 Book and Material Selection (Repealed)
1.280 Discipline
1.285 Requirements for the Use of Isolated Time Out, Time Out, and Physical Restraint
1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION

Section
1.310 Administrative Qualifications and Responsibilities
1.320 Evaluation of Licensed Educators
1.330 Toxic Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section
1.410 Determination of the Instructional Program
1.420 Basic Standards
1.422 Electronic Learning (E-Learning) Days Pilot Program
1.423 Competency-Based High School Graduation Requirements Pilot Program
1.425 Additional Criteria for Physical Education
1.430 Additional Criteria for Elementary Schools
1.440 Additional Criteria for High Schools
1.442 State Seal of Biliteracy
1.443 Illinois Global Scholar Certificate
1.445 Required Course Substitute
1.450 Special Programs (Repealed)
1.460 Credit Earned Through Proficiency Examinations
1.462 Uniform Annual Consumer Education Proficiency Test (Repealed)
1.465 Ethnic School Foreign Language Credit and Program Approval
1.470 Adult and Continuing Education
1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENT

Section
1.510 Transportation
1.515 Training of School Bus Driver Instructors
1.520 Home and Hospital Instruction
1.530 Health Services
1.540 Undesignated Emergency Medications in Schools: Epinephrine; Opioid Antagonists; Asthma Medication

SUBPART F: STAFF LICENSURE REQUIREMENTS

Section
1.610 Personnel Required to be Qualified
1.620 Accreditation of Staff (Repealed)
1.630 Paraprofessionals; Other Unlicensed Personnel
1.640 Requirements for Different Certificates (Repealed)
1.650 Transcripts of Credits
1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS

Section
1.700 Requirements for Staff Providing Professional Development
1.705 Requirements for Supervisory and Administrative Staff
1.710 Requirements for Elementary Teachers
1.720 Requirements for Teachers of Middle Grades
1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades 6 and Above through June 30, 2004
1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
1.740 Standards for Reading through June 30, 2004
1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
1.750 Standards for Media Services through June 30, 2004
1.755 Requirements for Library Information Specialists Beginning July 1, 2004
1.760 Standards for School Support Personnel Services
1.762 Supervision of Speech-Language Pathology Assistants

ILLINOIS STATE BOARD OF EDUCATION

NOTICE OF EMERGENCY AMENDMENT

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|---|---|
| 1.770 | Standards for Special Education Personnel |
| 1.780 | Standards for Teachers in Bilingual Education Programs |
| 1.781 | Requirements for Bilingual Education Teachers in Prekindergarten, Kindergarten and any of Grades 1-12 |
| 1.782 | Requirements for Teachers of English as a Second Language in Prekindergarten, Kindergarten and any of Grades 1-12 |
| 1.783 | Requirements for Administrators of Bilingual Education Programs |
| 1.790 | Substitute Teacher |
| 1.792 | Short-Term Substitute Teacher |
| 1.794 | Substitute Teachers; Recruiting Firms |

| | |
|---|---|
| 1.APPENDIX A | Professional Staff Educator Licensure |
| 1.APPENDIX B | Competency-Based High School Graduation Requirements Pilot Program Criteria for Review |
| 1.APPENDIX C | Glossary of Terms (Repealed) |
| 1.APPENDIX D | State Goals for Learning |
| 1.APPENDIX E | Evaluation Criteria – Student Performance and School Improvement Determination (Repealed) |
| 1.APPENDIX F | Criteria for Determination – Student Performance and School Improvement (Repealed) |
| 1.APPENDIX G | Criteria for Determination – State Assessment (Repealed) |
| 1.APPENDIX H | Guidance and Procedures for School Districts Implementing the Illinois Global Scholar Certificate |

AUTHORITY: Implementing Sections 2-3.25, 2-3.25g, 2-3.44, 2-3.96, 2-3.159, 10-17a, 10-20.14, 10-21.4a,10-22.43a, 21B-5, 21B-20, 22-30, 22-60, 24-24, 26-13, 27-3.5, 27-6, 27-12.1, 27-13.1, 27-20.3, 27-20.4, 27-20.5, 27-22, 27-23.3 and 27-23.8 and authorized by Section 2-3.6 of the School Code [105 ILCS 5].

SOURCE: Adopted September 21, 1977; codified at 7 Ill. Reg. 16022; amended at 9 Ill. Reg. 8608, effective May 28, 1985; amended at 9 Ill. Reg. 17766, effective November 5, 1985; emergency amendment at 10 Ill. Reg. 14314, effective August 18, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 3073, effective February 2, 1987; amended at 12 Ill. Reg. 4800, effective February 26, 1988; amended at 14 Ill. Reg. 12457, effective July 24, 1990; amended at 15 Ill. Reg. 2692, effective February 1, 1991; amended at 16 Ill. Reg. 18010, effective November 17, 1992; expedited correction at 17 Ill. Reg. 3553, effective November 17, 1992; amended at 18 Ill. Reg. 1171, effective January 10, 1994; emergency amendment at 19 Ill. Reg. 5137, effective March 17, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 6530, effective May 1, 1995; amended at 19 Ill. Reg. 11813, effective August 4, 1995; amended at 20 Ill. Reg. 6255,

effective April 17, 1996; amended at 20 Ill. Reg. 15290, effective November 18, 1996; amended at 22 Ill. Reg. 22233, effective December 8, 1998; emergency amendment at 24 Ill. Reg. 6111, effective March 21, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 12985, effective August 14, 2000; amended at 25 Ill. Reg. 8159, effective June 21, 2001; amended at 25 Ill. Reg. 16073, effective November 28, 2001; amended at 26 Ill. Reg. 1157, effective January 16, 2002; amended at 26 Ill. Reg. 16160, effective October 21, 2002; amended at 28 Ill. Reg. 8486, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 13637, effective September 27, 2004, for a maximum of 150 days; amended at 29 Ill. Reg. 1891, effective January 24, 2005; amended at 29 Ill. Reg. 11811, effective July 13, 2005; amended at 29 Ill. Reg. 12351, effective July 28, 2005; amended at 29 Ill. Reg. 15789, effective October 3, 2005; amended at 29 Ill. Reg. 19891, effective November 23, 2005; amended at 30 Ill. Reg. 8480, effective April 21, 2006; amended at 30 Ill. Reg. 16338, effective September 26, 2006; amended at 30 Ill. Reg. 17416, effective October 23, 2006; amended at 31 Ill. Reg. 5116, effective March 16, 2007; amended at 31 Ill. Reg. 7135, effective April 25, 2007; amended at 31 Ill. Reg. 9897, effective June 26, 2007; amended at 32 Ill. Reg. 10229, effective June 30, 2008; amended at 33 Ill. Reg. 5448, effective March 24, 2009; amended at 33 Ill. Reg. 15193, effective October 20, 2009; amended at 34 Ill. Reg. 2959, effective February 18, 2010; emergency amendment at 34 Ill. Reg. 9533, effective June 24, 2010, for a maximum of 150 days; amended at 34 Ill. Reg. 17411, effective October 28, 2010; amended at 35 Ill. Reg. 1056, effective January 3, 2011; amended at 35 Ill. Reg. 2230, effective January 20, 2011; amended at 35 Ill. Reg. 12328, effective July 6, 2011; amended at 35 Ill. Reg. 16743, effective September 29, 2011; amended at 36 Ill. Reg. 5580, effective March 20, 2012; amended at 36 Ill. Reg. 8303, effective May 21, 2012; amended at 38 Ill. Reg. 6127, effective February 27, 2014; amended at 38 Ill. Reg. 11203, effective May 6, 2014; amended at 39 Ill. Reg. 2773, effective February 9, 2015; emergency amendment at 39 Ill. Reg. 12369, effective August 20, 2015, for a maximum of 150 days; amended at 39 Ill. Reg. 13411, effective September 24, 2015; amended at 40 Ill. Reg. 1900, effective January 6, 2016; amended at 40 Ill. Reg. 2990, effective January 27, 2016; amended at 40 Ill. Reg. 4929, effective March 2, 2016; amended at 40 Ill. Reg. 12276, effective August 9, 2016; emergency amendment at 40 Ill. Reg. 15957, effective November 18, 2016, for a maximum of 150 days; amended at 41 Ill. Reg. 126, effective December 27, 2016; amended at 41 Ill. Reg. 4430, effective April 5, 2017; amended at 41 Ill. Reg. 6924, effective June 2, 2017; emergency amendment at 41 Ill. Reg. 8932, effective June 28, 2017, for a maximum of 150 days; amended at 41 Ill. Reg. 14044, effective November 3, 2017; amended at 42 Ill. Reg. 11512, effective June 8, 2018; amended at 43 Ill. Reg. 3792, effective February 28, 2019; amended at 43 Ill. Reg. 10213, effective August 30, 2019; amended at 43 Ill. Reg. 10718, effective September 11, 2019; amended at 43 Ill. Reg. 13324, effective October 29, 2019; emergency amendment at 43 Ill. Reg. 14305, effective November 20, 2019, for a maximum of 150 days; emergency amendment to emergency rule at 43 Ill. Reg. 14941, effective December 4, 2019, for the remainder of the 150 days; emergency amendment to amended emergency rule at 44 Ill. Reg. 4085, effective February 25, 2020, for the

remainder of the 150 days; amended at 44 Ill. Reg. 1929, effective January 13, 2020; amended at 44 Ill. Reg. 6377, effective April 9, 2020; emergency amendment at 44 Ill. Reg. 7971, effective April 27, 2020, for a maximum of 150 days; emergency amendment at 44 Ill. Reg. 8382, effective May 1, 2020, for a maximum of 150 days.

SUBPART B: SCHOOL GOVERNANCE

**Section 1.210 Approval of Providers of Training for School Board Members under Section 10-16a of the School Code**
**EMERGENCY**

Entities that offer professional development activities, such as training organizations, institutions, regional offices of education, firms, professional associations, teachers' unions, and universities and colleges, may apply to the State Board of Education for approval to conduct leadership training activities for members of Illinois boards of education or Independent Authorities established under Section 2-3.25f-5 of the School Code in each of the topics specified in Section 10-16a of the School Code [105 ILCS 5/10-16a].

a) Except as provided in subsection (b), each entity wishing to receive approval to offer the leadership training required under Section 10-16a of the School Code shall submit an application on a form supplied by the State Board of Education. An entity shall submit the application to the State Board of Education any time between March 1 and May 1 of each even-numbered year. Any application received after May 1 shall not be considered for that approval cycle. Due to the Gubernatorial Disaster Proclamations, the application submission deadlines of this subsection are waived, and an entity may submit an application for review by the State Board of Education no later than 30 days after the Disaster Proclamations are no longer in effect. Each entity shall provide:

1) a description of the intended offerings in each of the required areas;

2) the qualifications and experience of the entity and of each presenter to be assigned to provide the leadership training, which shall include evidence of a presenter's specific skills and knowledge in the area or areas in which he or she will be assigned;

3) the mode of delivery of the professional development (e.g., in-person instruction, distance-learning); and

4) assurances that the requirements of subsection (c) will be met.

b) An organization that has one or more affiliates (e.g., regional offices, local chapters) based in Illinois may apply for approval on their behalf.

1) The applicant organization shall provide a list of its affiliates for which approval is sought and supply the information required pursuant to subsection (a) with respect to each one.

2) The applicant organization's provision of the assurances required pursuant to subsection (a)(4) shall be understood to apply to each affiliate for which approval is sought.

3) The applicant organization shall notify the State Board of Education any time it determines that one or more affiliates should be removed from the list of approved providers.

4) The approval status of the applicant organization shall be contingent upon its affiliates' compliance with the applicable requirements of this Section.

c) Each entity approved to provide leadership training under this Section shall:

1) verify attendance at its training activities, provide to participants a written confirmation of their completion of the training, and require participants to complete an evaluation of the training; and

2) maintain attendance and evaluation records for each event or activity it conducts or sponsors for a period of not less than five years.

d) Applicants may be asked to clarify particular aspects of their materials.

e) The State Superintendent of Education, in consultation with the Illinois Association of School Boards (IASB), shall respond to each application for approval no later than 30 days after receiving it.

f) An entity shall be approved to offer leadership training if the entity's application presents evidence that:

1) the leadership training that it sponsors or conducts will be developed and presented by persons with education and experience in the applicable areas to which they will be assigned; and

2) the proposed training meets the requirements of Section 10-16a of the School Code.

g) The State Board of Education shall post on its website at www.isbe.net the list of all approved providers. The website also shall indicate that the IASB is authorized under Section 10-16a(c) of the School Code to provide leadership training.

h) Except as otherwise provided under this subsection, approval~~Approval~~ as a provider shall be valid for two calendar years (i.e., January 1 through December 31). For the duration of the Gubernatorial Disaster Proclamations, the expiration of a provider's approval under this subsection is waived and each provider currently approved as of April 9, 2020 shall continue to be approved for training until a renewal application has been received and reviewed by the State Board of Education. To request renewal of approval, a provider shall submit a renewal application on a form supplied by the State Board of Education, within the timeframe specified in subsection (a), and containing:

1) a description of any significant changes in the material submitted as part of its approved application or a certification that no such changes have occurred;

2) evidence that the material to be used in the renewal cycle conforms to current statute, rules and procedures of the State Board of Education; and

3) copies of the evaluations of the training that participants completed during the last approval period.

i) A provider's approval shall be renewed if the application conforms to the requirements of subsection (h), provided that the State Superintendent has received no evidence of noncompliance with the requirements of this Section.

j) The State Board of Education may evaluate an approved provider at any time to ensure compliance with the requirements of this Section. Upon request by the State Board, a provider shall supply information regarding its schedule of

leadership training, which the State Board may, at its discretion, monitor at any time. In the event an evaluation indicates that the requirements have not been met, the State Board of Education, in consultation with IASB, may withdraw approval of the provider.

(Source: Amended by emergency rulemaking at 44 Ill. Reg. 8382, effective May 1, 2020, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES

STRATTON BUILDING
ROOM C-1
SPRINGFIELD, ILLINOIS
MAY 19, 2020
10:30 A.M.

*NOTICE: It is the policy of the Committee to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rule, they should submit written comments to the Office of the Joint Committee on Administrative Rules at the following address:*

*Joint Committee on Administrative Rules*
*700 Stratton Office Building*
*Springfield, Illinois 62706*

**RULEMAKINGS SCHEDULED FOR JCAR REVIEW**

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

**PROPOSED RULEMAKINGS**

Agriculture

1. Cannabis Regulation and Tax Act (8 Ill. Adm. Code 1300)
   -First Notice Published: 44 Ill. Reg. 3586 – 3/13/20
   -Expiration of Second Notice: 6/17/20

Attorney General

2. Hospital Financial Assistance under the Fair Patient Billing Act (77 Ill. Adm. Code 4500)
   -First Notice Published: 44 Ill. Reg. 3337 – 3/6/20
   -Expiration of Second Notice: 6/13/20

Commerce and Economic Opportunity

3. Cannabis Social Equity Program (14 Ill. Adm. Code 650)
   -First Notice Published: 44 Ill. Reg. 10 – 1/3/20

-Expiration of Second Notice: 6/7/20

Environmental Protection Agency

4. Public Participation in the Air Pollution Control Permit Program (35 Ill. Adm. Code 252)
-First Notice Published: 43 Ill. Reg. 7028 – 6/21/19
-Expiration of Second Notice: 5/24/20

Financial and Professional Regulation

5. The Illinois Speech-Language Pathology and Audiology Practice Act (68 Ill. Adm. Code 1465)
-First Notice Published: 44 Ill. Reg. 55 – 1/3/20
-Expiration of Second Notice: 6/18/20

Gaming Board

6. Video Gaming (General) (11 Ill. Adm. Code 1800)
-First Notice Published: 43 Ill. Reg. 13354 – 11/22/19
-Expiration of Second Notice: 5/27/20

7. Sports Wagering (11 Ill. Adm. Code 1900)
-First Notice Published: 44 Ill. Reg. 84 – 1/3/20
-Expiration of Second Notice: 6/13/20

Insurance

8. Corporate Governance Annual Disclosure (50 Ill. Adm. Code 630)
-First Notice Published: 44 Ill. Reg. 88 – 1/3/20
-Expiration of Second Notice: 5/27/20

9. Pharmacy Benefit Managers (50 Ill. Adm. Code 3145)
-First Notice Published: 44 Ill. Reg. 2207 – 1/31/20
-Expiration of Second Notice: 5/27/20

10. Third Party Prescription Administrators (50 Ill. Adm. Code 3150)
-First Notice Published: 44 Ill. Reg. 2211 – 1/31/20
-Expiration of Second Notice: 5/27/20

Natural Resources

11. Illinois List of Endangered and Threatened Fauna (17 Ill. Adm. Code 1010)
-First Notice Published: 44 Ill. Reg. 3044 – 2/21/20
-Expiration of Second Notice: 6/5/20

12. Illinois List of Endangered and Threatened Flora (17 Ill. Adm. Code 1050)
-First Notice Published: 44 Ill. Reg. 3057 – 2/21/20
-Expiration of Second Notice: 6/5/20

Revenue

13. Income Tax (86 Ill. Adm. Code 100)
-First Notice Published: 44 Ill. Reg. 97 – 1/3/20
-Expiration of Second Notice: 6/5/20

14. Income Tax (86 Ill. Adm. Code 100)
-First Notice Published: 44 Ill. Reg. 1785 – 1/24/20
-Expiration of Second Notice: 5/30/20

15. Retailers' Occupation Tax (86 Ill. Adm. Code 130)
-First Notice Published: 44 Ill. Reg. 1811 – 1/24/20
-Expiration of Second Notice: 6/13/20

Student Assistance Commission

16. Illinois National Guard (ING) Grant Program (23 Ill. Adm. Code 2730)
-First Notice Published: 44 Ill. Reg. 3143 – 2/21/20
-Expiration of Second Notice: 6/13/20

17. Illinois Veteran Grant (IVG) Program (23 Ill. Adm. Code 2733)
-First Notice Published: 44 Ill. Reg. 3154 – 2/21/20
-Expiration of Second Notice: 6/13/20

18. Monetary Award Program (MAP) (23 Ill. Adm. Code 2735)
-First Notice Published: 44 Ill. Reg. 3167 – 2/21/20
-Expiration of Second Notice: 6/13/20

19. Adult Vocational Community College Scholarship Program (23 Ill. Adm. Code 2745)
-First Notice Published: 44 Ill. Reg. 3179 – 2/21/20
-Expiration of Second Notice: 6/13/20

20. Golden Apple Scholars of Illinois Program (23 Ill. Adm. Code 2764)

-First Notice Published: 44 Ill. Reg. 3185 – 2/21/20
-Expiration of Second Notice: 6/13/20

21. AIM HIGH Grant Pilot Program (23 Ill. Adm. Code 2766)
-First Notice Published: 44 Ill. Reg. 3194 – 2/21/20
-Expiration of Second Notice: 6/13/20

**EMERGENCY RULEMAKINGS**

Children and Family Services

22. Licensing Standards for Day Care Centers (89 Ill. Adm. Code 407)
-44 Ill. Reg. 5734; effective 3/20/20
-Emergency Expires: 8/16/20

Corrections

23. Records of Offenders (20 Ill. Adm. Code 107)
-44 Ill. Reg. 6091; effective 4/7/20
-Emergency Expires: 9/3/20

24. Authorized Absences (20 Ill. Adm. Code 530)
-44 Ill. Reg. 7931; effective 4/27/20
-Emergency Expires: 9/18/20

Education

25. Public Schools, Evaluation, Recognition and Supervision (Emergency Amendment to Emergency Rule) (23 Ill. Adm. Code 1)
-44 Ill. Reg. 4085; effective 2/25/20
-Emergency Expires: 4/17/20

26. Public Schools, Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)
-44 Ill. Reg. 7971; effective 2/25/20
-Emergency Expires: 9/23/20

27. Remote Learning Days (23 Ill. Adm. Code 5)
-44 Ill. Reg. 5905; effective 3/27/20
-Emergency Expires: 8/23/20

28. Educator Licensure (23 Ill. Adm. Code 25)

-44 Ill. Reg. 8013; effective 4/27/20
-Emergency Expires: 9/23/20

29. Pupil Transportation Reimbursement (23 Ill. Adm. Code 120)
-44 Ill. Reg. 5910; effective 3/30/20
-Emergency Expires: 8/26/20

30. Pupil Transportation Reimbursement (Emergency Amendment to Emergency Rule) (23 Ill. Adm. Code 120)
-44 Ill. Reg. 6668; effective 4/9/20
-Emergency Expires: 8/26/20

31. Special Education (23 Ill. Adm. Code 226)
-44 Ill. Reg. 5917; effective 3/25/20
-Emergency Expires: 8/21/20

32. Special Education (Emergency Amendment to Emergency Rule) (23 Ill. Adm. Code 226)
-44 Ill. Reg. 6675; effective 4/9/20
-Emergency Expires: 8/21/20

33. Early Childhood Block Grant (23 Ill. Adm. Code 235)
-44 Ill. Reg. 5924; effective 3/27/20
-Emergency Expires: 8/23/20

Employment Security

34. Payment of Unemployment Contributions, Interest and Penalties (56 Ill. Adm. Code 2765)
-44 Ill. Reg. 6099; effective 4/8/20
-Emergency Expires: 9/4/20

35. Claimant's Availability for Work, Ability to Work and Active Search for Work (56 Ill. Adm. Code 2865)
-44 Ill. Reg. 5458; effective 3/13/20
-Emergency Expires: 8/9/20

Gaming Board

36. Sports Wagering (Emergency Amendment to Emergency Rule) (11 Ill. Adm. Code 1900)
-44 Ill. Reg. 4062; effective 2/26/20
-Emergency Expires: 5/16/20

37. Sports Wagering (Emergency Amendment to Emergency Rule) (11 Ill. Adm. Code 1900)
-44 Ill. Reg. 4670; effective 3/9/20
-Emergency Expires: 4/22/20

38. Riverboat and Casino Gambling (86 Ill. Adm. Code 3000)
-44 Ill. Reg. 6426; effective 9/3/20

Healthcare and Family Services

39. Medical Payment (89 Ill. Adm. Code 140)
-44 Ill. Reg. 5745; effective 3/20/20
-Emergency Expires: 8/16/20

Human Services

40. General Administrative Provisions (89 Ill. Adm. Code 10)
-44 Ill. Reg. 6107; effective 9/2/20
-Emergency Expires: 9/2/20

41. Child Care (89 Ill. Adm. Code 50)
-44 Ill. Reg. 6442; effective 4/13/20
-Emergency Expires: 9/9/20

42. Related Program Provisions (89 Ill. Adm. Code 117)
-44 Ill. Reg. 6114; effective 4/6/20
-Emergency Expires: 9/2/20

Insurance

43. Temporary Health Coverage Requirements During an Epidemic or Public Health Emergency (50 Ill. Adm. Code 2040)
-44 Ill. Reg. 7766; effective 4/20/20
-Emergency Expires: 9/16/20

Joint Committee on Administrative Rules

44. Review of Proposed Rulemaking (1 Ill. Adm. Code 220)
-44 Ill. Reg. 5471 – 3/17/20
-Emergency Expires: 8/13/20

Labor

45. Six Day Week Law (56 Ill. Adm. Code 220)
-44 Ill. Reg. 5775 – 3/20/20
-Emergency Expires: 8/16/20

Pollution Control Board

46. Design, Operation and Maintenance Criteria (35 Ill. Adm. Code 604)
-44 Ill. Reg. 7777; effective 4/17/20
-Emergency Expires: 9/13/20

Public Health

47. Plumbers Licensing Code (68 Ill. Adm. Code 750)
-44 Ill. Reg. 6120; effective 3/31/20
-Emergency Expires: 8/27/20

48. Adverse Health Care Events Reporting Code (77 Ill. Adm. Code 235)
-44 Ill. Reg. 7785; effective 4/17/20
-Emergency Expires: 9/13/20

49. Home Health, Home Services, and Home Nursing Agency Code (77 Ill. Adm. Code 245)
-44 Ill. Reg. 5929; effective 3/25/20
-Emergency Expires: 8/21/20

50. Hospital Licensing Requirements (77 Ill. Adm. Code 250)
-44 Ill. Reg. 5934; effective 3/25/20
-Emergency Expires: 8/21/20

51. Hospital Licensing Requirements (77 Ill. Adm. Code 250)
-44 Ill. Reg. 7788; effective 4/16/20
-Emergency Expires: 9/12/20

52. Hospital Report Card Code (77 Ill. Adm. Code 255)
-44 Ill. Reg. 7806; effective 4/17/20
-Emergency Expires: 9/13/20

53. Long-Term Care Assistants and Aide Training Programs Code (77 Ill. Adm. Code 395)
-44 Ill. Reg. 5946; effective 3/25/20
-Emergency Expires: 8/21/20

54. Long-Term Care Assistants and Aide Training Programs Code (77 Ill. Adm. Code 395)
-44 Ill. Reg. 7936; effective 4/21/20
-Emergency Expires: 9/17/20

55. Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 Ill. Adm. Code 515)
-44 Ill. Reg. 6463; effective 4/10/20
-Emergency Expires: 9/6/20

56. School-Based/Linked Health Centers (77 Ill. Adm. Code 641)
-44 Ill. Reg. 6126; effective 4/2/20
-Emergency Expires: 8/29/20

57. Lead Poisoning Prevention Code (77 Ill. Adm. Code 845)
-44 Ill. Reg. 6131; effective 3/31/20
-Emergency Expires: 8/27/20

58. Asbestos Abatement for Public and Private Schools and Commercial and Public Buildings in Illinois (77 Ill. Adm. Code 855)
-44 Ill. Reg. 6136; effective 3/31/20
-Emergency Expires: 8/27/20

59. Private Sewage Disposal Code (77 Ill. Adm. Code 905)
-44 Ill. Reg. 6142; effective 3/31/20
-Emergency Expires: 8/27/20

60. Health Care Worker Background Check Code (77 Ill. Adm. Code 955)
-44 Ill. Reg. 5951; effective 3/25/20
-Emergency Expires: 8/21/20

61. Health Care Worker Background Check Code (77 Ill. Adm. Code 955)
-44 Ill. Reg. 6597; effective 4/10/20
-Emergency Expires: 9/6/20

Revenue

62. Income Tax (86 Ill. Adm. Code 100)
-44 Ill. Reg. 4700; effective 3/4/20
-Emergency Expires: 7/31/20

JOINT COMMITTEE ON ADMINISTRATIVE RULES

Secretary of State

63. Statements of Economic Interests (2 Ill. Adm. Code 565)
-44 Ill. Reg. 5782; effective 3/20/20
-Emergency Expires: 8/16/20

64. Business Corporation Act (14 Ill. Adm. Code 150)
-44 Ill. Reg. 5786; effective 3/20/20
-Emergency Expires: 8/16/20

65. Business Corporations Act (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 150)
-44 Ill. Reg. 6601; effective 4/9/20
-Emergency Expires: 8/16/20

66. Business Corporations Act (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 150)
-44 Ill. Reg. 7944; effective 4/27/20
-Emergency Expires: 8/16/20

67. General Not For Profit Corporations (14 Ill. Adm. Code 160)
-44 Ill. Reg. 5792; effective 3/30/20
-Emergency Expires: 8/16/20

68. General Not For Profit Corporations (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 160)
-44 Ill. Reg. 6607; effective 4/9/20
-Emergency Expires: 8/16/20

69. General Not For Profit Corporations (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 160)
-44 Ill. Reg. 7951; effective 4/27/20
-Emergency Expires: 8/16/20

70. Uniform Partnership Act (1997) (14 Ill. Adm. Code 166)
-44 Ill. Reg. 5796; effective 3/20/20
-Emergency Expires: 8/16/20

71. Uniform Partnership Act (1997) (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 166)
-44 Ill. Reg. 6611; effective 4/9/20

-Emergency Expires: 8/16/20

72. Uniform Partnership Act (1997) (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 166)
-44 Ill. Reg. 7956; effective 4/27/20
-Emergency Expires: 8/16/20

73. Uniform Limited Partnership Act (2001) (14 Ill. Adm. Code 171)
-44 Ill. Reg. 5800; effective 3/20/20
-Emergency Expires: 8/16/20

74. Uniform Limited Partnership Act (2001) (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 171)
-44 Ill. Reg. 6615; effective 4/9/20
-Emergency Expires: 8/16/20

75. Uniform Limited Partnership Act (2001) (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 171)
-44 Ill. Reg. 7961; effective 4/27/20
-Emergency Expires: 8/16/20

76. Limited Liability Company Act (14 Ill. Adm. Code 178)
-First Notice Published: 44 Ill. Reg. 5804 – 4/3/20

77. Limited Liability Company Act (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 178)
-44 Ill. Reg. 6619; effective 3/20/20
-Emergency Expires: 8/16/20

78. Limited Liability Company Act (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 178)
-44 Ill. Reg. 7966; effective 4/27/20
-Emergency Expires: 8/16/20

79. Uniform Commercial Code (14 Ill. Adm. Code 180)
-44 Ill. Reg. 5809; effective 3/20/20
-Emergency Expires: 8/16/20

80. Uniform Commercial Code (Emergency Amendment to Emergency Rule) (14 Ill. Adm. Code 180)
-44 Ill. Reg. 6624; effective 4/9/20

-Emergency Expires: 8/16/20

81. Illinois Library System Act (23 Ill. Adm. Code 3030)
-44 Ill. Reg. 6148; effective 4/6/20
-Emergency Expires: 9/2/20

82. Illinois State Library Grant Programs (23 Ill. Adm. Code 3035)
-44 Ill. Reg. 6157; effective 4/6/20
-Emergency Expires: 9/2/20

83. Court of Claims (74 Ill. Adm. Code 790)
-44 Ill. Reg. 5815; effective 3/20/20
-Emergency Expires: 8/16/20

84. Merit Commission (80 Ill. Adm. Code 50)
-44 Ill. Reg. 5820; effective 3/17/20
-Emergency Expires: 8/13/20

85. Merit Commission (Emergency Amendment to Emergency Rule) (80 Ill. Adm. Code 50)
-44 Ill. Reg. 6630; effective 4/9/20
-Emergency Expires: 8/13/20

86. Procedures and Standards (92 Ill. Adm. Code 1001)
-44 Ill. Reg. 5824; effective 3/17/20
-Emergency Expires: 8/13/20

87. Procedures and Standards (Emergency Amendment to Emergency Rule) (92 Ill. Adm. Code 1001)
-44 Ill. Reg. 6634; effective 4/9/20
-Emergency Expires: 8/13/20

88. Certificates of Title, Registration of Vehicles (92 Ill. Adm. Code 1010)
-44 Ill. Reg. 5831; effective 3/17/20
-Emergency Expires: 8/13/20

89. Certificate of Titles, Registration of Vehicles (Emergency Amendment to Emergency Rule) (92 Ill. Adm. Code 1010)
-44 Ill. Reg. 6641; effective – 4/9/20
-Emergency Expires: 8/13/20

90. Issuance of Licenses (92 Ill. Adm. Code 1030)
-44 Ill. Reg. 5839; effective 3/17/20

-Emergency Expires: 8/13/20

91. Issuance of Licenses (92 Ill. Adm. Code 1030)
-44 Ill. Reg. 5477; effective 3/16/20
-Emergency Expires: 8/12/20

92. Issuance of Licenses (Emergency Amendment to Emergency Rule) (92 Ill. Adm. Code 1030)
-44 Ill. Reg. 6650; effective 4/9/20
-Emergency Expires: 8/13/20

93. Rules of the Road – Persons with Disabilities Parking Program (92 Ill. Adm. Code 1100)
-44 Ill. Reg. 5847; effective 3/17/20
-Emergency Expires: 8/13/20

94. Rules of the Road – Persons with Disabilities Parking Program (Emergency Amendment to Emergency Rule) (92 Ill. Adm. Code 1100)
-44 Ill. Reg. 6658; effective 4/9/20
-Emergency Expires: 8/13/20

State Police

95. Firearm Owners Identification Card Act (20 Ill. Adm. Code 1230)
-44 Ill. Reg. 6166; effective 4/6/20
-Emergency Expires: 9/2/20

96. Firearm Concealed Carry Act Procedures (20 Ill. Adm. Code 1231)
-44 Ill. Reg. 6166; effective 4/6/20
-Emergency Expires: 9/2/20

State Universities Civil Service System

97. State Universities Civil Service System (80 Ill. Adm. Code 250)
-44 Ill. Reg. 6662; effective 4/10/20
-Emergency Expires: 9/6/20

Treasurer

98. Revised Uniform Unclaimed Property Act (74 Ill. Adm. Code 760)
-44 Ill. Reg. 5489; effective 3/16/20
-Emergency Expires: 8/12/20

Workers' Compensation Commission

99. Arbitration (50 Ill. Adm. Code 9030)
-44 Ill. Reg. 7809; effective 4/16/20
-Emergency Expires: 9/12/20

100. Arbitration (Emergency Repeal of Emergency Rule) (50 Ill. Adm. Code 9030)
-44 Ill. Reg. 8080; effective 4/27/20
-Emergency Expires: 9/12/20

**PEREMPTORY RULEMAKING**

Central Management Services

101. Pay Plan (80 Ill. Adm. Code 310)
-44 Ill. Reg. 8083; effective 4/22/20

**EXEMPT RULEMAKING**

Pollution Control Board

102. Primary Drinking Water Standards (35 Ill. Adm. Code 611)
-First Notice Published: 44 Ill. Reg. 692
-Adopted: 44 Ill. Reg. 6996; effective 4/17/20

**AGENCY RESPONSE**

Employment Security

103. Payment of Unemployment Contribution, Interest and Penalties (56 Ill. Adm. Code 2765)
-First Notice Published: 44 Ill. Reg. 38
-Agency Response: Agree

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SECOND NOTICES RECEIVED

The following second notices were received during the period of April 27, 2020 through May 4, 2020. These rulemakings are scheduled for the May 19, 2020 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

| Second Notice Expires | Agency and Rule | Start of First Notice | JCAR Meeting |
|---|---|---|---|
| 6/13/20 | Office of the Attorney General, Hospital Financial Assistance under the Fair Patient Billing Act (77 Ill. Adm. Code 4500) | 3/6/20 44 Ill. Reg. 3337 | 5/19/20 |
| 6/13/20 | Illinois Gaming Board, Sports Wagering (11 Ill. Adm. Code 1900) | 1/3/20 44 Ill. Reg. 84 | 5/19/20 |
| 6/13/20 | Department of Revenue, Retailers' Occupation Tax (86 Ill. Adm. Code 130) | 1/24/20 44 Ill. Reg. 1811 | 5/19/20 |
| 6/13/20 | Illinois Student Assistance Commission, Illinois National Guard (ING) Grant Program (23 Ill. Adm. Code 2730) | 2/21/20 44 Ill. Reg. 3143 | 5/19/20 |
| 6/13/20 | Illinois Student Assistance Commission, Illinois Veteran Grant (IVG) Program (23 Ill. Adm. Code 2733) | 2/21/20 44 Ill. Reg. 3154 | 5/19/20 |
| 6/13/20 | Illinois Student Assistance Commission, Monetary Award Program (MAP) (23 Ill. Adm. Code 2735) | 2/21/20 44 Ill. Reg. 3167 | 5/19/20 |
| 6/13/20 | Illinois Student Assistance Commission, Adult Vocational Community College Scholarship Program (23 Ill. Adm. Code 2745) | 2/21/20 44 Ill. Reg. 3179 | 5/19/20 |

JOINT COMMITTEE ON ADMINISTRATIVE RULES

SECOND NOTICES RECEIVED

| | | | |
|---|---|---|---|
| 6/13/20 | Illinois Student Assistance Commission, Golden Apple Scholars of Illinois Program (23 Ill. Adm. Code 2764) | 2/21/20 44 Ill. Reg. 3185 | 5/19/20 |
| 6/13/20 | Illinois Student Assistance Commission, AIM High Grant Pilot Program (23 Ill. Adm. Code 2766) | 2/21/20 44 Ill. Reg. 3194 | 5/19/20 |
| 6/17/20 | Department of Agriculture, Cannabis Regulation and Tax Act (8 Ill. Adm. Code 1300) | 3/13/20 44 Ill. Reg. 3586 | 5/19/20 |

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF WITHDRAWAL OF PROPOSED AMENDMENTS

1) Heading of the Part: The Taking of Wild Turkeys – Spring Season

2) Code Citation: 17 Ill. Adm. Code 710

3)

| Section Numbers: | Proposed Actions: |
|---|---|
| 710.10 | Amendment |
| 710.20 | Amendment |
| 710.50 | Amendment |
| 710.70 | Amendment |

4) Date Notice of Proposed Amendments published in the *Illinois Register*: 44 Ill. Reg. 5683; April 3, 2020

5) Reason for the Withdrawal: Upon further consideration, the Department wishes to withdraw proposed amendments to 17 Ill. Adm. Code 710 in order to make additional amendments to allow for permit cancellations and refunds for unforeseen circumstances, including the closure of State properties resulting from emergency declarations in response to COVID19.

**2020-32**
**EXECUTIVE ORDER 2020-32**
**(COVID-19 EXECUTIVE ORDER NO. 30)**

**WHEREAS**, protecting the health and safety of Illinoisans is among the most important functions of State government; and,

**WHEREAS**, it is critical that Illinoisans who become sick are able to be treated by medical professionals, including when a hospital bed, emergency room bed, or ventilator is needed; and,

**WHEREAS**, it is also critical that the State's health care and first responder workforce has adequate personal protective equipment (PPE) to safely treat patients, respond to public health disasters, and prevent the spread of communicable diseases; and,

**WHEREAS**, Coronavirus Disease 2019 (COVID-19) is a novel severe acute respiratory illness that has spread among people through respiratory transmissions, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020, and the United States Secretary of Health and Human Services declared that COVID-19 presents a public health emergency on January 27, 2020; and,

**WHEREAS**, on March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic, and has reported more than 3 million confirmed cases of COVID-19 and 200,000 deaths attributable to COVID-19 globally as of April 30, 2020; and,

**WHEREAS**, a vaccine or treatment is not currently available for COVID-19 and, on April 24, 2020, the World Health Organization warned that there is currently no evidence that people who have recovered from COVID-19 and have antibodies are protected from a second infection; and,

**WHEREAS**, despite efforts to contain COVID-19, the World Health Organization and the federal Centers for Disease Control and Prevention (CDC) indicated that the virus was expected to continue spreading and it has, in fact, continued to spread rapidly, resulting in the need for federal and State governments to take significant steps; and,

**WHEREAS**, the CDC currently recommends that all United States residents take precautions to contain the spread of COVID-19, including that they: (1) stay home as much as possible; (2) if they must leave their home, practice social distancing by maintaining 6 feet of distance from others and avoiding all gatherings; (3) wear cloth face coverings in public settings where other social distancing measures are difficult to maintain; (4) be alert for symptoms such as fever, cough, or shortness of breath, and take their temperature if symptoms develop; and (5) exercise appropriate hygiene, including proper hand-washing; and,

**WHEREAS**, the CDC also recommends the following precautions for household members, caretakers and other persons having close contact with a person with symptomatic COVID-19, during the period from 48 hours before onset of symptoms until the symptomatic person meets the criteria for discontinuing home isolation: (1) stay home until 14 days after last exposure and maintain social distance (at least 6 feet) from others at all times; (2) self-monitor for symptoms, including checking their temperature twice a day and watching for fever, cough, or shortness of breath; and (3) avoid contact with people at higher risk for severe illness (unless they live in the same home and had the same exposure); and,

**WHEREAS**, as circumstances surrounding COVID-19 rapidly evolve, there have been frequent changes in information and guidance from public health officials as a result of emerging evidence; and,

**WHEREAS**, as of April 30, 2020, there have been nearly 53,000 confirmed cases of COVID-19 in 97 Illinois counties and 2,350 deaths from COVID-19; and,

**WHEREAS**, studies suggest that for every confirmed case there are many more unknown cases, some of which are asymptomatic individuals, meaning that individuals can pass the virus to others without knowing; and,

**WHEREAS**, as the virus has progressed through Illinois, the crisis facing the State has developed and now requires an evolving response to ensure hospitals, health care professionals and first responders are able to meet the health care needs of all Illinoisans and in a manner consistent with CDC guidance that continues to be updated; and,

**WHEREAS**, Illinois is using a high percentage of hospital beds, ICU beds, and ventilators as a result of the number of COVID-19 patients that require hospitalization and, if cases were to surge higher, the State would face a shortage of these critical health care resources; and,

**WHEREAS**, Illinois currently has a total of 32,010 hospital beds with 3,631 ICU beds, of which, as of April 30, 2020, only 33% of hospital beds and 25% of ICU beds were available statewide, and only 17% of ICU beds were available in the Chicago region; and,

**WHEREAS**, the State worked with top researchers from the University of Illinois at Urbana-Champaign, the Northwestern School of Medicine, the University of Chicago, the Chicago and Illinois Departments of Public Health, along with McKinsey and Mier Consulting Group, and Civis Analytics, to analyze two months' worth of daily data on COVID-19 deaths and ICU usage and model potential outcomes; and,

**WHEREAS**, the State's modeling shows that its health care resource utilization will not peak until May, and that health care resources will continue to be limited after the peak; and,

**WHEREAS**, the State's modeling shows that without extensive social distancing and other precautions, the State will not have sufficient hospital beds, ICU beds or ventilators; and,

**WHEREAS**, Illinois currently has a total of 32,010 hospital beds, and the State's modeling shows that without a "stay at home" order, more than 100,000 hospital beds would be necessary; and,

**WHEREAS**, Illinois currently has a total of 3,631 ICU beds, and the State's modeling shows that without a "stay at home" order, more than 25,000 ICU beds would be necessary; and,

**WHEREAS**, Illinois currently has a total of 3,378 ventilators, and the State's modeling shows that without a "stay at home" order, upwards of 20,000 ventilators would be necessary; and,

**WHEREAS**, the State's modeling shows that without a "stay at home" order, the number of deaths from COVID-19 would be between 10 to 20 times higher than with a "stay at home" order in place; and,

**WHEREAS**, I declared all counties in the State of Illinois as a disaster area on April 30, 2020 because the current circumstances in Illinois surrounding the spread of COVID-19 constitute an epidemic and a public health emergency under Section 4 of the Illinois Emergency Management Agency Act; and,

**WHEREAS**, I declared all counties in the State of Illinois as a disaster area on April 30, 2020 because the current circumstances surrounding the threatened shortages of hospital beds, ICU beds, ventilators, and PPE, and critical need for increased COVID-19 testing capacity constitute a public health emergency under Section 4 of the Illinois Emergency Management Agency Act; and,

**WHEREAS**, the Illinois Constitution, in Article V, Section 8, provides that "the Governor shall have the supreme executive power, and shall be responsible for the faithful execution of the laws," and states, in the Preamble, that a central purpose of the Illinois Constitution is "provide for the health, safety, and welfare of the people;" and,

**WHEREAS**, for the preservation of public health and safety throughout the entire State of Illinois, and to ensure that our healthcare delivery system is capable of serving those who are sick, I find it necessary to take measures consistent with public health guidance to slow and stop the spread of COVID-19 and to prevent shortages of hospital beds, ICU beds, ventilators, and PPE and to increase COVID-19 testing capacity;

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, pursuant to the Illinois Constitution and Sections 7(1), 7(2), 7(3), 7(8), 7(9), and 7(12) of the Illinois Emergency Management Agency Act [20 ILCS 3305], and consistent with the powers in public health laws, I hereby order the following, effective May 1, 2020:

**Section 1. Public Health Requirements for Individuals Leaving Home and for Businesses**

1. **Wearing a face covering in public places or when working.** Any individual who is over age two and able to medically tolerate a face-covering (a mask or cloth face-covering) shall be required to cover their nose and mouth with a face-covering when in a public place and unable to maintain a six-foot social distance. Face-coverings are required in public indoor spaces such as stores.

2. **Requirements for essential stores.** Retail stores (including, but not limited to, stores that sell groceries and medicine, hardware stores, and greenhouses, garden centers, and nurseries) designated as Essential Businesses and Operations under this Order shall to the greatest extent possible:

   - provide face coverings to all employees who are not able to maintain a minimum six-foot social distance at all times;
   - cap occupancy at 50 percent of store capacity, or, alternatively, at the occupancy limits based on store square footage set by the Department of Commerce and Economic Opportunity;
   - set up store aisles to be one-way where practicable to maximize spacing between customers and identify the one-way aisles with conspicuous signage and/or floor markings;
   - communicate with customers through in-store signage, and public service announcements and advertisements, about the social distancing requirements set forth in this Order (Social Distancing Requirements); and
   - discontinue use of reusable bags.

   Households must limit the number of members who enter stores to the minimum necessary.

3. **Requirements for non-essential stores.** Retail stores not designated as Essential Businesses and Operations may re-open for the limited purposes of fulfilling telephone and online orders through pick-up outside the store and delivery – which are deemed to be Minimum Basic Operations. Employees working in the store must follow the social Distancing Requirements, and must wear a face covering when they may come within six feet of another employee or a customer.

4. **Requirements for manufacturers.** Manufacturers that continue to operate pursuant to this Order must follow Social Distancing Requirements and take appropriate precautions, which may include:

    - providing face coverings to all employees who are not able to maintain a minimum six-foot social distance at all times;
    - staggering shifts;
    - reducing line speeds;
    - operating only essential lines, while shutting down non-essential lines;
    - ensuring that all spaces where employees may gather, including locker rooms and lunchrooms, allow for social distancing; and
    - downsizing operations to the extent necessary to allow for social distancing and to provide a safe workplace in response to the COVID-19 emergency.

5. **Requirements for all businesses.** All businesses must evaluate which employees are able to work from home, and are encouraged to facilitate remote work from home when possible. All businesses that have employees physically reporting to a work-site must post the guidance from the Illinois Department of Public Health (IDPH) and Office of the Illinois Attorney General regarding workplace safety during the COVID-19 emergency. The guidance will be posted on the IDPH webpage.

**Section 2. Stay at Home; Social Distancing Requirements; and Essential Businesses and Operations**

1. **Stay at home or place of residence.** With exceptions as outlined below, all individuals currently living within the State of Illinois are ordered to stay at home or at their place of residence except as allowed in this Executive Order. To the extent individuals are using shared or outdoor spaces when outside their residence, they must at all times and as much as reasonably possible maintain social distancing of at least six feet from any other person, consistent with the Social Distancing Requirements set forth in this Executive Order. All persons may leave their homes or place of residence only for Essential Activities, Essential Governmental Functions, or to operate Essential Businesses and Operations, all as defined below.

    Individuals experiencing homelessness are exempt from this directive, but are strongly urged to obtain shelter, and governmental and other entities are strongly urged to make such shelter available as soon as possible and to the maximum extent practicable (and to use in their operation COVID-19 risk mitigation practices recommended by the U.S. Centers for Disease Control and Prevention (CDC) and the Illinois Department of Public Health (IDPH)). Individuals whose residences are unsafe or become unsafe, such as victims of domestic violence, are permitted and urged to leave their home and stay at a

safe alternative location. For purposes of this Executive Order, homes or residences include hotels, motels, shared rental units, shelters, and similar facilities.

2. **Non-essential business and operations must cease.** All businesses and operations in the State, except Essential Businesses and Operations as defined below, are required to cease all activities within the State except Minimum Basic Operations, as defined below. For clarity, businesses may also continue operations consisting exclusively of employees or contractors performing activities at their own residences (i.e., working from home).

   All Essential Businesses and Operations may remain open consistent with the express provisions of this Order and the intent of this Order as set forth in Section 2, Paragraph 16 below. To the greatest extent feasible, Essential Businesses and Operations shall comply with Social Distancing Requirements as defined in this Executive Order, including by maintaining six-foot social distancing for both employees and members of the public at all times, including, but not limited to, when any customers are standing in line.

3. **Prohibited activities.** All public and private gatherings of any number of people occurring outside a single household or living unit are prohibited, except for the limited purposes permitted by this Executive Order. Pursuant to current guidance from the CDC, any gathering of more than **ten** people is prohibited unless exempted by this Executive Order. Nothing in this Executive Order prohibits the gathering of members of a household or residence.

   All places of public amusement, whether indoors or outdoors, including but not limited to, locations with amusement rides, carnivals, amusement parks, water parks, aquariums, zoos, museums, arcades, fairs, children's play centers, playgrounds, funplexes, theme parks, bowling alleys, movie and other theaters, concert and music halls, and country clubs or social clubs shall be closed to the public.

4. **Prohibited and permitted travel.** All travel, including, but not limited to, travel by automobile, motorcycle, scooter, bicycle, train, plane, or public transit, except Essential Travel and Essential Activities as defined herein, is prohibited. People riding on public transit must comply with Social Distancing Requirements to the greatest extent feasible. This Executive Order allows travel into or out of the State to maintain Essential Businesses and Operations and Minimum Basic Operations.

5. **Leaving the home for essential activities is permitted.** For purposes of this Executive Order, individuals may leave their residence only to perform any of the following Essential Activities, and must follow the Social Distancing Requirements set forth in this Order, including wearing face coverings when in public or at work:

a. **For health and safety.** To engage in activities or perform tasks essential to their health and safety, or to the health and safety of their family or household members (including, but not limited to, pets), such as, by way of example only and without limitation, seeking emergency services, obtaining medical supplies or medication, or visiting a health care professional.

b. **For necessary supplies and services.** To obtain necessary services or supplies for themselves and their family or household members, or to deliver those services or supplies to others, such as, by way of example only and without limitation, groceries and food, household consumer products, supplies they need to work from home, and products necessary to maintain the safety, sanitation, and essential operation of residences.

c. **For outdoor activity.** To engage in outdoor activity, provided the individuals comply with Social Distancing Requirements, as defined below, such as, by way of example and without limitation, walking, hiking, running, and biking. Individuals may go to public parks and open outdoor recreation areas, including specific State parks that remain open for certain activities, as designated by the Illinois Department of Natural Resources. Fishing, boating, and golf are permitted only when following the guidelines provided by the Illinois Department of Commerce and Economic Opportunity (DCEO). Playgrounds may increase spread of COVID-19, and therefore shall be closed.

d. **For certain types of work.** To perform work providing essential products and services at Essential Businesses or Operations (which, as defined below, includes Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Functions, and Essential Infrastructure) or to otherwise carry out activities specifically permitted in this Executive Order, including Minimum Basic Operations.

e. **To take care of others.** To care for a family member, friend, or pet in another household, and to transport family members, friends, or pets as allowed by this Executive Order.

f. **To engage in the free exercise of religion.** To engage in the free exercise of religion, provided that such exercise must comply with Social Distancing Requirements and the limit on gatherings of more than ten people in keeping with CDC guidelines for the protection of public health. Religious organizations and houses of worship are encouraged to use online or drive-in services to protect the health and safety of their congregants.

6. **Elderly people and those who are vulnerable as a result of illness should take additional precautions.** People at high risk of severe illness from COVID-19, including elderly people and those who are sick, are urged to stay in their residence to the extent possible except as necessary to seek medical care. Nothing in this Executive Order prevents the Illinois Department of Public Health or local public health departments from issuing and enforcing isolation and quarantine orders pursuant to the Department of Public Health Act [20 ILCS 2305].

7. **Healthcare and Public Health Operations.** For purposes of this Executive Order, individuals may leave their residence to work for or obtain services through Healthcare and Public Health Operations.

   Healthcare and Public Health Operations includes, but is not limited to: hospitals; clinics; dental offices; pharmacies; public health entities, including those that compile, model, analyze and communicate public health information; pharmaceutical, pharmacy, medical device and equipment, and biotechnology companies (including operations, research and development, manufacture, and supply chain); organizations collecting blood, platelets, plasma, and other necessary materials; licensed medical cannabis dispensaries and licensed cannabis cultivation centers; reproductive health care providers; eye care centers, including those that sell glasses and contact lenses; home healthcare services providers; mental health and substance use providers; other healthcare facilities and suppliers and providers of any related and/or ancillary healthcare services; and entities that transport and dispose of medical materials and remains.

   Specifically included in Healthcare and Public Health Operations are manufacturers, technicians, logistics, and warehouse operators and distributors of medical equipment, personal protective equipment (PPE), medical gases, pharmaceuticals, blood and blood products, vaccines, testing materials, laboratory supplies, cleaning, sanitizing, disinfecting or sterilization supplies, and tissue and paper towel products.

   Healthcare and Public Health Operations also includes veterinary care and all healthcare and grooming services provided to animals.

   Healthcare and Public Health Operations shall be construed broadly to avoid any impacts to the delivery of healthcare, broadly defined. Healthcare and Public Health Operations does not include fitness and exercise gyms, spas, salons, barber shops, tattoo parlors, and similar facilities.

8. **Human Services Operations.** For purposes of this Executive Order, individuals may leave their residence to work for or obtain services at any Human Services Operations,

including any provider funded by the Illinois Department of Human Services, Illinois Department of Children and Family Services, or Medicaid that is providing services to the public and including state-operated, institutional, or community-based settings providing human services to the public.

Human Services Operations includes, but is not limited to: long-term care facilities; all entities licensed pursuant to the Child Care Act [225 ILCS 10], except for day care centers, day care homes, and group day care homes; day care centers licensed as specified in Section 2, Paragraph 12(s) of this Executive Order; day programs exempt from licensure under Title 89 of the Illinois Administrative Code, Sections 377.3(a)(1)-(a)(4), (b)(2), and (c); day programs exempt from licensure under Title 89 of the Illinois Administrative Code, Section 377.3(d) (subject to the conditions governing exempt day care homes set forth in Section 1, Paragraph 12(s) of this Executive Order); residential settings and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness; transitional facilities; home-based settings to provide services to individuals with physical, intellectual, and/or developmental disabilities, seniors, adults, and children; field offices that provide and help to determine eligibility for basic needs including food, cash assistance, medical coverage, child care, vocational services, rehabilitation services; developmental centers; adoption agencies; businesses that provide food, shelter, and social services, and other necessities of life for economically disadvantaged individuals, individuals with physical, intellectual, and/or developmental disabilities, or otherwise needy individuals.

Human Services Operations shall be construed broadly to avoid any impacts to the delivery of human services, broadly defined.

9. **Essential Infrastructure.** For purposes of this Executive Order, individuals may leave their residence to provide any services or perform any work necessary to offer, provision, operate, maintain and repair Essential Infrastructure.

Essential Infrastructure includes, but is not limited to: food production, distribution, and sale; construction (including, but not limited to, construction required in response to this public health emergency, hospital construction, construction of long-term care facilities, public works construction, and housing construction); building management and maintenance; airport operations; operation and maintenance of utilities, including water, sewer, and gas; electrical (including power generation, distribution, and production of raw materials); distribution centers; oil and biofuel refining; roads, highways, railroads, and public transportation; ports; cybersecurity operations; flood control; solid waste and recycling collection and removal; and internet, video, and telecommunications systems

(including the provision of essential global, national, and local infrastructure for computing services, business infrastructure, communications, and web-based services).

Essential Infrastructure shall be construed broadly to avoid any impacts to essential infrastructure, broadly defined.

10. **Essential Governmental Functions.** For purposes of this Executive Order, all first responders, emergency management personnel, emergency dispatchers, court personnel, law enforcement and corrections personnel, hazardous materials responders, child protection and child welfare personnel, housing and shelter personnel, military, and other governmental employees working for or to support Essential Businesses and Operations are categorically exempt from this Executive Order.

    Essential Government Functions means all services provided by the State or any municipal, township, county, subdivision or agency of government and needed to ensure the continuing operation of the government agencies or to provide for or support the health, safety and welfare of the public, and including contractors performing Essential Government Functions. Each government body shall determine its Essential Governmental Functions and identify employees and/or contractors necessary to the performance of those functions.

    This Executive Order does not apply to the United States government. Nothing in this Executive Order shall prohibit any individual from performing or accessing Essential Governmental Functions.

11. **Businesses covered by this Executive Order.** For the purposes of this Executive Order, covered businesses include any for-profit, non-profit, or educational entities, regardless of the nature of the service, the function it performs, or its corporate or entity structure.

12. **Essential Businesses and Operations.** For the purposes of this Executive Order, Essential Businesses and Operations means Healthcare and Public Health Operations, Human Services Operations, Essential Governmental Functions, and Essential Infrastructure, and the following:[1]

    a. **Stores that sell groceries and medicine.** Grocery stores, pharmacies, certified

[1] On March 19, 2020, the U.S. Department of Homeland Security, Cybersecurity & Infrastructure Security Agency, issued a *Memorandum on Identification of Essential Critical Infrastructure Workers During COVID-19 Response*. The definition of Essential Businesses and Operations in this Order is meant to encompass the workers identified in that Memorandum.

farmers' markets, farm and produce stands, supermarkets, convenience stores, and other establishments engaged in the retail sale of groceries, canned food, dry goods, frozen foods, fresh fruits and vegetables, pet supplies, fresh meats, fish, and poultry, alcoholic and non-alcoholic beverages, and any other household consumer products (such as cleaning and personal care products). This includes stores that sell groceries, medicine, including medication not requiring a medical prescription, and also that sell other non-grocery products, and products necessary to maintaining the safety, sanitation, and essential operation of residences and Essential Businesses and Operations;

b. **Food, beverage, and cannabis production and agriculture.** Food and beverage manufacturing, production, processing, and cultivation, including farming, livestock, fishing, baking, and other production agriculture, including cultivation, marketing, production, and distribution of animals and goods for consumption; licensed medical and adult use cannabis dispensaries and licensed cannabis cultivation centers; and businesses that provide food, shelter, and other necessities of life for animals, including animal shelters, rescues, shelters, kennels, and adoption facilities;

c. **Organizations that provide charitable and social services.** Businesses and religious and secular nonprofit organizations, including food banks, when providing food, shelter, and social services, and other necessities of life for economically disadvantaged or otherwise needy individuals, individuals who need assistance as a result of this emergency, and people with disabilities;

d. **Media.** Newspapers, television, radio, and other media services;

e. **Gas stations and businesses needed for transportation.** Gas stations and auto-supply, auto-repair, and related facilities and bicycle shops and related facilities;

f. **Financial institutions.** Banks, currency exchanges, consumer lenders, including but not limited, to payday lenders, pawnbrokers, consumer installment lenders and sales finance lenders, credit unions, appraisers, title companies, financial markets, trading and futures exchanges, affiliates of financial institutions, entities that issue bonds, related financial institutions, and institutions selling financial products;

g. **Hardware and supply stores and greenhouses, garden centers, and nurseries.** Hardware stores and businesses that sell electrical, plumbing, and heating material, and greenhouses, garden centers, and nurseries;

h. **Critical trades.** Building and Construction Tradesmen and Tradeswomen, and other trades including but not limited to plumbers, electricians, exterminators, cleaning and janitorial staff for commercial and governmental properties, security staff, operating engineers, HVAC, painting, moving and relocation services, and other service providers who provide services that are necessary to maintaining the safety, sanitation, and essential operation of residences, Essential Activities, and Essential Businesses and Operations;

i. **Mail, post, shipping, logistics, delivery, and pick-up services.** Post offices and other businesses that provide shipping and delivery services, and businesses that ship or deliver groceries, food, alcoholic and non-alcoholic beverages, goods or services to end users or through commercial channels;

j. **Educational institutions.** Educational institutions − including public and private pre-K-12 schools, colleges, and universities − for purposes of facilitating distance learning, performing critical research, or performing essential functions, provided that social distancing of six-feet per person is maintained to the greatest extent possible. Educational institutions may allow and establish procedures for pick-up of necessary supplies and/or student belongings and dormitory move-out if conducted in a manner consistent with public health guidelines, including Social Distancing Requirements. This Executive Order is consistent with and does not amend or supersede Executive Order 2020-05 (COVID-19 Executive Order No. 3) or Executive Order 2020-06 (COVID-19 Executive Order No. 4) except that affected schools have been closed past the April 7, 2020 date reflected in those Orders;

k. **Laundry services.** Laundromats, dry cleaners, industrial laundry services, and laundry service providers;

l. **Restaurants for consumption off-premises.** Restaurants and other facilities that prepare and serve food, but only for consumption off-premises, through such means as in-house delivery, third-party delivery, drive-through, curbside pick-up, and carry-out. Schools and other entities that typically provide food services to students or members of the public may continue to do so under this Executive Order on the condition that the food is provided to students or members of the public on a pick-up and takeaway basis only. Schools and other entities that provide food services under this exemption shall not permit the food to be eaten at the site where it is provided, or at any other gathering site due to the virus's propensity to physically impact surfaces and personal property. This Executive Order is consistent with and does not amend or supersede Section 1 of Executive

Order 2020-07 (COVID-19 Executive Order No. 5) except that Section 1 is ordered to be extended through April 7, 2020;

m. **Supplies to work from home.** Businesses that sell, manufacture, or supply products needed for people to work from home;

n. **Supplies for Essential Businesses and Operations.** Businesses that sell, manufacture, or supply other Essential Businesses and Operations with the support or materials necessary to operate, including computers, audio and video electronics, household appliances; IT and telecommunication equipment; hardware, paint, flat glass; electrical, plumbing and heating material; sanitary equipment; personal hygiene products; food, food additives, ingredients and components; medical and orthopedic equipment; optics and photography equipment; diagnostics, food and beverages, chemicals, soaps and detergent; and firearm and ammunition suppliers and retailers for purposes of safety and security;

o. **Transportation.** Airlines, taxis, transportation network providers (such as Uber and Lyft), vehicle rental services, paratransit, and other private, public, and commercial transportation and logistics providers necessary for Essential Activities and other purposes expressly authorized in this Executive Order;

p. **Home-based care and services.** Home-based care for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness, including caregivers such as nannies who may travel to the child's home to provide care, and other in-home services including meal delivery;

q. **Residential facilities and shelters.** Residential facilities and shelters for adults, seniors, children, and/or people with developmental disabilities, intellectual disabilities, substance use disorders, and/or mental illness;

r. **Professional services.** Professional services, such as legal services, accounting services, insurance services, real estate services (including appraisal and title services);

s. **Day care centers for employees exempted by this Executive Order.** Day care centers granted an emergency license pursuant to Title 89, Section 407.500 of the Illinois Administrative Code, governing Emergency Day Care Programs for children of employees exempted by this Executive Order to work as permitted. The licensing requirements for day care homes pursuant to Section 4 of the Child

Care Act [225 ILCS 10/4], are hereby suspended for family homes that receive up to 6 children for the duration of the Gubernatorial Disaster Proclamation;

t. **Manufacture, distribution, and supply chain for critical products and industries.** Manufacturing companies, distributors, and supply chain companies producing and supplying essential products and services in and for industries such as pharmaceutical, technology, biotechnology, healthcare, chemicals and sanitization, waste pickup and disposal, agriculture, food and beverage, transportation, energy, steel and steel products, petroleum and fuel, mining, construction, national defense, communications, as well as products used by other Essential Businesses and Operations;

u. **Critical labor union functions.** Labor Union essential activities including the administration of health and welfare funds and personnel checking on the well-being and safety of members providing services in Essential Businesses and Operations – provided that these checks should be done by telephone or remotely where possible;

v. **Hotels and motels.** Hotels and motels, to the extent used for lodging and delivery or carry-out food services; and

w. **Funeral services.** Funeral, mortuary, cremation, burial, cemetery, and related services.

13. **Minimum Basic Operations.** For the purposes of this Executive Order, Minimum Basic Operations include the following, provided that employees comply with Social Distancing Requirements, to the extent possible, while carrying out such operations:

    a. The minimum necessary activities to maintain the value of the business's inventory, preserve the condition of the business's physical plant and equipment, ensure security, process payroll and employee benefits, or for related functions.

    b. The minimum necessary activities to facilitate employees of the business being able to continue to work remotely from their residences.

    c. For retail stores, fulfilling online and telephonic orders through pick-up outside the store or delivery.

14. **Essential Travel.** For the purposes of this Executive Order, Essential Travel includes travel for any of the following purposes. Individuals engaged in any Essential Travel must comply with all Social Distancing Requirements as defined in this Section.

a. Any travel related to the provision of or access to Essential Activities, Essential Governmental Functions, Essential Businesses and Operations, or Minimum Basic Operations.

b. Travel to care for elderly, minors, dependents, persons with disabilities, or other vulnerable persons.

c. Travel to or from educational institutions for purposes of receiving materials for distance learning, for receiving meals, and any other related services.

d. Travel to return to a place of residence from outside the jurisdiction.

e. Travel required by law enforcement or court order, including to transport children pursuant to a custody agreement.

f. Travel required for non-residents to return to their place of residence outside the State. Individuals are strongly encouraged to verify that their transportation out of the State remains available and functional prior to commencing such travel.

15. **Social Distancing, Face Covering, and PPE Requirements.** For purposes of this Executive Order, Social Distancing Requirements includes maintaining at least six-foot social distancing from other individuals, washing hands with soap and water for at least twenty seconds as frequently as possible or using hand sanitizer, covering coughs or sneezes (into the sleeve or elbow, not hands), regularly cleaning high-touch surfaces, and not shaking hands.

a. **Required measures.** Essential Businesses and Operations and businesses engaged in Minimum Basic Operations must take proactive measures to ensure compliance with Social Distancing Requirements, including where possible:

i. **Designate six-foot distances.** Designating with signage, tape, or by other means six-foot spacing for employees and customers in line to maintain appropriate distance;

ii. **Hand sanitizer and sanitizing products.** Having hand sanitizer and sanitizing products readily available for employees and customers;

iii. **Separate operating hours for vulnerable populations.** Implementing separate operating hours for elderly and vulnerable customers; and

iv. **Online and remote access.** Posting online whether a facility is open and how best to reach the facility and continue services by phone or remotely.

v. **Face Coverings and PPE.** Providing employees with appropriate face coverings and requiring that employees wear face coverings where maintaining a six-foot social distance is not possible at all times. When the work circumstances require, providing employees with other PPE in addition to face coverings.

16. **Intent of this Executive Order.** The intent of this Executive Order is to ensure that the maximum number of people self-isolate in their places of residence to the maximum extent feasible, while enabling essential services to continue, to slow the spread of COVID-19 to the greatest extent possible. When people need to leave their places of residence, whether to perform Essential Activities, or to otherwise facilitate authorized activities necessary for continuity of social and commercial life, they should at all times and as much as reasonably possible comply with Social Distancing Requirements. All provisions of this Executive Order should be interpreted to effectuate this intent. Businesses not specifically addressed by this Executive Order generally should cease activities and reduce to Minimum Basic Operations.

17. **Enforcement.** This Executive Order may be enforced by State and local law enforcement pursuant to, *inter alia*, Section 7, Section 15, Section 18, and Section 19 of the Illinois Emergency Management Agency Act [20 ILCS 3305].

    Businesses must follow guidance provided or published by: the Office of the Governor, the Illinois Department of Commerce and Economic Opportunity, and State and local law enforcement regarding whether they qualify as Essential; and the Illinois Department of Public Health, local public health departments, and the Workplace Rights Bureau of the Office of the Illinois Attorney General with respect to Social Distancing Requirements. Pursuant to Section 25(b) of the Whistleblower Act [740 ILCS 174], businesses are prohibited from retaliating against an employee for disclosing information where the employee has reasonable cause to believe that the information discloses a violation of this Order.

18. **No limitation on authority.** Nothing in this Executive Order shall, in any way, alter or modify any existing legal authority allowing the State or any county, or local government body from ordering (1) any quarantine or isolation that may require an individual to remain inside a particular residential property or medical facility for a limited period of time, including the duration of this public health emergency, or (2) any closure of a specific location for a limited period of time, including the duration of this public health emergency. Nothing in this Executive Order shall, in any way, alter or modify any

existing legal authority allowing a county or local government body to enact provisions that are stricter than those in this Executive Order.

**Section 3. Savings clause.**

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable. This Executive Order is meant to be read consistently with any Court order regarding this Executive Order.

Issued by the Governor April 30, 2020
Filed by the Secretary of State April 30, 2020

## 2020-33
## EXECUTIVE ORDER IN RESPONSE TO COVID-19
## (COVID-19 EXECUTIVE ORDER NO. 31)

**WHEREAS**, protecting the health and safety of Illinoisans is among the most important functions of State government; and,

**WHEREAS**, Coronavirus Disease 2019 (COVID-19) is a novel severe acute respiratory illness that has spread among people through respiratory transmissions, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020, and the United States Secretary of Health and Human Services declared that COVID-19 presents a public health emergency on January 27, 2020; and,

**WHEREAS**, as the virus has progressed through Illinois, the crisis facing the State has developed and now requires an evolving response to ensure hospitals, health care professionals and first responders are able to meet the health care needs of all Illinoisans and in a manner consistent with CDC guidance that continues to be updated; and,

**WHEREAS**, I declared all counties in the State of Illinois as a disaster area on April 30, 2020 because the current circumstances in Illinois surrounding the spread of COVID-19, including the devasting impacts to the health and lives of people throughout the State, the threatened shortages of hospital beds, ICU beds, ventilators, and PPE, and the critical need for increased COVID-19 testing capacity, constitute an epidemic emergency and a public health emergency; and,

**WHEREAS**, in response to the epidemic emergency and public health emergency described above, I find it necessary to re-issue Executive Orders 2020-03, 2020-04, 2020-05, 2020-06, 2020-07, 2020-08, 2020-09, 2020-11, 2020-12, 2020-13, 2020-14, 2020-15, 2020-16, 2020-17, 2020-19, 2020-20, 2020-21, 2020-22, 2020-23, 2020-24, 2020-25, 2020-26, 2020-27, 2020-28, 2020-29, 2020-30, and 2020-31, and hereby incorporate the WHEREAS clauses of those Executive Orders;

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, pursuant to the Illinois Constitution and Sections 7(1), 7(2), 7(3), 7(8), 7(9), and 7(12) of the Illinois Emergency Management Agency Act [20 ILCS 3305], and consistent with the powers in public health laws, I hereby order the following, effective April 30, 2020:

**Part 1: Re-Issue of Executive Orders.**

Executive 2020-03, 2020-04, 2020-05, 2020-06, 2020-07, 2020-08, 2020-09, 2020-11, 2020-12, 2020-13, 2020-14, 2020-15, 2020-16, 2020-17, 2020-19, 2020-20, 2020-21, 2020-22, 2020-23, 2020-24, 2020-25, 2020-26, 2020-27, 2020-28, 2020-29, 2020-30, and 2020-31 hereby are re-issued by this Executive Order 2020-33 as follows:

**Executive Order 2020-04 (Closure of James R. Thompson Center; Waiver of Sick Leave Requirement for State Employees)**:

Sections 2 and 3 of Executive Order 2020-04 are re-issued and extended through **May 29, 2020**.

**Executive Orders 2020-05 and 2020-06 (School Closures)**:

Executive Orders 2020-05 and 2020-06 are re-issued in their entirety and extended through **May 29, 2020**.

**Executive Order 2020-07 (Suspension of on-premises consumption at restaurants and bars; Unemployment insurance; Open Meetings Act)**:

Sections 1, 3, 4, 5, and 6, as amended below, of Executive Order 2020-07 are re-issued and extended through **May 29, 2020**.

Section 6. During the duration of the Gubernatorial Disaster Proclamation and through May 29, 2020, the provisions of the Open Meetings Act [5 ILCS 120], requiring or relating to in-person attendance by members of a public body are suspended. Specifically, (1) the requirement in 5 ILCS 120/2.01 that "members of a public body must be physically present" is suspended; and (2) the conditions in 5 ILCS 120/7 limiting

when remote participation is permitted are suspended. The provision of the Illinois Finance Authority Act that "[a]ll meetings shall be conducted at a single location within the State with a quorum of members physically present at this location," 20 ILCS 3501/801-25, is suspended through May 29, 2020. The provision of the Illinois Administrative Code that a meeting of the Concealed Carry Licensing Review Board that a requires a "quorum is in attendance at a meeting" as a condition for when "Commissioners may attend telephonically or electronically," 20 Ill. Adm. Code 2900.110(c), is suspended through May 29, 2020.

Public bodies, including those listed specifically above, are encouraged to postpone consideration of public business where possible. When a meeting is necessary, public bodies are encouraged to provide video, audio, and/or telephonic access to meetings to ensure members of the public may monitor the meeting, and to update their websites and social media feeds to keep the public fully apprised of any modifications to their meeting schedules or the format of their meetings due to COVID-19, as well their activities relating to COVID-19.

**Executive Order 2020-08 (Secretary of State Operations)**:

Executive Order 2020-08 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-09 (Telehealth)**:

Executive Order 2020-09 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-11 (Revisions to prior Executive Orders; Department of Corrections notification period)**:

Sections 3 and 4 of Executive Order 2020-11 are re-issued and extended through **May 29, 2020**.

**Executive Order 2020-12 (Health care worker background checks; Department of Juvenile Justice notification period; Coal Mining Act)**:

Executive Order 2020-12 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-13 (Suspending Department of Corrections admissions from county jails)**:

Executive Order 2020-13 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-14 (Notary and witness guidelines)**:

Executive Order 2020-14, as amended below, is re-issued in its entirety and extended through **May 29, 2020**.

Section 2. During the duration of the Gubernatorial Disaster Proclamation related to the outbreak of COVID-19, any act of witnessing required by Illinois law may be completed remotely by via two-way audio-video communication technology, provided that:

a. The two-way audio-video communication technology must allow for direct, contemporaneous interaction between the individual signing the document ("the signatory") and the witness by sight and sound;

b. The two-way audio-video communication technology must be recorded and preserved by the signatory or the signatory's designee for a period of at least three years;

c. The signatory must attest to being physically located in Illinois during the two-way audio-video communication;

d. The witness must attest to being physically located in Illinois during the two-way audio-video communication;

e. The signatory must affirmatively state on the two-way audio-video communication what document the signatory is signing;

f. Each page of the document being witnessed must be shown to the witness on the two-way audio-video communication technology in a means clearly legible to the witness and initialed by the signatory in the presence of the witness;

g. The act of signing must be captured sufficiently up close on the two-way audio-video communication for the witness to observe;

h. The signatory must transmit by overnight mail, fax, or electronic means a legible copy of the entire signed document directly to the witness no later than the day after the document is signed;

i. The witness must sign the transmitted copy of the document as a witness and transmit the signed copy of the document back via overnight mail, fax, or electronic means to the signatory within 24 hours of receipt; and,

j. If necessary, the witness may sign the original signed document as of the date of the original execution by the signatory provided that the witness receives the original signed document together with the electronically witnessed copy within thirty days from the date of the remote witnessing.

**Executive Order 2020-15 (Suspending provisions of the Illinois School Code)**:

Executive Order 2020-15 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-16 (Repossession of vehicles; suspension of classroom training requirement for security services)**:

Executive Order 2020-16 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Orders 2020-03 and 2020-17 (Cannabis deadlines and applications)**:

Executive Orders 2020-03 and 2020-17, as modified by Executive Order 2020-18, are re-issued and shall remain in effect as specified by Executive Order 2020-18.

**Executive Order 2020-19 (Immunity from civil liability for health care facilities, professionals, and volunteers)**:

Executive Order 2020-19, as amended below, is re-issued in its entirety and extended through **May 29, 2020**.

Section 1. For purposes of this Executive Order, the following terms are defined as set forth below:

a. "Health Care Facilities" means:

i. Facilities licensed, certified, or approved by any State agency and covered by the following: 77 Ill. Adm. Section 1130.215(a)-(f); University of Illinois Hospital Act [110 ILCS 330]; Alternative Health Care Delivery Act [210 ILCS 3/35(2)-(4)]; Emergency Medical Services (EMS) Systems Act [210 ILCS 50]; or Department of Veterans' Affairs Act [20 ILCS 2805];

ii. State-operated Developmental Centers certified by the federal Centers for Medicare and Medicaid Services and licensed State-operated Mental Health Centers created pursuant to the Mental Health and Developmental Disabilities Administrative Act [20 ILCS 1705/4];

iii. Licensed community-integrated living arrangements as defined by the Community-Integrated Living Arrangements Licensing and Certification Act [210 ILCS 135/2];

iv. Licensed Community Mental Health Centers as defined in the Community Services Act [405 ILCS 30];

v. Federally qualified health centers under the Social Security Act, 42 U.S.C. § 1396d(l)(2)(B);

vi. Any government-operated site providing health care services established for the purpose of responding to the COVID-19 outbreak;

vii. Supportive living facilities certified by the Illinois Department of Healthcare and Family Services pursuant to the Illinois Public Aid Code [305 ILCS 5/5-5.01(a)]; and

viii. Assisted living establishments and shared housing establishments licensed by the DPH pursuant to the Assisted Living and Shared Housing Act [210 ILCS 9].

"Health Care Facility" is the singular form of the plural "Health Care Facilities".

b. "Health Care Professional" means all licensed or certified health care or emergency medical services workers who (i) are providing health care services at a Health Care Facility in response to the COVID-19 outbreak and are authorized to do so; or (ii) are working under the direction of the Illinois Emergency Management Agency (IEMA) or DPH in response to the Gubernatorial Disaster Proclamations.

c. "Health Care Volunteer" means all volunteers or medical or nursing students who do not have licensure who (i) are providing services, assistance, or support at a Health Care Facility in response to the COVID-19 outbreak and are authorized to do so; or (ii) are working under the direction of IEMA or DPH in response to the Gubernatorial Disaster Proclamations.

Section 8. For purposes of Section 2, rendering assistance by hospitals licensed pursuant to the Illinois Hospital Licensing Act [210 ILCS 85], must also include accepting a transfer of a COVID-19 patient from another hospital, including hospital inpatients, and state-operated entities (collectively, "transferring entities") that do not have the capacity and capability necessary to provide treatment for a COVID-19 patient. The receiving

hospital shall accept such transfer of a COVID-19 patient if it has sufficient capacity and capability necessary to provide treatment for the COVID-19 patient. In determining whether a hospital has sufficient capacity and capability necessary to provide treatment for a COVID-19 patient, the hospital shall consider, at a minimum, its ability to provide safe and effective treatment consistent with current public health recommendations and available supplies, staffing, and medical bed capacity.

**Executive Order 2020-20 (Public assistance requirements)**:

Executive Order 2020-20 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-21(Furlough of Illinois Department of Corrections inmates)**:

Executive Order 2020-20 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-22 (Township meetings; Funeral Directors and Embalmers Licensing Code; placements under the Child Care Act of 1969; fingerprint submissions under Health Care Worker Background Check Act)**:

Executive Order 2020-22 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-23 (Actions by the Illinois Department of Financial and Professional Regulation for licensed professionals engaged in disaster response)**:

Executive Order 2020-23 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-24 (Illinois Department of Human Services Forensic Treatment Program; investigations of Illinois Department of Human Services employees)**:

Executive Order 2020-24 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-25 (Garnishment and wage deductions)**:

Executive Order 2020-25 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-26 (Hospital capacity)**:

Executive Order 2020-26 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-27 (Cadavers testing positive for COVID-19)**:

Executive Order 2020-27 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-28 (Industrial radiography certifications)**:

Executive Order 2020-28 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-29 (In-person education or exams for professional insurance licenses)**:

Executive Order 2020-29 is re-issued in its entirety and extended through **May 29, 2020**.

**Executive Order 2020-30 (Filing of residential eviction actions; enforcement of non-residential eviction orders; expired consular identification documents; electronic filings for the Illinois Human Rights Commission)**:

Executive Order 2020-30, as amended below, is re-issued in its entirety and extended through **May 29, 2020**.

Section 3. All state, county, and local law enforcement officers in the State of Illinois are instructed to cease enforcement of orders of eviction for residential and non-residential premises, unless the tenant has been found to pose a direct threat to the health and safety of other tenants, an immediate and severe risk to property, or a violation of any applicable building code, health ordinance, or similar regulation. Nothing in this Executive Order shall be construed as relieving any individual or entity of the obligation to pay rent, to make mortgage payments, or comply with any other obligation that an individual or entity may have pursuant to a lease, or rental agreement, or mortgage. The continued need for this directive shall be evaluated upon issuance of any new Gubernatorial Disaster Proclamation.

**Executive Order 2020-31 (Educator licensure and student graduation requirements)**:

Executive Order 2020-31 is re-issued in its entirety and extended through **May 29, 2020**.

**Part 2: Savings Clause**. If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor April 30, 2020
Filed by the Secretary of State April 30, 2020

**2020-34**
**EXECUTIVE ORDER IN RESPONSE TO COVID-19**
**(COVID-19 EXECUTIVE ORDER NO. 32)**

**WHEREAS**, Coronavirus Disease 2019 (COVID-19) has rapidly spread throughout Illinois in a short period of time, necessitating stringent guidance from federal, state, and local public health officials and significant measures to respond to the increasing public health disaster; and,

**WHEREAS**, COVID-19 spreads among people through respiratory transmissions and presents with symptoms similar to those of influenza; and,

**WHEREAS**, on March 9, 2020, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area (the First Gubernatorial Disaster Proclamation) in response to the outbreak of COVID-19; and,

**WHEREAS**, on April 1, 2020, I declared all counties in the State of Illinois as a disaster area on April 1, 2020 (the Second Gubernatorial Disaster Proclamation) in response to the exponential spread of COVID-19; and,

**WHEREAS**, on April 30, 2020, due to the expected continuing spread of COVID-19 and the resulting health impacts across the State, as well as the need to address the potential shortages of hospital beds, ICU beds, ventilators, personal protective equipment and materials for testing for the virus, I declared all counties in the State of Illinois as a disaster area (the Third Gubernatorial Disaster Proclamation, and, together with the First and Second Gubernatorial Disaster Proclamations, the Gubernatorial Disaster Proclamations); and,

**WHEREAS**, the Cannabis Regulation and Tax Act [410 ILCS 705/15-25(a)], requires the Illinois Department of Financial and Professional Regulation (IDFPR) to issue up to 75 Conditional Adult Use Dispensing Organization Licenses by May 1, 2020; and,

**WHEREAS**, the Cannabis Regulation and Tax Act [410 ILCS 705/15-5 et. seq.], and the Compassionate Use of Medical Cannabis Program Act [410 ILCS 130], also require IDFPR to issue medical and adult use cannabis dispensing organization agent identification cards within specified time frames, and require medical and adult use cannabis dispensing organization agents to acquire a dispensing organization agent identification card prior to beginning work in a dispensary; and

**WHEREAS**, Executive Order 2020-32, requires Illinoisans stay at home to the greatest extent possible, other than for essential activities, essential governmental functions, or to operate essential businesses and operations; and,

**WHEREAS**, medical and adult use cannabis dispensaries licensed pursuant to the Cannabis Regulation and Tax Act [401 ILCS 705/1-1], are Essential Businesses and Operations for purposes of Executive Order 2020-32; and,

**WHEREAS**, the COVID-19 outbreak has created delays in the application review process and impacted IDFPR's ability to issue the 75 Conditional Adult Use Dispensing Organization Licenses by May 1, 2020, and to issue medical and adult use cannabis dispensing organization agent identification cards in a timely manner;

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, pursuant to Sections 7(1) of the Illinois Emergency Management Agency Act [20 ILCS 3305], I hereby order the following:

**Section 1.** During the duration of the Gubernatorial Disaster Proclamations, or until IDFPR otherwise announces a new date no later than the termination of the Gubernatorial Disaster Proclamations, the requirement pursuant to 410 ILCS 705/15-25(a) that IDFPR issue up to 75 Conditional Adult Use Dispensing Organization Licenses before May 1, 2020, is suspended. This statutory provision is suspended only with respect to the requirement that such licenses be issued by May 1, 2020. IDFPR shall provide notice to the public of the date such licenses will be issued.

**Section 2.** During the duration of the Gubernatorial Disaster Proclamations, the following provisions of the Cannabis Regulation and Tax Act [410 ILCS 705], and the Compassionate Use of Medical Cannabis Program Act [410 ILCS 130], and the implementing regulations are hereby suspended as follows:

a. The requirements that IDFPR approve or deny an application for a medical or adult use cannabis dispensing organization agent identification card within 30 days of receiving a completed application or renewal application and issue a dispensing organization agent identification card to a qualifying agent within 15 business days of approving the application or renewal pursuant to 410 ILCS 130/120(a) and 410 ILCS 705/15-40(a) are suspended; and,

b. The requirement that an adult use cannabis dispensing organization agent must obtain an agent identification card from IDFPR prior to beginning work at a dispensary pursuant to 410 ILCS 705/15-60(k) is suspended, provided that the dispensing organization agent receives written confirmation from IDFPR that the dispensing

organization agent has submitted a completed application to IDFPR prior to beginning work at a dispensary; and,

c. The requirements that a medical or adult use cannabis dispensing organization agent must keep an agent identification card visible at all times when in the dispensary pursuant to 410 ILCS 130/210(b) and 410 ILCS 705/15-40(b) is suspended, provided that the dispensing organization agent has written confirmation from IDFPR that the dispensing organization agent had submitted a completed application to IDFPR prior to beginning work at a dispensary; and,

d. The requirement that an adult use dispensing organization shall ensure that each dispensing organization agent has a current agent identification card in the agent's immediate possession when the agent is at the dispensary pursuant to 410 ILCS 705/15-65(d) is suspended, provided that the dispensing organization shall ensure that the dispensing organization agent complies with parts (b) and (c) of this Section; and,

e. The requirements that a medical or adult use cannabis dispensing organization agent enter their agent registration number into the State verification system when making a sale pursuant to 68 Ill. Adm. Code 1290.430(d)(6)(A) and 1290.431(b)(5)(A), and 410 ILCS 705/15-85(a)(4)(i), are suspended provided that the dispensing organization agent enters necessary information into the State verification system to track and retain the identity of the agent making the sale; and,

f. Parts (b) through (e) of this Section shall not apply to a dispensing organization principal officer, as defined in 410 ILCS 705/1-10, or an agent-in-charge, as required in 410 ILCS 705/15-95.

**Section 3.** If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor April 30, 2020
Filed by the Secretary of State April 30, 2020

**2020-35**
**EXECUTIVE ORDER IN RESPONSE TO COVID-19**
**(COVID-19 EXECUTIVE ORDER NO. 33)**

**WHEREAS**, Coronavirus Disease 2019 (COVID-19) has rapidly spread throughout Illinois in a short period of time, necessitating stringent guidance from federal, state, and local public health officials and significant measures to respond to the increasing public health disaster; and,

**WHEREAS**, COVID-19 spreads among people through respiratory transmissions and presents with symptoms similar to those of influenza; and,

**WHEREAS**, on March 11, 2020, the World Health Organization (WHO) characterized the COVID-19 outbreak as a pandemic; and,

**WHEREAS**, despite efforts to contain COVID-19, the WHO and the federal Centers for Disease Control and Prevention (CDC) have declared that it is expected to continue spreading; and,

**WHEREAS**, on March 9, 2020, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area (the First Gubernatorial Disaster Proclamation) in response to the outbreak of COVID-19; and,

**WHEREAS**, on April 1, 2020, I declared all counties in the State of Illinois as a disaster area (the Second Gubernatorial Disaster Proclamation) as a result of the exponential spread of COVID-19; and,

**WHEREAS**, on April 30, 2020, due to the expected continuing spread of COVID-19 and the resulting health impacts across the State, as well as the need to address the potential shortages of hospital beds, ICU beds, ventilators, personal protective equipment and materials for testing for the virus, I declared all counties in the State of Illinois as a disaster area (the Third Gubernatorial Disaster Proclamation, and, together with the First and Second Gubernatorial Disaster Proclamations, the Gubernatorial Disaster Proclamations); and,

**WHEREAS**, certain populations are at a higher risk of experiencing severe illness as a result of COVID-19, including older adults and people who have serious chronic health conditions such as heart disease, diabetes, lung disease or other conditions; and,

**WHEREAS**, Executive Order 2020-32, requires that Illinoisans stay at home to the greatest extent possible, other than for essential activities, essential governmental functions, or to operate essential businesses and operations; and,

**WHEREAS**, in order to minimize the spread of COVID-19 in Illinois, Executive Order 2020-32, mandates social distancing, consisting of maintaining at least a six-foot distance between people, which is a paramount strategy for minimizing the spread of COVID-19; and,

**WHEREAS**, the facilities licensed by the Illinois Department of Public Health (IDPH) pursuant to the Assisted Living and Shared Housing Act [210 ILCS 9]; the Nursing Home Care Act [210 ILCS 45]; the MC/DD Act [210 ILCS 46]; the ID/DD Community Care Act [210 ILCS 47]; and Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49], are essential human services operations pursuant to Executive Order 2020-32; and,

**WHEREAS**, pursuant to the Assisted Living and Shared Housing Act [210 ILCS 9], IDPH regulates assisted living establishments and shared housing establishments through annual on-site reviews, on-site complaint investigations, issuance of probationary licenses for a period no longer than 120 days, and complete inspections of each facility 30 days prior to the expiration of a probationary license; and,

**WHEREAS**, pursuant to the Nursing Home Care Act [210 ILCS 45]; the MC/DD Act [210 ILCS 46]; and the ID/DD Community Care Act [210 ILCS 47], IDPH regulates skilled and intermediate nursing facilities, medically complex facilities for the developmentally disabled, and intermediate care facilities for persons with developmental disabilities, through inspections 120 days prior to license renewal, on-site complaint investigations, on-site facility plan reviews, issuance of probationary licenses for a period no longer than 120 days, and complete inspections of each facility 30 days prior to the expiration of a probationary license; and,

**WHEREAS**, pursuant to the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49], IDPH regulates long term care facilities that specialize in providing services to individuals with a serious mental illness, through surveys to determine compliance and investigate complaints, and issuance of provisional licenses for a period no longer than three years; and,

**WHEREAS**, individuals who are employed as nursing assistants, habilitation aides, and child care aides at facilities licensed by IDPH pursuant to the Nursing Home Care Act [210 ILCS 45]; the MC/DD Act [210 ILCS 46]; and the ID/DD Community Care Act [210 ILCS 47], are required to successfully complete a nurse aide training program approved by IDPH within 120 days after the date of initial employment; and,

**WHEREAS**, individuals currently enrolled in a nurse aid training program required by the Nursing Home Care Act [210 ILCS 45]; the MC/DD Act [210 ILCS 46]; and the ID/DD Community Care Act [210 ILCS 47], are currently unable to complete nurse aide training because schools that provide such training are closed during this public health emergency; and,

**WHEREAS**, pursuant to the Nursing Home Care Act [210 ILCS 45/3-401(d)]; the MC/DD Act [210 ILCS 46/3-401]; and the ID/DD Community Care Act [210 ILCS 47/3-401], a long-term care facility within the State of Illinois may involuntarily transfer or discharge a resident only for one or more certain enumerated reasons, including for their failure to make payment for regularly incurred charges; and,

**WHEREAS**, as provided for under the Nursing Home Care Act [210 ILCS 45/3-403], a long-term care facility resident has the right to appeal a notice of involuntary transfer or discharge by filing a request for a hearing with IDPH; however, COVID-19 threatens the ability of IDPH's Bureau of Administrative Hearings to ensure that all residents have a timely and meaningful opportunity to appeal a notice of involuntary transfer or discharge for failure to make payment; and,

**WHEREAS**, IDPH regulates the following industries and professions that provide services to the residents of Illinois: plumbers, plumbing contractors, and irrigation contractors pursuant to the Illinois Plumbing License Law [225 ILCS 320], and the Lawn Irrigation Contractor and Lawn Sprinkler System Registration Code; structural pest control businesses pursuant to the Structural Pest Control Act [225 ILCS 235]; milk hauler-samplers pursuant to the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635]; and the Illinois Food, Drug and Cosmetic Act [410 ILCS 620]; mobile home parks pursuant to the Mobile Home Park Act [210 ILCS 115]; tanning facilities pursuant to the Tanning Facility Permit Act [210 ILCS 145]; and body art establishments pursuant to the Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54]; and,

**WHEREAS**, the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110/8.8], mandates that a speech-language pathology assistant be under the direct supervision of a speech-language pathologist, which requires in-person contact; and,

**WHEREAS**, for the preservation of public health and safety throughout Illinois, and to ensure that our healthcare delivery system is capable of serving those who are sick, I find it necessary to take additional significant measures consistent with public health guidance to slow and stop the spread of COVID-19; and,

**WHEREAS**, it is necessary to suspend certain routine regulatory activities by IDPH to ensure essential human services operations are able to continue to operate during the COVID-19 pandemic, to preserve the resources of IDPH to address the urgent issues presented by the COVID-19 pandemic, and to limit the potential exposure of IDPH employees to COVID-19; and,

**WHEREAS**, it is necessary to expand the State's health care workforce in response to the increased staffing needs of health care facilities during this public health emergency;

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, and pursuant to Sections 7(1), 7(2), 7(8), and 7(12) of the Illinois Emergency Management Agency Act [20 ILCS 3305], I hereby order the following, effective immediately and for the remainder of the duration of the Gubernatorial Disaster Proclamations:

**Section 1.** The provisions of the Assisted Living and Shared Housing Act [210 ILCS 9/40[; the Nursing Home Care Act [210 ILCS 45/3-116]; the MC/DD Act [210 ILCS 46/3-116]; and the ID/DD Community Care Act [210 ILCS 47/3-116], requiring that (a) a probationary license shall be valid for 120 days unless sooner suspended or revoked, and (b) IDPH shall fully and completely review the establishment or facility within 30 days prior to the termination of a probationary license, are suspended for the duration of the Gubernatorial Disaster Proclamations. Such licenses that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

**Section 2.** The provisions of the Nursing Home Care Act [210 ILCS 45/3-702(d)]; the MC/DD Act [210 ILCS 46/3-702(d)]; and the ID/DD Community Care Act [210 ILCS 47/3-702(d)], mandating that IDPH investigate complaints unrelated to allegations of abuse and neglect within 30 days of receipt, are suspended. IDPH shall continue to investigate complaints alleging abuse or neglect, including those indicating a resident's life or safety is in imminent danger, pursuant to the statutory time frames.

**Section 3.** The provision of the Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49/4-105], requiring that provisional licenses issued upon initial licensure as a specialized mental health rehabilitation facility shall expire at the end of a 3-year period, is suspended. Such licenses that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

**Section 4.** The provisions of the Assisted Living and Shared Housing Act [210 ILCS 9/30(a)] and [210 ILCS 9/110(a)], requiring that IDPH conduct an annual on-site review for each establishment covered by the Act and an annual unannounced on-site visit at each assisted living and shared housing establishment, are hereby suspended. IDPH will conduct the on-site review and annual unannounced on-site visits to the extent feasible.

**Section 5.** The following provisions of the Nursing Home Care Act [210 ILCS 45], are hereby suspended:

a. The requirement that IDPH shall conduct an on-site review at each facility annually or as often as necessary to ascertain compliance with the program plan, pursuant to 210 ILCS 45/3-102.2, except that IDPH will continue to conduct on-site reviews to the extent feasible;

b. The requirement that IDPH shall conduct an on-site inspection of the completed construction project no later than 30 days after notification from the applicant, pursuant to 210 ILCS 45/3-202.5(g); and

c. The requirement that IDPH shall conduct an on-site inspection of the completed construction project no later than 45 working days after notification from the applicant, pursuant to 210 ILCS 45/3-202.6(e).

**Section 6.** The provisions of the MC/DD Act [210 ILCS 46/3-202.5(g)], and the ID/DD Community Care Act [210 ILCS 47/3-202.5(g)], requiring that IDPH shall conduct an on-site inspection of the completed construction project no later than 30 days after notification, is suspended.

**Section 7.** The provisions of the Nursing Home Care Act [210 ILCS 45/3-206(a)(5)]; the ID/DD Community Care Act [210 ILCS 47/3-206(a)(5)]; and the MC/DD Act [210 ILCS 46/3-206(a)(5)], requiring nursing assistants, habilitation aids, and child care aides to successfully complete a Department-approved Basic Nursing Assistant Training Program within 120 days after the date of initial employment, is suspended. The requirement that nursing assistants, habilitation aids, and child care aides successfully complete the program is not suspended.

**Section 8.** The following provisions of the Illinois Plumbing License Law [225 ILCS 320], and the corresponding regulations, are suspended:

a. The requirement that every irrigation contractor doing business in this State shall annually register with IDPH pursuant to 225 ILCS 320/2.5(a);

b. The requirement that no licensed apprentice plumber shall serve more than a 6 year licensed apprenticeship period pursuant to 225 ILCS 320/3(4)(i);

c. The requirement that IDPH hold examinations for applicants for plumbers' licenses at least once every three months at some place in this State pursuant to 225 ILCS 320/9; and

d. The requirement that all plumber's licenses and apprentice plumber's licenses issued under the law shall expire on April 30 next following date of issuance pursuant to 225 ILCS 320/14.

Such registration requirements and licenses that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

**Section 9.** The provision of the Structural Pest Control Act [225 ILCS 235/7], requiring IDPH or its designee to conduct written examinations at least 4 times each year, is suspended.

**Section 10.** The provisions of the Grade A Pasteurized Milk and Milk Products Act [410 ILCS 635/5], and Illinois Food, Drug and Cosmetic Act [410 ILCS 620/21.2], requiring that permits issued to milk hauler-samplers shall expire on March 31 of each year, are suspended. Such permits that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

**Section 11.** The provision of the Mobile Home Park Act [210 ILCS 115/3], requiring renewal of licenses of mobile home parks by April 30 of each year is suspended. Such licenses that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

**Section 12.** The provision of the Tanning Facility Permit Act [210 ILCS 145/15(a)], requiring annual renewal of permits issued by IDPH, is suspended. Such permits that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

**Section 13.** The provision of the Tattoo and Body Piercing Establishment Registration Act [410 ILCS 54/35(a)], requiring the annual renewal of certificates of registration, is suspended. Such certificates of registration that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations unless suspended or revoked by IDPH.

**Section 14.** The provisions of the Nursing Home Care Act [210 ILCS 45/3-401(d)]; MC/DD Act [210 ILCS 46/3-401]; and ID/DD Community Care Act [210 ILCS 47/3-401], permitting a long-term care facility to initiate an involuntary transfer or discharge of a resident for late payment or nonpayment, is suspended.

**Section 15.** The provision of the Illinois Speech-Language Pathology and Audiology Practice Act [225 ILCS 110/8.8(e)], defining "direct supervision" of speech-language pathology assistants as "on-site, in-view observation and guidance by a speech-language pathologist" is suspended for the limited purpose of allowing speech-language pathology assistants to receive supervision by speech-language pathologists by way of video conferencing technology.

**Section 16.** This Executive Order and any emergency rules promulgated by IDPH shall be interpreted consistent with any waivers, regulations, other official guidance issued by the federal

Centers for Medicare and Medicaid Services or the U.S. Department of Health and Human Services pertaining to nurse aides.

**Section 17.** If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor May 1, 2020
Filed by the Secretary of State May 1, 2020

## 2020-36
## EXECUTIVE ORDER IN RESPONSE TO COVID-19
## (COVID-19 EXECUTIVE ORDER NO. 34)

**WHEREAS**, Coronavirus 2019 (COVID-19), a novel severe acute respiratory illness, has rapidly spread throughout Illinois in a short period of time, necessitating stringent guidance from federal, state, and local public health officials and significant measures to respond to the increasing public health disaster; and,

**WHEREAS**, COVID-19 can spread among people through respiratory transmissions and present with symptoms similar to those of influenza; and,

**WHEREAS**, on March 9, 2020, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area (the First Gubernatorial Disaster Proclamation) in response to the outbreak of COVID-19; and,

**WHEREAS**, on April 1, 2020, I declared all counties in the State of Illinois as a disaster area (the Second Gubernatorial Disaster Proclamation) due to the exponential spread of COVID-19; and,

**WHEREAS**, on April 30, 2020, due to the expected continuing spread of COVID-19 and the resulting health impacts across the State, as well as the need to address the potential shortages of hospital beds, ICU beds, ventilators, personal protective equipment and materials for testing for the virus, I declared all counties in the State of Illinois as a disaster area (the Third Gubernatorial Disaster Proclamation, and, together with the First and Second Gubernatorial Disaster Proclamations, the Gubernatorial Disaster Proclamations); and,

**WHEREAS**, it is necessary and appropriate for the State of Illinois to continue to take immediate and significant measures to prevent or slow the spread of COVID-19 and protect public health during the COVID-19 outbreak; and,

**WHEREAS**, Executive Order 2020-32 mandated that Illinoisans stay at home to the greatest extent possible, other than for essential activities, essential governmental functions, and essential businesses and operations; and,

**WHEREAS**, due to social distancing requirements put in place to protect public health, it may be unsafe and unadvisable for Illinois residents to appear in-person before a county clerk or officiant to apply for a marriage license and solemnize a marriage; and,

**WHEREAS**, the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/207 and 750 ILCS 5/209], requires that a marriage license shall expire within 60 days of issuance and must be returned to the county clerk within 10 days of a marriage ceremony; and,

**WHEREAS**, the COVID-19 outbreak and response by the State of Illinois, including the stay at home order in Executive Order 2020-32, have created unavoidable delays in the marriage license application review and registration processes; and,

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, pursuant to Sections 7(1), 7(2), 7(8), and 7(12) of the Illinois Emergency Management Agency Act [20 ILCS 3305], I hereby order the following:

**Section 1.** During the duration of the Gubernatorial Disaster Proclamations, the requirement that a couple "appear before" the county clerk to obtain a marriage license set forth in the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/203], may be satisfied if the couple appears before the county clerk using two-way audio-video communication technology provided that the county clerk has the necessary technological compatibilities and the following conditions are met:

a. The two-way audio-video communication technology must allow for direct interaction between the couple and the county clerk;

b. The couple seeking the marriage services must present valid photo identification to verify identity whenever required by law the during the video conference, not merely transmit it prior to or after, using two-way audio-video communication technology that is of a quality resolution such that the county clerk is able to inspect it; and

c. The couple must attest to being physically situated in the jurisdiction where the marriage is legally allowed to occur within the State of Illinois.

Participating county clerks may provide guidance related to how marriage licensure applications and issuance will be implemented in their jurisdictions.

**Section 2.** During the duration of the Gubernatorial Disaster Proclamations, the solemnizing of the marriage ceremony pursuant to the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/209], may be performed utilizing two-way audio-video communication technology provided that the following conditions are met:

a. The two-way audio-video communication technology must allow for direct interaction between the couple and the person to solemnize the marriage (e.g., no pre-recorded videos of the signing of the marriage license or the marriage ceremony);

b. The couple seeking the marriage services must present valid photo identification to verify identity whenever required by law the during the video conference, not merely transmit it prior to or after, using two-way audio-video communication technology that is of a quality resolution such that the person solemnizing the marriage is able to inspect it;

c. The couple must attest to being physically situated in the jurisdiction where the marriage is legally allowed to occur within the State of Illinois;

d. The couple must transmit by mail a legible copy of the signed document directly to the person to solemnize the marriage no later than one day after the document is signed;

e. The person who solemnized the marriage must sign the transmitted copy of the document and transmit the same copy back to the person responsible for the document by law; and

f. The copy of the marriage license signed pursuant to this Section will become the official document for purposes of Illinois Marriage and Dissolution of Marriage Act.

**Section 3.** During the duration of the Gubernatorial Disaster Proclamations, the requirement pursuant to the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/209(a)], that a fully executed marriage license must be submitted to the county clerk within 10 days, is suspended.

**Section 4.** During the duration of the Gubernatorial Disaster Proclamations, the 60-day expiration timeframe for marriage licenses obtained from the county clerk pursuant to the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/207], is hereby suspended. Such licenses that have expired or are set to expire during the period of the Gubernatorial Disaster Proclamations shall be extended for the duration of the Gubernatorial Disaster Proclamations.

**Section 5.** During the duration of the Gubernatorial Disaster Proclamations, the requirement that a marriage license becomes effective one day after the date of issuance as set forth in the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/207], is hereby suspended for couples who have obtained the marriage license pursuant to Section 1 of this Order.

**Section 6.** If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor May 1, 2020
Filed by the Secretary of State May 1, 2020

PROCLAMATION

**2020-44**
**Gubernatorial Disaster Proclamation**

**WHEREAS**, protecting the health and safety of Illinoisans is among the most important functions of State government; and,

**WHEREAS**, it is critical that Illinoisans who become sick are able to be treated by medical professionals, including when a hospital bed, emergency room bed, or ventilator is needed; and,

**WHEREAS**, it is also critical that the State's health care and first responder workforce has adequate personal protective equipment (PPE) to safely treat patients, respond to public health disasters, and prevent the spread of communicable diseases; and,

**WHEREAS**, Coronavirus Disease 2019 (COVID-19) is a novel severe acute respiratory illness that has spread among people through respiratory transmissions, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020, and the United States Secretary of Health and Human Services declared that COVID-19 presents a public health emergency on January 27, 2020; and,

**WHEREAS**, on March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic, and has reported more than 3 million confirmed cases of COVID-19 and 200,000 deaths attributable to COVID-19 globally as of April 30, 2020; and,

**WHEREAS**, a vaccine or treatment is not currently available for COVID-19 and, on April 24, 2020, the World Health Organization warned that there is currently no evidence that people who have recovered from COVID-19 and have antibodies are protected from a second infection; and,

**WHEREAS**, despite efforts to contain COVID-19, the World Health Organization and the federal Centers for Disease Control and Prevention (CDC) indicated that the virus was expected to continue spreading and it has, in fact, continued to spread rapidly, resulting in the need for federal and State governments to take significant steps; and,

**WHEREAS**, on March 9, 2020, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area in response to the outbreak of COVID-19 (First Gubernatorial Disaster Proclamation); and,

**WHEREAS**, on March 13, 2020, the President declared a nationwide emergency pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"), covering all states and territories, including Illinois; and,

PROCLAMATION

**WHEREAS**, on March 26, 2020, the President declared a major disaster in Illinois pursuant to Section 401 of the Stafford Act; and,

**WHEREAS**, on April 1, 2020, due to the exponential spread of COVID-19 in Illinois, I again declared all counties in the State of Illinois as a disaster area (Second Gubernatorial Disaster Proclamation); and,

**WHEREAS**, as circumstances surrounding COVID-19 rapidly evolve, there have been frequent changes in information and guidance from public health officials as a result of emerging evidence; and,

**WHEREAS**, from the outset, data suggested that older adults and those with serious underlying health conditions are more likely to experience severe and sometimes fatal complications from COVID-19; and,

**WHEREAS**, emerging evidence has shown that young people, including infants and toddlers, are also at risk for such complications; and,

**WHEREAS**, as of March 16, 2020, an analysis by the CDC showed that 38 percent of hospitalized COVID-19 patients were between the ages of 20 and 54, and there is evidence that COVID-19 causes blood clots and strokes, and has caused deadly strokes in young and middle-aged patients who exhibited few symptoms; and,

**WHEREAS**, the understanding on spread from infected individuals who have not shown symptoms has changed and, on April 12, 2020, the CDC changed the period of exposure risk from "onset of symptoms" to "48 hours before symptom onset"; and,

**WHEREAS**, previously, the CDC recommended against wearing cloth face coverings or masks as protection and, now, in light of new research on asymptomatic and pre-symptomatic transmission, the CDC now recommends wearing cloth face coverings in public settings where social distancing measures are difficult to maintain; and,

**WHEREAS**, as COVID-19 has spread in Illinois over the course of the Gubernatorial Disaster Proclamations, the circumstances causing a disaster throughout the State have changed; and,

**WHEREAS**, at the time I issued the First Gubernatorial Disaster Proclamation, there were 11 confirmed cases of COVID-19 in one Illinois county; and,

**WHEREAS**, as of today, April 30, 2020, there have been nearly 53,000 confirmed cases of COVID-19 in 97 Illinois counties; and,

PROCLAMATION

**WHEREAS**, the first death attributed to COVID-19 in Illinois was announced on March 17, 2020; and,

**WHEREAS**, as of April 30, 2020, Illinois has had more than 2,350 deaths resulting from COVID-19, including 141 deaths reported over a 24-hour period on April 30; and,

**WHEREAS**, studies suggest that for every confirmed case there are many more unknown cases, some of which are asymptomatic individuals, meaning that individuals can pass the virus to others without knowing; and,

**WHEREAS**, the Illinois Department of Public Health activated its Illinois Emergency Operations Plan and its Emergency Support Function 8 Plan to coordinate emergency response efforts by hospitals, local health departments, and emergency management systems in order to avoid a surge hospital resources and capacity; and,

**WHEREAS**, as the virus has progressed through Illinois, the crisis facing the State has developed and now requires an evolving response to ensure hospitals, health care professionals and first responders are able to meet the health care needs of all Illinoisans and in a manner consistent with CDC guidance that continues to be updated; and,

**WHEREAS**, in order to ensure that health care professionals, first responders, hospitals and other facilities are able to meet the health care needs of all residents of Illinois, the State must have critical supplies, including PPE, such as masks, face shields, gowns, and gloves; and,

**WHEREAS**, the State of Illinois maintains a stockpile that supports the existing PPE supply chains and stocks at various healthcare facilities; and,

**WHEREAS**, across the State, hospitals and long-term care facilities use approximately 1.5 million N95 masks, 25 million gloves, 4.4. million gowns, and 700,000 surgical masks during a 10-day period; and,

**WHEREAS**, the State had distributed among all 102 Illinois counties millions of surgical masks and N95 masks, tens of thousands of gowns, millions of pairs of gloves, and hundreds of thousands of face shields from the State stockpile; and,

**WHEREAS**, the Illinois Department of Public Health has provided guidance to all hospitals and EMS providers recommending the immediate elevation of their conservation and contingency strategies as it relates to PPE; and,

**WHEREAS**, while the State is making every effort to procure additional PPE, if those procurement efforts are disrupted or Illinois experiences a surge in COVID-19 cases, the State

faces a life-threatening shortage of respirators, masks, protective eyewear, face shields, gloves, gowns, and other protective equipment for health care workers and first responders; and,

**WHEREAS**, Illinois is using a high percentage of hospital beds, ICU beds, and ventilators as a result of the number of COVID-19 patients that require hospitalization and, if cases were to surge higher, the State would face a shortage of these critical health care resources; and,

**WHEREAS**, Illinois currently has a total of 32,010 hospital beds with 3,631 ICU beds, of which, as of April 30, 2020, only 33% of hospital beds and 25% of ICU beds were available statewide, and only 17% of ICU beds were available in the Chicago region; and,

**WHEREAS**, the State worked with top researchers from the University of Illinois at Urbana-Champaign, the Northwestern School of Medicine, the University of Chicago, the Chicago and Illinois Departments of Public Health, along with McKinsey and Mier Consulting Group, and Civis Analytics, to analyze two months' worth of daily data on COVID-19 deaths and ICU usage and model potential outcomes; and,

**WHEREAS**, the State's modeling shows that its health care resource utilization will not peak until May, and that health care resources will continue to be limited after the peak; and,

**WHEREAS**, the State's modeling shows that without extensive social distancing and other precautions, the State will not have sufficient hospital beds, ICU beds or ventilators; and,

**WHEREAS**, Illinois currently has a total of 32,010 hospital beds, and the State's modeling shows that without a "stay at home" order, more than 100,000 hospital beds would be necessary; and,

**WHEREAS**, Illinois currently has a total of 3,631 ICU beds, and the State's modeling shows that without a "stay at home" order, more than 25,000 ICU beds would be necessary; and,

**WHEREAS**, Illinois currently has a total of 3,378 ventilators, and the State's modeling shows that without a "stay at home" order, upwards of 20,000 ventilators would be necessary; and,

**WHEREAS**, the State's modeling shows that without a "stay at home" order, the number of deaths from COVID-19 would be between 10 to 20 times higher than with a "stay at home" order in place; and,

**WHEREAS**, the epidemiology concept of R0 (R-naught) – which represents the number of cases, on average, an infected person will cause during their infectious period – is an important measure of progress in combatting a virus like COVID-19, and that an Ro of below 1 is a critical milestone because it suggests that the disease is declining rather than spreading; and,

PROCLAMATION

**WHEREAS**, the State's estimated effective R0 was approximately 3.5 at the beginning of the outbreak, but the number has improved to approximately 1.25 based on the State's emergency measures, including the "stay at home" order; and,

**WHEREAS**, hospital beds, ICU beds, and ventilators are needed not for just patients with COVID-19, but also for any number of additional illnesses and injuries; and,

**WHEREAS**, fewer Illinoisans have sought non-COVID-19 related medical care and emergency care in recent weeks and it is critical that Illinoisans are able to and willing to seek non-COVID-19 related medical care and emergency care; and,

**WHEREAS**, Illinoisans will be able to and willing to seek non-COVID-19 related medical care and emergency care if there are sufficient hospital beds, ventilators, and if medical personnel are able to protect themselves with PPE; and,

**WHEREAS**, the State has been limited in the number of COVID-19 tests that can be taken and processed due to a limited number of testing sites and labs, as well as a shortage of necessary supplies, including the swabs needed to take samples; and,

**WHEREAS**, at the time I issued the First Gubernatorial Disaster Proclamation, Illinois had capacity to test no more than a few hundred people per day for COVID-19 at a small number of testing sites; and,

**WHEREAS**, the State has developed testing sites throughout the State and now has increased the COVID-19 tests per day to more than 10,000; and,

**WHEREAS**, as of April 30, 2020, Illinois has tested nearly 270,000 total specimens for COVID-19; and,

**WHEREAS**, national projections adjusted for Illinois' population suggest the state may need to process several thousand more tests per day as part of the effort to permanently slow and reduce the spread of COVID-19; and,

**WHEREAS**, the World Health Organization has identified a positive test rate of 10% as a benchmark for adequate testing but currently over 20% of the COVID-19 tests administered in Illinois have positive results, suggesting that Illinois must continue increasing testing; and,

**WHEREAS**, based on the foregoing facts, and considering the expected continuing spread of COVID-19 and the resulting health impacts that will be felt over the coming month by people across the State, the current circumstances in Illinois surrounding the spread of COVID-19

constitute an epidemic emergency and a public health emergency under Section 4 of the Illinois Emergency Management Agency Act; and,

**WHEREAS**, based on the foregoing, the new circumstances surrounding the threatened shortages of hospital beds, ICU beds, ventilators, and PPE, and critical need for increased COVID-19 testing capacity constitute a public health emergency under Section 4 of the Illinois Emergency Management Agency Act; and,

**WHEREAS**, it is the policy of the State of Illinois that the State will be prepared to address any disasters and, therefore, it is necessary and appropriate to make additional State resources available to ensure that that our healthcare delivery system is capable of serving those who are sick and that Illinoisans remain safe and secure and able to obtain medical care; and,

**WHEREAS**, this proclamation will assist Illinois agencies in coordinating State and Federal resources, including materials needed to test for COVID-19, personal protective equipment, and medicines, in an effort to support the State responses as well as the responses of local governments to the present public health emergency; and,

**WHEREAS**, these conditions provide legal justification under Section 7 of the Illinois Emergency Management Agency Act for the new issuance of a proclamation of disaster; and,

**WHEREAS**, the Illinois Constitution, in Article V, Section 8, provides that "the Governor shall have the supreme executive power, and shall be responsible for the faithful execution of the laws," and states, in the Preamble, that a central purpose of the Illinois Constitution is "provide for the health, safety, and welfare of the people";

**NOW, THEREFORE**, in the interest of aiding the people of Illinois and the local governments responsible for ensuring public health and safety, I, JB Pritzker, Governor of the State of Illinois, hereby proclaim as follows:

**Section 1**. Pursuant to the provisions of Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, I find that a disaster exists within the State of Illinois and specifically declare all counties in the State of Illinois as a disaster area. The proclamation authorizes the exercise of all of the emergency powers provided in Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, including but not limited to those specific emergency powers set forth below.

**Section 2**. The Illinois Department of Public Health and the Illinois Emergency Management Agency are directed to coordinate with each other with respect to planning for and responding to the present public health emergency.

PROCLAMATION

**Section 3**. The Illinois Department of Public Health is further directed to cooperate with the Governor, other State agencies and local authorities, including local public health authorities, in the development and implementation of strategies and plans to protect the public health in connection with the present public health emergency.

**Section 4**. The Illinois Emergency Management Agency is directed to implement the State Emergency Operations Plan to coordinate State resources to support local governments in disaster response and recovery operations.

**Section 5**. To aid with emergency purchases necessary for response and other emergency powers as authorized by the Illinois Emergency Management Agency Act, the provisions of the Illinois Procurement Code that would in any way prevent, hinder or delay necessary action in coping with the disaster are suspended to the extent they are not required by federal law. If necessary, and in accordance with Section 7(1) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(1), the Governor may take appropriate executive action to suspend additional statutes, orders, rules, and regulations.

**Section 6**. Pursuant to Section 7(3) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(3), this proclamation activates the Governor's authority, as necessary, to transfer the direction, personnel or functions of State departments and agencies or units thereof for the purpose of performing or facilitating emergency response programs.

**Section 7**. The Illinois Department of Public Health, Illinois Department of Insurance and the Illinois Department of Healthcare and Family Services are directed to recommend, and, as appropriate, take necessary actions to ensure expanded access to testing for COVID-19 and that consumers do not face financial barriers in accessing diagnostic testing and treatment services for COVID-19.

**Section 8**. The Illinois State Board of Education is directed to recommend, and, as appropriate, take necessary actions to address any impact to learning associated with the present public health emergency and to alleviate any barriers to the use of remote learning during the effect of this proclamation that exist in the Illinois School Code, 105 ILCS 5/1-1 et. seq.

**Section 9**. All State agencies are directed to cooperate with the Governor, other State agencies and local authorities in the development and implementation of strategies and plans to cope with and recover from the economic impact of the present public health emergency.

**Section 10**. Pursuant to Section 7(14) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(14), increases in the selling price of goods or services, including medical supplies, protective equipment, medications and other commodities intended to assist in the prevention of

or treatment and recovery of COVID-19, shall be prohibited in the State of Illinois while this proclamation is in effect.

**Section 11**. This proclamation can facilitate requests for federal emergency and/or disaster assistance if a complete and comprehensive assessment of damage indicates that effective recovery is beyond the capabilities of the State and affected local governments.

**Section 12**. This proclamation shall be effective immediately and remain in effect for 30 days.

Issued by the Governor April 30, 2020
Filed by the Secretary of State April 30, 2020

# ILLINOIS ADMINISTRATIVE CODE
## Issue Index - With Effective Dates

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