

# 2023

# ILLINOIS

# REGISTER

Rules of  
Governmental Agencies



Volume 47, Issue 48

December 1, 2023

Pages 17563-17931

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

Printed by authority of the State of Illinois. December – 70 – I Pub 35.1

PUBLISHED BY ALEXI GIANNOULIAS • SECRETARY OF STATE

## TABLE OF CONTENTS

December 1, 2023 Volume 47, Issue 48

### PROPOSED RULES

#### CHILDREN AND FAMILY SERVICES, DEPARTMENT OF

##### Placement and Visitation Services

89 Ill. Adm. Code 301.....17563

##### Authorized Child Care Payments

89 Ill. Adm. Code 359.....17575

##### Licensing Standards for Foster Family Homes

89 Ill. Adm. Code 402.....17589

#### EXECUTIVE ETHICS COMMISSION

##### Organization, Information, Rulemaking and Hearings

2 Ill. Adm. Code 1620.....17612

#### HEALTH FACILITIES AND SERVICES REVIEW BOARD

##### Narrative and Planning Policies

77 Ill. Adm. Code 1100.....17619

##### Processing, Classification Policies and Review Criteria

77 Ill. Adm. Code 1110.....17650

#### HUMAN SERVICES, DEPARTMENT OF

##### The Consultative Examination Process

89 Ill. Adm. Code 840.....17671

##### Disability Case Development Process

89 Ill. Adm. Code 843.....17686

##### Sequential Evaluation Process for the Determination of Disability

89 Ill. Adm. Code 845.....17702

##### Qualifications of Medical Consultants

89 Ill. Adm. Code 846.....17712

##### Medical Improvement Review Standard for Continuing Disability

89 Ill. Adm. Code 850.....17717

##### Disability Hearings at the Reconsideration Level

89 Ill. Adm. Code 853.....17722

##### Claimant Notification

89 Ill. Adm. Code 855.....17738

##### Listing of Impairments

89 Ill. Adm. Code 860.....17745

##### The Disability Assistance Unit

89 Ill. Adm. Code 870.....17749

#### NATURAL RESOURCES, DEPARTMENT OF

##### Timber Buyer Licensing and Harvest Fees

17 Ill. Adm. Code 1535.....17755

##### Revocation Procedures for Conservation Offenses

17 Ill. Adm. Code 2530.....17771

Conservation Stewardship Program	
17 Ill. Adm. Code 2580.....	17778
The Illinois Oil and Gas Act	
62 Ill. Adm. Code 240.....	17786
PUBLIC HEALTH, DEPARTMENT OF	
Health Care Worker Background Check Code	
77 Ill. Adm. Code 955.....	17803
<b>ADOPTED RULES</b>	
CAPITAL DEVELOPMENT BOARD	
Board Action	
71 Ill. Adm. Code 10.....	17823
FINANCIAL AND PROFESSIONAL REGULATION, DEPARTMENT OF	
Collection Agency Act	
38 Ill. Adm. Code 150.....	17827
Collection Agency Act (Repealer)	
68 Ill. Adm. Code 1210.....	17844
Rules for Administration of the Compassionate Use of Medical Cannabis Program	
68 Ill. Adm. Code 1290.....	17846
HUMAN SERVICES, DEPARTMENT OF	
Child Care	
89 Ill. Adm. Code 50.....	17860
SECRETARY OF STATE, OFFICE OF THE	
Public Use of the Capitol Complex and Springfield Facilities	
71 Ill. Adm. Code 2005.....	17881
TREASURER, OFFICE OF THE	
Secure Choice Savings Program	
74 Ill. Adm. Code 721.....	17903
<b>JOINT COMMITTEE ON ADMINISTRATIVE RULES AGENDA</b>	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
December Agenda.....	17924
<b>JCAR REVIEW OF EXISTING RULES STATEMENT OF RECOMMENDATIONS</b>	
JOINT COMMITTEE ON ADMINISTRATIVE RULES	
Illinois Elevator Safety Rules.....	17930
<b>EXECUTIVE ORDERS AND PROCLAMATIONS</b>	
PROCLAMATIONS	
Flag Lowering - LODD Firefighter and Emergency Medical Technician Andrew 'Drew' Price	
2023-325.....	17931

## 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 2023

Issue#	Rules Due Date	Date of Issue
1	December 27, 2022	January 6, 2023
2	January 3, 2023	January 13, 2023
3	January 9, 2023	January 20, 2023
4	January 17, 2023	January 27, 2023
5	January 23, 2023	February 3, 2023
6	January 30, 2023	February 10, 2023
7	February 6, 2023	February 17, 2023
8	February 14, 2023	February 24, 2023
9	February 21, 2023	March 3, 2023
10	February 27, 2023	March 10, 2023
11	March 6, 2023	March 17, 2023
12	March 13, 2023	March 24, 2023
13	March 20, 2023	March 31, 2023
14	March 27, 2023	April 7, 2023
15	April 3, 2023	April 14, 2023
16	April 10, 2023	April 21, 2023
17	April 17, 2023	April 28, 2023
18	April 24, 2023	May 5, 2023
19	May 1, 2023	May 12, 2023
20	May 8, 2023	May 19, 2023
21	May 15, 2023	May 26, 2023



22	May 22, 2023	June 2, 2023
23	May 30, 2023	June 9, 2023
24	June 5, 2023	June 16, 2023
25	June 12, 2023	June 23, 2023
26	June 20, 2023	June 30, 2023
27	June 26, 2023	July 7, 2023
28	July 3, 2023	July 14, 2023
29	July 10, 2023	July 21, 2023
30	July 17, 2023	July 28, 2023
31	July 24, 2023	August 4, 2023
32	July 31, 2023	August 11, 2023
33	August 7, 2023	August 18, 2023
34	August 14, 2023	August 25, 2023
35	August 21, 2023	September 1, 2023
36	August 28, 2023	September 8, 2023
37	September 5, 2023	September 15, 2023
38	September 11, 2023	September 22, 2023
39	September 18, 2023	September 29, 2023
40	September 25, 2023	October 6, 2023
41	October 2, 2023	October 13, 2023
42	October 10, 2023	October 20, 2023
43	October 16, 2023	October 27, 2023
44	October 23, 2023	November 3, 2023
45	October 30, 2023	November 13, 2023
46	November 6, 2023	November 17, 2023
47	November 13, 2023	November 27, 2023
48	November 20, 2023	December 1, 2023
49	November 27, 2023	December 8, 2023
50	December 4, 2023	December 15, 2023
51	December 11, 2023	December 26, 2023
52	December 18, 2023	December 29, 2023

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Placement and Visitation Services
- 2) Code Citation: 89 Ill. Adm. Code 301
- 3) Section Number: 301.20      Proposed Action: Amendment
- 4) Statutory Authority: Children and Family Services Act [20 ILCS 505/5].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments to Rule 301 define "independent assessment," or "qualified residential treatment program" to bring the Department into compliance with Title IV-E of the Social Security Act; additional sections are revised to standard formatting, punctuation, and grammar conventions. The Department anticipates upcoming statutory changes regarding the provisions of this Part and will amend this Part accordingly.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski  
Office of Child and Family Policy  
Department of Children and Family Services  
406 E. Monroe, Station #65

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

Springfield, Illinois 62701-1498

(217) 524-1983

FAX: (217) 557-0692

DCFS.Policy@illinois.gov

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping, or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

14) Small Business Impact 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
  - ii. regulatory requirements
  - viii. record keeping
- C) Types of professional skills necessary for compliance: None

15) Regulatory Agenda on which this rulemaking was summarized: The need for this rulemaking was not anticipated on either of the 2 most recent agendas.

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

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

## TITLE 89: SOCIAL SERVICES

## CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## SUBCHAPTER a: SERVICE DELIVERY

## PART 301

## PLACEMENT AND VISITATION SERVICES

## Section

- 301.1 Purpose (Renumbered)
- 301.2 Definition (Repealed)
- 301.3 Foster Care Placement Goal (Renumbered)
- 301.4 Plans to Achieve This Goal (Renumbered)

## SUBPART A: PLACEMENT SERVICES

## Section

- 301.10 Purpose
- 301.20 Definitions
- 301.30 Introduction
- 301.40 Legal Authority to Place
- 301.50 Emergency Placement
- 301.60 Placement Selection Criteria
- 301.70 Sibling Placement
- 301.80 Relative Home Placement
- 301.90 Foster Family Home Care
- 301.100 Residential Care
- 301.110 Care in a Medical/Psychiatric Facility
- 301.120 Sharing Appropriate Information with the Caregiver
- 301.130 Medical Examinations for Children in Placement
- 301.140 Education of Children While in Placement

## SUBPART B: VISITATION SERVICES

## Section

- 301.200 Purpose
- 301.210 Family-Child Visitation
- 301.220 Sibling Visitation
- 301.230 Contact Among Siblings Placed Apart
- 301.240 Grandparent and Great-Grandparent Visitation

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

- 301.250 Sibling Visitation and Contact with Adopted Siblings and Siblings in Private Guardianship  
301.255 Sibling Visitation with and Among Adult Siblings

## SUBPART C: FOSTER CARE PLACEMENT GOAL

- Section  
301.310 Purpose  
301.320 Foster Care Placement Goal  
301.330 Plans to Achieve This Goal

SUBPART D: FOSTER PARENT/RELATIVE CAREGIVER  
IDENTIFYING INFORMATION

- Section  
301.410 Purpose  
301.420 Confidentiality of Foster Parent/Relative Caregiver Identifying Information  
301.430 Routine Disclosure of Foster Parent/Relative Caregiver Identifying Information  
301.440 Specific Disclosure of Foster Parent/Relative Caregiver Identifying Information  
301.450 Specific Notice of Disclosure  
301.460 Disclosure Prohibited  
301.470 Redislosure Prohibited

## 301.APPENDIX A Criminal Convictions that Prevent Placement of Children with Relatives

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505]; Section 3-6-2(g) of the Unified Code of Corrections [730 ILCS 5]; Section 1-103 of the Illinois Alcoholism and Other Drug Abuse and Dependency Act [20 ILCS 301]; the Adoption Assistance and Child Welfare Act of 1980 (42 U.S.C.A. 670 et seq.); 45 CFR 1356.40 and 1356.41; the Juvenile Court Act of 1987 [705 ILCS 405]; the Adoption Act [750 ILCS 50]; 42 U.S.C 672 and 42 U.S.C 675.

SOURCE: Adopted and codified at 7 Ill. Reg. 881, effective January 12, 1983; amended at 9 Ill. Reg. 9904, effective July 1, 1985; amended at 19 Ill. Reg. 9438, effective July 1, 1995; emergency amendment at 20 Ill. Reg. 3961, effective February 16, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 4602, effective March 15, 1996; amended at 20 Ill. Reg. 9036, effective July 11, 1996; amended at 20 Ill. Reg. 9518, effective July 5, 1996; amended at 21 Ill. Reg. 13580, effective October 1, 1997; amended at 23 Ill. Reg. 13062, effective October 20, 1999; emergency amendment at 24 Ill. Reg. 6427, effective March 27, 2000, for a maximum of

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

150 days; emergency expired August 23, 2000; amended at 25 Ill. Reg. 841, effective January 5, 2001; amended at 25 Ill. Reg. 11803, effective September 14, 2001; amended at 26 Ill. Reg. 11739, effective August 1, 2002; amended at 34 Ill. Reg. 7898, effective May 31, 2010; amended at 36 Ill. Reg. 2098, effective January 30, 2012; amended at 36 Ill. Reg. 4039, effective March 5, 2012; expedited correction at 37 Ill. Reg. 19419, effective March 5, 2012; amended at 40 Ill. Reg. 666, effective December 31, 2015; amended at 40 Ill. Reg. 7699, effective May 16, 2016; amended at 42 Ill. Reg. 2158, effective January 17, 2018; amended at 43 Ill. Reg. 5680, effective May 3, 2019; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: PLACEMENT SERVICES

**Section 301.20 Definitions**

"Administrative case review" or "ACR" means case reviews required by 42 [U.S.C.](#) ~~USC~~ 675(1) and 20 ILCS 505/6a.

"Child only standard of need" means the assistance standard for cases in which no adult member is included, as established by the Illinois Department of Human Services in 89 Ill. Adm. Code 111 (Assistance Standards).

"Children for whom the Department is legally responsible" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or children whose parents signed an adoptive surrender or voluntary placement agreement with the Department.

"Contact between siblings" means contact among siblings who are residing apart from one another, and may include, but is not limited to: telephone calls; video conferencing; in person visitation; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook); and any other agreed upon forms of communication technology.

"Department" as used in this Part, means the Department of Children and Family Services.

"Diligent search", as used in this Part, means the efforts used by the Department to find a joint placement for siblings who must be placed apart from their families. Diligent search is further defined in Section 301.70(f).

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

"Family" means one or more adults and children, related by blood, marriage, civil union or adoption and residing in the same household.

"Father" means *the parent-child relationship is established between a man and a child by:*

*An un rebutted presumption of the man's parentage of the child under Section 204 of the Illinois Parentage Act of 2015 [750 ILCS 46] (Parentage Act);*

*An effective voluntary acknowledgment of paternity by the man under Article 3 of the Parentage Act, unless the acknowledgment has been rescinded or successfully challenged;*

*An adjudication of the man's parentage;*

*Adoption of the child by the man; or*

*A valid gestational surrogacy arrangement that complies with the Gestational Surrogacy Act [750 ILCS 47] or other law. [750 ILCS 46/201(b)]*

AGENCY NOTE: When paternity has been established, the relatives of the biological father, as well as those of the mother, may be considered for the placement of related children.

"Federally-funded foster care" means foster care maintenance payments made in accordance with Title IV-E of the Social Security Act for which federal matching grants are received.

"Fictive kin" means *any individual, unrelated by birth or marriage, who:*

*is shown to have significant and close personal or emotional ties with the child or the child's family prior to the child's placement with the individual; or*

*is the current foster parent of a child in the custody or guardianship of the Department pursuant to the Child and Family Services Act and the Juvenile Court Act of 1987 [705 ILCS 405], if the child has been placed in*

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

*the home for at least one year and has established a significant and family-like relationship with the foster parent, and the foster parent has been identified by the Department as the child's permanent connection.*  
[20 ILCS 505/7(b)]

"Final placement decision" means the decision made by the Department, within 90 days after the initial placement of a child with a relative, to leave or remove the child in the relative home based on the evaluation of the results of the criminal background check of the relative and household members and based on the best interest of the child.

"Foster care payment" means the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in Section 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in Section 301.80 (Relative Home Placement) must be met.

"Independent Assessment" means an evaluation that assesses the strengths and needs of the child using an age-appropriate, evidence-based, validated, functional assessment tool. [42 U.S.C. 675a(c)(1)(A)(i)]

"Joint placement", in the context of sibling placement, means the siblings are placed in the same substitute care setting.

"LEADS" means Law Enforcement Agency Data System.

"Parents" means the child's legal parents whose parental rights have not been terminated. Biological fathers are considered legal parents when paternity has been established as required by the definition of "father" in this Section.

"Permanency goal" means the desired outcome of intervention and service, which is determined to be consistent with the health, safety, well-being, and best interests of the child. A permanent legal status is usually a component of the



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

permanency goal.

"Permanent connection" means a family-like relationship, consistent with a child's best interests, health, safety and well-being, that provides:

safe, stable and committed parenting;

unconditional love and lifelong support; and

permanent legal status between child and family.

For a child for whom the Department is legally responsible, a permanent connection may be the child's parents or another caregiver in the child's home of origin. When the child cannot be safely returned home, a permanent connection may be the current or former foster parent or relative caregiver, an individual identified as an adoptive or legal guardianship placement resource, or another individual from among the child's or family's lifelong connections with whom a child has developed a familial relationship.

"Permanent family placement" means placement in a foster family home or a relative home that is intended to last until the child reaches age 21 or until the child is capable of self-sufficiency. The Department may retain guardianship of the child or the foster parent or relative may assume guardianship of the child.

"Permanent legal status" means a legally binding relationship between a child and a family as established by birth or a court of law.

"Placement Clearance Process" means the approval of a child's placement in foster care or unlicensed relative care from the Placement Clearance Unit.

~~"Placement decision" means the decision made by the Department, within 90 days after the initial placement of a child with a relative, to leave or remove the child in the relative home based on the evaluation of the results of the criminal background check of the relative and household members and based on the best interest of the child.~~

"Placing worker" means the Child Protection Specialist, Permanency Worker or Intact Family Worker with responsibility to select the substitute care placement for a child.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

"Qualified Residential Treatment Program" means a program that:

has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment of the child required under 42 U.S.C. 675a(c);

has registered or licensed nursing staff and other licensed clinical staff who:

provide care within the scope of their practice as defined by state law;

are on-site according to a trauma informed treatment model; and

are available 24 hours a day and 7 days a week;

to the extent appropriate, and in accordance with the child's best interests, facilitates participation of family members in the child's treatment program;

facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;

documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;

provides discharge planning and family-based aftercare support for at least 6 months post-discharge; and

is licensed in accordance with 42 U.S.C. 671(a)(10) and is accredited by any of the following independent, not-for-profit organizations:

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

*The Commission on Accreditation of Rehabilitation Facilities (CARF);*

*The Joint Commission on Accreditation of Healthcare Organizations (JCAHO);*

*The Council on Accreditation (COA); and*

*Any other independent, not-for-profit accrediting organization approved by the Secretary of Health and Human Services. [42 U.S.C. 672(k)(1)-(4)]*

"Region" means Cook County or any of the downstate Department of Children and Family Services regions.

"Relative", for purposes of placement of children for whom the Department is legally responsible, *means any person, 21 years of age or over, other than the parent, who:*

*is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle, or great-aunt; or*

*is the spouse, or party to a civil union, of such a relative; or*

*is the child's step-father, step-mother, step-grandfather, step-grandmother, or adult step-brother or step-sister; or*

*is the partner, or adult child of a partner, in a civil union with the child's mother or father; or*

*is a fictive kin as defined in this Section.*

*Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who*

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

*have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]*

"Residential facility", for the purposes of the Aristotle P. Consent Decree, means all non-foster care or relative home care placements.

"Service plan" means a written plan on a form prescribed by the Department in the plan toward the permanency goal for the children required by 42 [U.S.C.](#) ~~USC~~ 675(5), 325 ILCS 5/8.2, and 89 Ill. Adm. Code 315 (Permanency Planning).

"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated, if parental rights were terminated while a petition under Article II of the Juvenile Court Act of 1987 was pending. Children continue to be considered siblings after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 [705 ILCS 405] immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together, have a positive relationship and share at least one parent in common.

"Substitute care" means the care of children who require placement away from their families. Substitute care includes foster family care, care of a child for whom the Department is legally responsible provided in a relative family home, care provided in a group home, and care provided in a child care or other institution.

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

between siblings in substitute care who are placed apart from one another;  
or

between siblings in substitute care with siblings who are not in substitute

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENT

care (e.g., emancipated, case closed due to independence, adopted, placed in private guardianship, living in home of parent, etc.).

"Voluntary placement agreement" means a time-limited written request and consent from a parent, guardian or legal custodian of a child for placement of the child out of the home. When signed by designated Department staff, the Department agrees to provide child welfare services which include placement.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Authorized Child Care Payments
- 2) Code Citation: 89 Ill. Adm. Code 359
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
359.2	Amendment
359.4	Amendment
359.11	New Section
- 4) Statutory Authority: Children and Family Services Act [20 ILCS 505/5].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments brings Rule 359 in compliance with the federal regulations for Title IV-E of the Social Security Act by defining "child care institutions," "foster care maintenance payments," "foster family homes," "qualified residential treatment programs" and indicating when foster care maintenance payments may be limitations on federal financial participation. The Department anticipates upcoming statutory changes regarding the provisions of this Part and will amend this Part accordingly.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand the State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice. Comments should be submitted to:

Jeff Osowski

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Office of Child and Family Policy  
Department of Children and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

(217) 524-1983  
FAX: (217)-557-0692  
DCFS.Policy@illinois.gov

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

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

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

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## SUBCHAPTER c: FISCAL ADMINISTRATION

## PART 359

## AUTHORIZED CHILD CARE PAYMENTS

## Section

359.1	Purpose
359.2	Definitions
359.3	Introduction
359.4	Payments for Substitute Care Services
359.5	Payments for Family Preservation and Auxiliary Services
359.6	Payments for Independent Living Arrangements
359.7	Payments for Children's Personal and Physical Maintenance
359.8	Payments for Unmarried Mothers (Repealed)
359.9	Payments for Medical Care
359.10	Overpayments and Repayments
<u>359.11</u>	<u>Limitation on Federal Financial Participation</u>

AUTHORITY: Implementing and authorized by Section 5 of the Children and Family Services Act [20 ILCS 505/5]; 42 U.S.C. 672 and 42 U.S.C. 675.

SOURCE: Adopted and codified at 5 Ill. Reg. 13129, effective November 30, 1981; amended at 9 Ill. Reg. 19705, effective December 16, 1985; amended at 10 Ill. Reg. 15575, effective September 19, 1986; amended at 19 Ill. Reg. 10464, effective July 1, 1995; emergency amendment at 21 Ill. Reg. 3259, effective March 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 10904, effective July 29, 1997; amended at 26 Ill. Reg. 11791, effective August 1, 2002; amended at 40 Ill. Reg. 802, effective December 31, 2015; amended at 40 Ill. Reg. 7791, effective May 16, 2016; amended at 42 Ill. Reg. 2246, effective January 17, 2018; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 359.2 Definitions**

"Auxiliary services" means those services provided by the Department to children in their own homes as well as to children in placements that~~placement which~~ supplement or complement the primary service. For example, when advocacy services are provided to children in substitute care, this is an auxiliary service.



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

"Child-care institution" means a private child-care institution, or a public child-care institution that accommodates no more than 25 children, and is licensed or approved by the Department, meeting the standards established for the licensing. In the case of a child who has attained 18 years of age, the term shall include a supervised setting in which the individual is living independently. The term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. (42 U.S.C.S. 672(c)(2)(a)-(c))

"Child only standard of need" means the assistance standard for cases in which no adult member is included, as determined by the Illinois Department of Human Services.

"Children for whom the Department has legal responsibility" means children for whom the Department has temporary protective custody, custody or guardianship via court order, or whose parents have signed an adoptive surrender or voluntary placement agreement with the Department.

"Contact between siblings" means contact between or among siblings who are placed apart from one another, and may include, but is not limited to: telephone calls; video conferencing; in person visitation; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook); and any other agreed upon forms of communication technology.

"Family preservation services" means those services provided to children and families who require social services to maintain the family unit intact.

*"Fictive kin" means any individual, unrelated by birth or marriage, who:*

*is shown to have significant and close personal or emotional ties with the child or the child's family prior to the child's placement with the individual; or*

*is the current foster parent of a child in the custody or guardianship of the Department pursuant to the Child and Family Services Act and the Juvenile Court Act of 1987, if the child has been placed in the home for at least one year and has established a significant and family-like relationship with the foster parent, and the foster parent has been*

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

*identified by the Department as the child's permanent connection.* [20 ILCS 505/7(b)]

"Foster care ~~*maintenance payments*~~*payment*" means *payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement. In the case of institutional care, such term shall include the reasonable cost of administration and operation of such institution as are necessarily required to provide the items described herein, the same is also applicable in cases where a child placed in a foster family home or child-care institution is the parent of a child who is in the same home or institution and payments. (42 U.S.C.S. 675(4)(a)-(b))*~~*the amount paid by the Department for a child's room, board, clothing, and personal allowance in a licensed foster family home.*~~

*"Foster family home" means the home of an individual or family:*

*that is licensed or approved by the Department in which it is situated as a foster family home that meets the standards established for the licensing or approval; and*

*in which a child in foster care has been placed in the care of an individual, who resides with the child and who has been licensed or approved by the Department to be a foster parent;*

*that the State deems capable of adhering to the reasonable and prudent parent standard;*

*that provides 24-hour substitute care for children placed away from their parents or other caretakers; and*

*that provides the care for not more than six children in foster care, unless approved for a capacity waiver. [42 U.S.C. 672(c)(1)(A)] (225 ILCS 10/2.17)*

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

the parent cannot raise the child. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 (Relative Home Placement) must be met.

"Overpayment" means an amount paid for a service in excess of the actual incurred expenses or rate for that service or a payment for a service that is not rendered. This includes board payments for a child that continue after the child is no longer in the placement for which the payment is made.

"Permanent connection" means a family-like relationship, consistent with a child's best interests, health, safety and well-being, that provides:

safe, stable and committed parenting;

unconditional love and lifelong support; and

a permanent legal status between child and family.

For a child for whom the Department is legally responsible, a permanent connection may be the child's parents or another caregiver in the child's home of origin. When the child cannot be safely returned home, a permanent connection may be the current or former foster parent or relative caregiver, an individual identified as an adoptive or legal guardianship placement resource, or another individual from among the child's or family's lifelong connections with whom a child has developed a familial relationship.

"Qualified Residential Treatment Program" means a program that:

has a trauma-informed treatment model that is designed to address the needs, including clinical needs as appropriate, of children with serious emotional or behavioral disorders or disturbances and, with respect to a child, is able to implement the treatment identified for the child by the assessment of the child required under 42 U.S.C. 675a(c);

has registered or licensed nursing staff and other licensed clinical staff who:

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

provide care within the scope of their practice as defined by state law;

are on-site according to a trauma informed treatment model; and

are available 24 hours a day and 7 days a week;

to the extent appropriate, and in accordance with the child's best interests, facilitates participation of family members in the child's treatment program;

facilitates outreach to the family members of the child, including siblings, documents how the outreach is made (including contact information), and maintains contact information for any known biological family and fictive kin of the child;

documents how family members are integrated into the treatment process for the child, including post-discharge, and how sibling connections are maintained;

provides discharge planning and family-based aftercare support for at least 6 months post-discharge; and

is licensed in accordance with 42 U.S.C. 671(a)(10) and is accredited by any of the following independent, not-for-profit organizations:

The Commission on Accreditation of Rehabilitation Facilities (CARF)

The Joint Commission on Accreditation of Healthcare Organizations (JCAHO)

The Council on Accreditation (COA)

Any other independent, not-for-profit accrediting organization approved by the Secretary of Health and Human Services. [42 U.S.C. 672(k)(4)]

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

*"Relative", for purposes of placement of a child for whom the Department is legally responsible, means any person, 21 years of age or over, other than the parent, who:*

*is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle or great-aunt; or*

*is the spouse, or party to a civil union, of such a relative; or*

*is the child's step-father, step-mother, step-grandfather, step-grandmother or adult step-brother or step-sister; or*

*is the partner, or adult child of a partner, in a civil union with the child's mother or father; or*

*is a fictive kin as defined in this Section.*

*Relative also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines that it would be in the best interests of the child to consider this person a relative. [20 ILCS 505/7(b)]*

"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated or after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together, have a positive relationship and share at least one parent in common.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

"Substitute care services" means those services provided to children who require placement away from their families or private guardians. Substitute care includes foster family care, care provided in a relative home placement as defined in 89 Ill. Adm. Code 301.80 (Relative Home Placement), care provided in a group home, care provided in a maternity center or a child care facility, mental health or other institution, and care provided in an independent living arrangement.

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

between siblings in substitute care who are placed apart from one another;  
or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, case closed due to independence, adopted, placed in private guardianship, living in home of parent, etc.).

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 359.4 Payments for Substitute Care Services**

Foster care maintenance payment made under only on behalf of a child who, has been removed from the home of a relative into foster care, by voluntary placement agreement or judicial determination, and meets the AFDC eligibility requirements per 42 U.S.C. 602 and is in the foster family home of an individual, whether the payments therefor are made to such individual, or to a public or private child-placement or child-agency, or in a child-care institution, whether the payments therefor are made to such institution or to a public or private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term "foster care maintenance payments" as defined in Section 359.2 of this Part. (42 U.S.C. 672(b)(1)-(2)) Payments are made for children for whom the Department has legal responsibility and their children living with them in the following types of substitute care living arrangements if the placements meet the requirements established via the purchase of service contracts and the applicable licensing rules as specified in 89 Ill. Adm. Code 357, Purchase of Service, 89 Ill. Adm. Code 401, Licensing Standards for Child Welfare Agencies, 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes, 89 Ill. Adm. Code 403, Licensing Standards for Group Homes, and 89 Ill. Adm. Code 404, Licensing Standards for Child Care Institutions and Maternity Centers:



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- a) Foster family care is provided in licensed foster family homes. The Department recognizes the following types of foster family care:
  - 1) Specialized foster family homes and intensive service foster homes receive additional monthly compensation because they accept children with medical, behavioral and/or psychological problems or because they accept pregnant girls or young mothers who are in need of specialized training in parenting skills, child development, money management, and self sufficiency.
  - 2) Emergency foster homes may be paid a flat rate for days of service provided or may receive retainer fees to assure that emergency beds are available 24 hours per day.
  - 3) Department boarding homes are licensed foster family homes operated by foster parents supervised by the Department.
  - 4) Private agency foster homes are licensed foster family homes supervised by licensed child welfare agencies.
  - 5) Relatives who choose to be licensed as foster family homes under the provisions of 89 Ill. Adm. Code 402, Licensing Standards for Foster Family Homes.
  - 6) Deaf foster care is a unique service provided in Department boarding homes for children for whom the Department is not legally responsible who require placement for educational reasons.
- b) Relative family care may be provided by a relative as defined in Section 359.2, living within the State of Illinois, as follows:
  - 1) If a relative does not wish to apply for licensure as a foster family home, or has submitted an application for licensure and the application is pending, or has applied for licensure and been denied, the relative may provide care to children for whom the Department is legally responsible as long as the relative family home continues to meet the conditions in Section 301.80 of 89 Ill. Adm. Code 301, Placement and Visitation Services.

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 2) For children for whom the Department is legally responsible who are residing in a home described in subsection (b)(1) ~~above~~, the Department will pay for the related children placed with the relative caregiver at the child only standard of need established by the Illinois Department of Human Services.
- c) Relative family care may also be provided to relatives living out of the State of Illinois. If a relative living in another state is providing care for a child for whom the Department is legally responsible, the relative will receive the full foster care rate if the relative submits documentation to the Department within 120 days after placement of the child that they are licensed, approved or certified in accordance with the other state's standard for licensing, approving or certifying foster homes. If documentation is not submitted, the Department will reduce the payment to the child only standard of need established for that number of children by the Illinois Department of Human Services. If, at a future date, the relative submits documentation to the Department that they are licensed, approved or certified in accordance with the other state's standard for foster homes, the payment will be increased to the full foster care rate.
- d) Institution and group home care is provided in licensed institutions and group homes. Rates are established for these facilities via a purchase of service contract with the Department.
- e) Subsidized adoptive homes are adoptive homes to which the Department provides financial assistance when a special needs child for whom the Department was legally responsible is adopted.
  - 1) The types of adoption assistance that may be provided include:
    - A) one-time only payments of non-recurring expenses incurred by or on behalf of the adoptive parents in connection with the adoption of a special needs child up to a maximum of \$1500 for each adopted child;
    - B) payment for physical, emotional and mental health needs not wholly payable through insurance or other public resources that are associated with or result from a condition(s) whose onset has been established as occurring prior to the completion of the adoption;



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- C) ongoing monthly payments in an amount determined in each case by the Department in accordance with 89 Ill. Adm. Code 302, Services Delivered by the Department, Section 302.310, Adoption Assistance Agreements, and Appendix B, Calculating the Amount of Adoption Assistance. The duration of adoption assistance may not extend beyond 18 years of age, although adoption assistance may be provided at the Department's option until the child's 21<sup>st</sup> birthday if the child has a physical, mental, or emotional disability that warrants the continuation of assistance.
- 2) The purpose, amount, and duration of the adoption assistance will be mutually agreed to by the Department and the adopting parents prior to completion of the adoption in the form of a written agreement. The amount of financial assistance shall be less than the cost of maintaining the child in an appropriate foster family home. Special service fees shall cost no more than such services would cost the Department.
- 3) The Department shall review with the adoptive parent(s) the continuing needs of the child for adoption assistance every two years or more frequently, based on changes in the circumstances of the adoptive parent(s) and the needs of the child being adopted. The adoptive parent(s) shall renew the adoption assistance agreement every two years prior to the anniversary date of the finalization of the adoption.
- f) Related services are not substitute care services but are provided to enhance the care provided to children who require substitute care services.
  - 1) In an effort to upgrade the quality of foster family care, the Department may pay for foster parent training and costs associated with training. These payments are provided as funding allows.
  - 2) Permanent planning and adoption contracts may be negotiated with licensed child welfare agencies. These contracts are negotiated to develop plans for children in substitute care and to secure adoptive resources for special needs children.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

**Section 359.11 Limitation on Federal Financial Participation**

Beginning with the third week for which foster care maintenance payments are made under on behalf of a child placed in a child-care institution, the Department will not receive Federal payments for amounts expended for foster care maintenance payments on behalf of the child unless:

- a) the child is placed in a child-care institution that is:
  - 1) a qualified residential treatment program (ORTP);
  - 2) a setting specializing in providing prenatal, post-partum, or parenting supports for youth;
  - 3) in the case of a child who has attained 18 years of age, a supervised setting in which the child is living independently; or
  - 4) a setting providing high-quality residential care and supportive services to children and youth who have been found to be or are at risk of becoming, sex trafficking victims. (42 U.S.C. 672(k)(2)(A)-(D)) or
- b) the child is placed in a licensed residential family-based treatment facility with a parent who is in a licensed residential family-based treatment facility for substance abuse, and only when:
  - 1) the recommendation for the placement is specified in the child's case plan before the placement;
  - 2) the treatment facility provides parenting skills training, parent education and individual and family counseling; and
  - 3) the substance abuse treatment, parenting skills training, parent education, and individual and family counseling is provided under an organizational structure and treatment framework that involves understanding, recognizing, and responding to the effects of all types of trauma and in accordance with recognized principles of a trauma-informed approach and trauma-specific interventions to address the consequences of trauma and facilitate healing; (42 U.S.C. 672 (j)(1)(A)-(C)), and

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- c) the child is placed in a qualified residential treatment program and the required assessment to determine the child's appropriate placement is completed within 30 days after the placement is made.

If the required placement assessment determines that the placement of a child in a QRTP is not appropriate, a court disapproves or a child who has been in an approved placement in a qualified residential treatment program is going to return home or be placed with a fit and willing relative, a legal guardian, or an adoptive parent, or in a foster family home or the child remains in the placement beyond the 30-day period necessary for the child to transition to the new placement. (42 U.S.C. 672(k)(3)(A)-(B))

(Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Foster Family Homes
- 2) Code Citation: 89 Ill. Adm. Code 402
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
402.2	Amendment
402.15	Amendment
402.Appendix B	Amendment
402.Appendix C	Amendment
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments revise the definition of "foster family home" to comport with provisions of Title IV-E of the Social Security Act. The amendments also clarify the conditions a foster family home must meet to qualify for an expanded capacity waiver and ensures licensees understand ages and numbers of youth in care limitations placed upon foster family homes. The Department anticipates upcoming statutory changes regarding the provisions of this Part and will amend this Part accordingly.
- 6) Published studies and reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand the state mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:

Jeff Osowski

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Office of Child and Family Policy  
Department of Children and Family Services  
406 E. Monroe, Station #65  
Springfield, Illinois 62701-1498

(217) 524-1983  
FAX: 217-557-0692  
DCFS.Policy@illinois.gov

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

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

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

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## SUBCHAPTER c: REQUIREMENTS FOR LICENSURE

## PART 402

## LICENSING STANDARDS FOR FOSTER FAMILY HOMES

## Section

402.1	Purpose
402.2	Definitions
402.3	Effective Date of Standards (Repealed)
402.4	Application for License
402.5	Application for Renewal of License
402.6	Provisions Pertaining to Permits
402.7	Provisions Pertaining to the License
402.8	General Requirements for the Foster Home
402.9	Requirements for Sleeping Arrangements
402.10	Nutrition and Meals
402.11	Business and Employment of Foster Parents
402.12	Qualifications of Foster Family
402.13	Background Inquiry
402.14	Health of Foster Family
402.15	Number and Ages of Children Served
402.16	Meeting Basic Needs of Children
402.17	Health Care of Children
402.18	Religion
402.19	Recreation and Leisure Time
402.20	Education
402.21	Discipline of Children
402.22	Emergency Care of Children
402.23	Release of Children
402.24	Confidentiality of Information
402.25	Required Written Consents
402.26	Records to be Maintained
402.27	Licensing Supervision
402.28	Adoptive Homes
402.29	Director's Waivers
402.30	Severability of This Part

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

402.APPENDIX A	Criminal Convictions That Prevent Licensure
402.APPENDIX B	Number and Ages of Children in Foster Family Home: No Child Requires Specialized Care
402.APPENDIX C	Number and Ages of Children in Foster Family Home: Child Requires Specialized Care
402.APPENDIX D	Non-Safety Related Licensing Rules Eligible for a Waiver

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

SOURCE: Adopted and codified at 5 Ill. Reg. 9548, effective October 1, 1981; emergency amendment at 6 Ill. Reg. 15580, effective December 15, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 3439, effective April 4, 1983; amended at 7 Ill. Reg. 13858, effective November 1, 1983; amended at 8 Ill. Reg. 23197, effective December 3, 1984; amended at 11 Ill. Reg. 4292, effective March 1, 1987; emergency amendment at 16 Ill. Reg. 11879, effective July 13, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 267, effective December 21, 1992; emergency amendment at 18 Ill. Reg. 8481, effective May 20, 1994, for a maximum of 150 days; emergency expired on October 17, 1994; amended at 19 Ill. Reg. 1801, effective February 1, 1995; amended at 19 Ill. Reg. 9463, effective July 1, 1995; emergency amendment at 19 Ill. Reg. 10743, effective July 1, 1995, for a maximum of 150 days; emergency expired November 27, 1995; amended at 20 Ill. Reg. 1589, effective January 10, 1996; emergency amendment at 20 Ill. Reg. 3954, effective February 16, 1996, for a maximum of 150 days; emergency expired July 15, 1996; amended at 21 Ill. Reg. 4548, effective April 1, 1997; amended at 22 Ill. Reg. 205, effective December 19, 1997; amended at 23 Ill. Reg. 7877, effective July 15, 1999; emergency amendment at 24 Ill. Reg. 6417, effective March 27, 2000, for a maximum of 150 days; emergency expired August 23, 2000; amended at 24 Ill. Reg. 17052, effective November 1, 2000; amended at 26 Ill. Reg. 2624, effective February 11, 2002; amended at 26 Ill. Reg. 11796, effective August 1, 2002; amended at 30 Ill. Reg. 6321, effective March 31, 2006; amended at 33 Ill. Reg. 11441, effective August 1, 2009; amended at 36 Ill. Reg. 4086, effective March 5, 2012; amended at 40 Ill. Reg. 808, effective December 31, 2015; amended at 40 Ill. Reg. 7797, effective May 16, 2016; amended at 42 Ill. Reg. 2253, effective January 17, 2018; amended at 42 Ill. Reg. 20321, effective October 31, 2018; amended at 44 Ill. Reg. 6019, effective April 1, 2020; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 402.2 Definitions**

"Adoptive placement" means a living arrangement with a family that is directed toward establishing that family as the child's new legal parents. To be considered an adoptive placement, the child must be placed in a licensed foster family home or license exempt relative home for purposes of adoption and:

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

be legally free (parental rights have been terminated or both parents have surrendered their parental rights); or

be placed in a legal risk adoptive placement that has passed legal screening as described in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible).

*"Appropriate activities" means activities or items that are generally accepted as suitable for children of the same chronological age or developmental level of maturity. Appropriateness is based on the development of cognitive, emotional, physical, and behavioral capacity that is typical for an age or age group, taking into account the individual child's cognitive, emotional, physical, and behavioral development. [20 ILCS 505/7.3a(b)]*

*"Approved smoke detector" or "detector" means a smoke detector of the ionization or photoelectric type that complies with all the requirements of the rules and regulations of the Illinois State Fire Marshal. [425 ILCS 60/2]*

"Approved in-service training" means:

Foster PRIDE module or other Department approved training;

foster parent conferences sponsored by the Department;

other conferences approved by the Department;

training provided under the auspices of a licensed child welfare agency when the agency's foster care program has been accredited by the Council on Accreditation of Services for Families and Children, Inc., 520 Eighth Avenue, Suite 2202B, New York NY 10018;

materials borrowed from the Department's Foster/Adoptive Parent Lending Libraries;

training toward first-aid, Heimlich maneuver, and/or cardiopulmonary resuscitation (CPR) certification; or



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

other training, substantially meeting the Department's Foster PRIDE/Adopt PRIDE training, approved in writing by the Department of Children and Family Services.

"Background check" means:

Individuals 18 years of age or older:

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

Individuals 13 years of age or older:

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

a check of the Illinois Sex Offender Registry.

*"Child" means any person under 18 years of age. [225 ILCS 10/2.01]*

"Child care assistant" means an adult, 18 years of age or older, (whether a volunteer or an employee) who assists a licensed foster parent in the care of children within the foster home.

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

"Classifiable fingerprints" means fingerprints obtained through an electronic or ink printing process that were determined to provide sufficiently clear impressions

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

to identify the individual from whom the prints were obtained.

"Common parentage" means having the same biological or adoptive father, the same biological or adoptive mother, or the same biological or adoptive father and mother.

"Complete application for foster family home license" means, at a minimum, *a completed written application form; written authorization by the applicant and all adult members of the applicant's household to conduct a criminal background investigation; medical evidence in the form of a medical report, on forms prescribed by the Department, that the applicant and all members of the household are free from communicable diseases or physical and mental conditions that affect their ability to provide care for the child or children; the names and addresses of at least 3 persons not related to the applicant who can attest to the applicant's moral character; the name and address of at least one relative who can attest to the applicant's capability to care for the child or children; and fingerprints submitted by the applicant and all adult members of the applicant's household.* [225 ILCS 10/4]

"Contact between siblings" means contact between or among siblings who are residing apart from one another, and may include, but is not limited to: telephone calls; video conferencing; in person visitation; sending/receiving cards, letters, emails, text messages, gifts, etc.; sharing photographs or information; use of any approved social media (e.g., Facebook), and any other agreed upon forms of communication technology.

"Corporal punishment" means hitting, spanking, beating, shaking, pinching, and other measures that produce physical pain.

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

"Discipline" means the process of helping children to develop inner controls so that they can manage their own behavior in socially acceptable ways. Discipline does not include the use of corporal punishment as defined in this Part.

"Educational advocacy training" means the 6-hour training that prepares foster parents to effectively advocate for the special educational needs of the children in their care by providing information on children's educational rights and foster

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

parents' responsibility to protect those rights.

"Expanded capacity license" means the foster family home has been issued a license from the Department authorizing the foster family to accept more than six children for care (including the family's own children under age 18 and all other children under age 18 receiving full-time care) as permitted in Section 402.15(c) (for foster care placements) or (e) (for adoptive placements).

"Fictive kin" means any individual, unrelated by birth or marriage, who:

*is shown to have significant and close personal or emotional ties with the child or the child's family prior to the child's placement with the individual; or*

*is the current foster parent of a child in the custody or guardianship of the Department pursuant to the Child and Family Services Act [20 ILCS 505] and the Juvenile Court Act of 1987 [705 ILCS 405], if the child has been placed in the home for at least one year and has established a significant and family-like relationship with the foster parent, and the foster parent has been identified by the Department as the child's permanent connection. [20 ILCS 505/7(b)]*

"Foster family home" means the home of an individual or family –

that is licensed or approved by the State in which it is situated as a foster family home that meets the standards established for the licensing or approval; and

in which a child in foster care has been placed in the care of an individual, who resides with the child and who has been licensed or approved by the State to be a foster parent –

that the Department deems capable of adhering to the reasonable and prudent parent standard;

that provides 24-hour substitute care for children placed away from their parents or other caretakers; and

that provides the care for not more than six children in foster care. (42

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~U.S.C. 672(c)(1)(A)) a facility for child care in residences of families who receive no more than 6 children unrelated or related to them, unless all the children are of common parentage, or residences of relatives who receive no more than 6 related or unrelated children placed by the Department, unless the children are of common parentage, for the purpose of providing family care and training for the children on a full time basis, except the~~

*The Director of Children and Family Services, pursuant to Department regulations, may waive the numerical limitation of foster children who may be cared for in a foster family home for any of the following reasons to allow:*

*a parenting youth in foster care to remain with the child of the parenting youth;*

*siblings to remain together;*

*a child with an established, meaningful relationship with the family to remain with the family; or*

*a family with special training or skills to provide care to a child who has a severe disability.*

*The family's or relative's own children, under 18 years of age, shall be included in determining the maximum number of children served. [225 ILCS 10/2.17] ~~The Department requires foster family homes to receive an expanded capacity license allowing them to receive more than six children, including their own children under age 18 and all other children under the age of 18 receiving full time care. No more than 6 children in a foster home shall be youth in care, unless the youth meet exceptions in Section 402.15, i.e., siblings, parenting youth, respite and adoption.~~*

"Full-time care" means the child is a resident of the household, whether on a temporary, emergency, or permanent basis, and is receiving family care usually provided by a parent or guardian.

"Godparent" is a person who sponsors a child at baptism or one in whom the parents have entrusted a special duty that includes assisting in raising the child if the parent cannot raise the child. If the person is considered to be the child's godparent, in order for placement to occur, the same placement selection criteria

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

as contained in 89 Ill. Adm. Code 301.60 (Placement Selection Criteria) must be met. If the godparent is not a licensed foster parent, all the conditions currently in effect for placement with relatives in 89 Ill. Adm. Code 301.80 (Relative Home Placement) must be met.

"In-service training" means approved training provided to currently licensed foster parents.

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

*"License applicant" means the operator or person with direct responsibility for daily operation of the facility to be licensed. [225 ILCS 10/4.4]*

"Licensed physician" means a person licensed to practice medicine in the State of Illinois.

"Licensee" means those individuals, agencies, or organizations who hold a license or permit issued by the Department of Children and Family Services.

"Licensing representative" means persons authorized by the Department under the Child Care Act to perform licensing activities.

"Licensing study" means a written review and assessment of an application for license, on-site visits, interviews, and the collection and review of supporting documents to determine compliance with the Child Care Act of 1969 and the standards prescribed by this Part.

"Member of the household" means a person who resides in a family home as evidenced by factors including, but not limited to, maintaining clothing and personal effects at the household address, or receiving mail at the household address, or using identification with the household address.

"Minor traffic violation" means a traffic violation, under the laws of the State of Illinois or any municipal authority in Illinois or another state or municipal authority, that is punishable solely by fines as a petty offense.

"Multi-purpose room" means a room in the foster family home that has been

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

designed for several purposes. A multi-purpose room that is temporarily converted into a bedroom may only be a pass through room in the home if the privacy of the children using the room for a bedroom can be ensured. Activities within the room shall be normal bedroom activities such as sleeping, dressing and playing while used as a bedroom.

"Non-active status" means a licensed foster home has no foster placements and maintains continuous compliance with this Part that, by mutual written agreement with the Department, does not receive regular licensing monitoring visits by the Department or supervising agency.

"Normalcy parenting" means empowering a foster parent to approve or not approve a child's participation in appropriate extracurricular enrichment, cultural and social activities based on the caregiver's assessment using the reasonable and prudent parent standard, without prior approval of the Department, the caseworker or the court. The goal of normalcy parenting and the reasonable and prudent parent standard is to allow the child's participation in extracurricular, enrichment, cultural and social activities that are appropriate for the child's normal growth and development.

"Permanent connection" means a family-like relationship, consistent with a child's best interests, health, safety and well-being, that provides:

safe, stable and committed parenting;

unconditional love and lifelong support; and

a permanent legal status between child and family.

For a child for whom the Department is legally responsible, a permanent connection may be the child's parents or another caregiver in the child's home of origin. When the child cannot be safely returned home, a permanent connection may be the current or former foster parent or relative caregiver, an individual identified as an adoptive or legal guardianship placement resource, or another individual from among the child's or family's lifelong connections with whom a child has developed a familial relationship.

"Permit" means a one-time only document issued by the Department of Children and Family Services for a 2 month period to allow the individuals to become

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

eligible for an initial foster family home license.

*"Petty offense" means any offense for which a fine only is provided, and a sentence of imprisonment is not an authorized disposition. [730 ILCS 5/5-1-17]*

*"Premises" means the location of the foster family home in which the family resides and includes the attached yard, garage, basement and any other outbuildings.*

*"Reasonable and prudent parent standard" means the standard, characterized by careful and sensible parental decisions that maintain the child's health, safety, and best interests while at the same time supporting the child's emotional and developmental growth, that a caregiver shall use when determining whether to allow a child in out-of-home care to participate in extracurricular, enrichment, cultural, and social activities. [20 ILCS 505/7.3a(b)]*

*"Relative", for purposes of placement of children for whom the Department is legally responsible, shall include any person, 21 years of age or over, other than the parent, who:*

*is currently related to the child in any of the following ways by blood or adoption: grandparent, sibling, great-grandparent, uncle, aunt, nephew, niece, first cousin, first cousin once removed (children of one's first cousin to oneself), second cousin (children of first cousins are second cousins to each other), godparent (as defined in this Section), great-uncle or great-aunt; ~~or~~*

*is the spouse, or party to a civil union, of such a relative; or*

*is the child's step-father, step-mother, step-grandfather, step-grandmother or adult step-brother or step-sister; or*

*is the partner, or adult child of a partner, in a civil union with the child's mother or father; or*

*is a fictive kin as defined in this Section.*

*"Relative" also includes a person related in any of the foregoing ways to a sibling of a child, even though the person is not related to the child, when the*



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

*child and its sibling are placed together with that person. For children who have been in the guardianship of the Department, have been adopted, and are subsequently returned to the temporary custody or guardianship of the Department, a "relative" may also include any person who would have qualified as a relative under this definition prior to the adoption, but only if the Department determines and documents that it would be in the child's best interests to consider this person a relative. [20 ILCS 505/7(b)]*

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

~~"Respite foster care" means temporary (not to exceed 30 days), full-time care in a licensed foster family home, group home, or child care institution, or in a license exempt relative home, when such temporary, full-time care is provided to children in care. Respite foster care is provided to children in care in order to give the full-time caregivers a rest from caregiving responsibilities.~~

"Responsible" means trustworthy performance of expected duties that serves the best interests of the children in care as evidenced by established child welfare standards, State and federal law, and the rules of the Department.

"SACWIS" means the Statewide Automated Child Welfare Information System operated by the Illinois Department of Children and Family Services.

"Siblings" means children who have at least one parent in common. Children continue to be considered siblings after parental rights are terminated, if parental rights were terminated while a petition under Article II of the Juvenile Court Act of 1987 was pending. Children continue to be considered siblings after one or more of the children are adopted or placed in private guardianship, if they were in the custody or guardianship of the Department pursuant to Article II of the Juvenile Court Act of 1987 immediately prior to the adoption or guardianship. Step-siblings may be considered "siblings" when the children enter into substitute care together and have a positive relationship.

"Specialized care" or "specialized foster care services" means care provided to *a child in the custody or guardianship of the Department who requires such services due to emotional, behavioral, developmental or medical needs, or any combination thereof, or any other needs that require special intervention services, the primary goal being to maintain the child in foster care or in a permanency*



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

*setting.* [20 ILCS 505/5.30(a)] Specialized foster care services are further described in 89 Ill. Adm. Code 301.90 (Foster Family Home Care).

"Supervising agency", for the purpose of this Part, means a licensed child welfare agency, a license-exempt agency, or the Department of Children and Family Services.

"Universal precautions" means an approach to infection control. According to the concept of universal precautions, all human blood and certain body fluids are treated as if known to be infectious for HIV, HBV, and other blood-borne pathogens.

"Visitation" means face-to-face contact:

between parents and their children who are in substitute care;

between siblings in substitute care who are placed apart from one another;  
or

between siblings in substitute care with siblings who are not in substitute care (e.g., emancipated, case closed due to independence, adopted, placed in private guardianship, living in home of parent, etc.).

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 402.15 Number and Ages of Children Served**

- a) General Rule Regarding the Number of Children in a Foster Family Home  
Refer to Appendices B and C of this ~~Part~~<sup>part</sup> for a visual explanation of the number and ages of children allowed in a foster family home.

1) Capacity count in all circumstances includes all children in the foster home under the age of 18 years old who receive full time care.

2+) The maximum number of children permitted in a foster family home shall be six children less than 18 years of age who do not require specialized ~~services~~<sup>care</sup>, except as permitted through Expanded Capacity waivers. ~~in subsections (c), (d) and (e). This maximum number includes the foster parents' own children under age 18 and all other children under the age of~~

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~18 receiving full-time care.~~

- 32) When determining how many children a foster family home may accept for care, the maximum number of children shall be reduced ~~as described in Appendix C~~ when any child under the age of 18 is in the home and has the foster, adopted, or biological children have developmental, emotional, behavioral, or medical needs ~~that~~which require specialized care. Youth in care receiving specialized foster care services or the Department's difficulty of level of care are to be considered as receiving specialized care.

b) General Rules Regarding Ages of Children in a Foster Family Home

- 1) Four Children Five Years of Age or Less~~Under Age Six~~  
No more than four children five years~~under six years~~ of age or less, ~~including the foster parent's own children~~, shall receive full-time care in a foster family home at any one time. A waiver approved by the Department may occur when~~When all of the youth in care to be placed in one home foster children are not of common parentage and a written plan is submitted by the supervising agency as to how the child care responsibilities shall be effectively met, as defined in Section 402.2, the foster home may be specifically approved under subsection (c)(3)(A)(ii) to care for more than four children under six years of age with the approval of clinical services and licensing.~~
- 2) Two Children One Year Old or Less~~Under Age Two~~  
No more than two children, who are one year old or less~~including the family's own children~~, shall be placed in one~~under two years of age unless the~~ foster family home. A Department waiver may be granted to allow for children not related to be placed in one home when there is a written plan of how child care responsibilities shall be effectively met.~~is accommodating a sibling group on a temporary basis.~~

c) Expanded Capacity License Provisions for Foster Family Care

- 1) Licensees~~Foster parents~~ may be licensed to care for more than six children on a full-time basis when~~only if~~ the licensees~~foster parents~~ are otherwise in compliance with the requirements of this Part, can meet the licensing standards for the additional children and have demonstrated competency

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

in caring for the ages and characteristics of children for whom they are seeking the expanded capacity license. ~~The maximum number of children permitted in a foster family home with an expanded capacity license is eight children unless:~~

- A) ~~all of the foster children are of common parentage, as defined in Section 402.2, and the Director of the Department has personally approved the placement; or~~
- B) ~~a waiver to permit an adoptive placement has been granted by the Director in accordance with subsection (c).~~
- 2) ~~No more than two of the children cared for under an expanded capacity license may be under two years of age unless the foster family home is accommodating a sibling group on a temporary basis.~~
- 23) An expanded capacity license may only be issued to allow ~~only the following types of care:~~
  - A) a parenting youth in care to remain with their own child;
  - B) siblings to remain together;
  - C) a child with an established meaningful relationship with the family to remain with the family; or
  - D) a foster family with special training or skills to provide care to a child who has a severe disability.
- A) **Sibling Groups**
  - i) ~~A licensed foster family home may receive an expanded capacity license to care for a maximum of eight children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care) in order to keep one or more sibling groups together in the foster family home.~~
  - ii) ~~The maximum of no more than four children under age six~~

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~does not apply when all of the foster children are of common parentage, as defined in Section 402.2, and clinical services and licensing have approved in writing a plan that allows for the full-time care of more than four children under age six.~~

- iii) ~~No expanded capacity license is required to allow overnight visits between siblings.~~

B) ~~Foster Children with Children~~

~~A licensed foster family home may receive an expanded capacity license to care for a maximum of eight children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care) to allow foster children who are parents to bring their own children with them to live in the foster family home. The expanded capacity license is to allow the foster family home to accept more than six children, but does not exempt the home from compliance with the requirements of Section 402.15(b), regarding the ages of children in the home.~~

C) ~~Respite Foster Care~~

~~A licensed foster family home may receive an expanded capacity license to care for a maximum of eight children (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care), if the home provides respite foster care. Any children received for respite care shall be counted in the maximum of eight children.~~

D) ~~Meaningful Relationships~~

~~To allow a child with an established meaningful relationship with the family to remain with the family and to allow a family with special training or skills to provide care to a child who has a severe disability.~~

E) ~~For purpose of adoption.~~

- d) ~~Foster Care Placements Made Before January 1, 1998~~

- 1) ~~These amendments are not retroactive in their effect. If more than six~~

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~children under age 18 are residing in a foster family home as of December 31, 1997, the appropriateness of continuing in the foster care placement shall be evaluated for each child by June 30, 1998. The results of the evaluation shall be documented in the child's case record and a copy forwarded to the Department's local office of licensing.~~

- 2) ~~If the evaluation finds that the foster children are receiving adequate and appropriate care in the current foster family home and that remaining in the current foster family home is in the best interests of the foster children, the foster children may remain in the foster care placement, even if there are more than six children in the home (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care).~~
    - A) ~~Foster parents are not required to obtain an expanded capacity license to continue to care for children already placed with them as of December 31, 1997, but may not accept additional foster children until the home complies with the requirements of Section 402.15.~~
    - B) ~~When the foster children in care as of December 31, 1997 move to another placement or attain the age of 18, the capacity of the foster home will be reduced until it reaches the maximum of six children, unless the foster parents have applied for and been granted an expanded capacity license allowing them to care for eight children.~~
  - 3) ~~If the evaluation finds that the foster children are not receiving adequate and appropriate care in their current foster family home or that remaining in the current foster family home is not in the best interests of one or more of the foster children, the affected children shall be moved to another appropriate placement. All such moves shall be made in a planned manner after prior notice has been given to the foster parents, as required by 89 Ill. Adm. Code 337 (Service Appeals Process).~~
- e) **Adoptive Placements**
- 1) **Maximum Number of Children**  
~~A licensed foster family home may receive an expanded capacity license to care for a maximum of eight children (including the foster parent's own~~



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~children under age 18 and all other children under age 18 receiving full-time care) in order to effect an adoptive placement. The Director of the Department of Children and Family Services may waive in writing the maximum number of eight children to effect an adoptive placement provided the following criteria are met:~~

- ~~A) a licensed child welfare agency or the Department proposes to place an additional child or children in the home for the purpose of adoption;~~
- ~~B) a licensed child welfare agency or the Department has documented in the child's case record that this home is the most appropriate choice for an adoptive placement and is consistent with the best interests and special needs of the child or children;~~
- ~~C) the foster family is otherwise in compliance with the licensing requirements of this Part and can meet licensing standards for the additional child or children; and~~
- ~~D) the foster family or supervising agency has requested, in writing, that the Director waive the limit of eight children under the age of 18 so that an additional child or children may be placed in their home for purposes of adoption.~~

2) ~~Ages of Children~~

~~The Director of the Department of Children and Family Services may waive in writing the age requirements in subsection (b), if necessary, to place a child in an adoptive home provided the criteria in subsection (c)(2) are met and there are a sufficient number of suitable adult caregivers to ensure that the children receive proper care and supervision.~~

f) ~~Independent Foster Family Homes~~

~~Independent foster homes receive children by independent arrangement. These homes are not subject to direct and regular supervision by a child welfare agency. These homes shall not be licensed for more than a maximum of four children under age 18 (including the foster parent's own children under age 18 and all other children under age 18 receiving full-time care) unless all of the unrelated children are of common parentage. No more than two of these children, including the family's own children, shall be under the age of two unless the foster family is~~

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~accommodating a sibling group on a temporary basis.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

**Section 402.APPENDIX B Number and Ages of Children in Foster Family Home: No Child Requires Specialized Care**

Number and Ages of Children Under Age 18 in a Foster Family Home

(~~Includes~~~~includes~~ family's own children under age 18)

No Child Requires Specialized Care

All ~~Youth in Care~~~~Foster Children~~ Have Same Mother or Same Father

Ages of Children	Regular Foster Home License Number of Children	Expanded Capacity License <sup>1</sup> Number of Children <sup>2</sup>
Total number	6	As needed in order to keep siblings together. <sup>2</sup>
<u>Age 5 and under</u>	4 <sup>3</sup>	4 <sup>3</sup>
<del>Under age six</del>		
<u>Age 1 and under</u>	2	2
<del>Under age two</del>		

<sup>1</sup> ~~Approved only to allow placements of sibling groups, foster children with children, respite care, and for purposes of adoption.~~

<sup>2</sup> ~~To exceed eight children requires personal approval by the Director of the Department.~~

<sup>3</sup> ~~May exceed four children under age six in order to keep siblings together with the approval of clinical services and licensing~~

Number and Ages of Children Under Age 18 in a Foster Family Home

(~~Includes~~~~includes~~ family's own children under age 18)

No Child Requires Specialized Care

All ~~Youth in Care~~~~Foster Children~~ Do Not Have Same Mother or Same Father

Ages of Children	Regular Foster Home License Number of Children	Expanded Capacity License <sup>1</sup> Number of Children <sup>2</sup>
Total number	6	<u>As needed</u> 8 <sup>2</sup>
<u>Age 5 and under</u>	4 <u>unless an approved waiver</u>	4 <u>unless an approved waiver</u>
<del>Under age six</del>		



## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Age 1 and under2 unless an approved waiver2 unless an approved waiver~~Under age two~~~~<sup>1</sup> Approved only to allow placements of sibling groups, foster children with children, respite care, and for purposes of adoption.~~~~<sup>2</sup> May exceed eight children when the placement is an adoptive placement and the waiver is personally approved by the Director of the Department.~~An Expanded Capacity license may be issued only under the following conditions:To allow a parenting youth in care to remain with their own childTo allow siblings to remain togetherTo allow a child with an established meaningful relationship with the family to remain with the familyTo allow a foster family with special training or skills to provide care to a child who has a severe disability

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF CHILDREN AND FAMILY SERVICES

## NOTICE OF PROPOSED AMENDMENTS

**Section 402.APPENDIX C Number and Ages of Children in Foster Family Home: Child Requires Specialized Care**

Number and Ages of Children Under Age 18 in a Regular Foster Family Home

(~~Includes~~~~includes~~ family's own children under age 18)

Children Require Specialized Care

Ages of Children	One Child Requires Specialized Care	Two Children Require Specialized Care	Three Children Require Specialized Care	Four Children Require Specialized Care
Total Number	5	4	4 <sup>1</sup>	4 <sup>1</sup>
Under age six	4	3	3 <sup>1</sup>	2 <sup>1,2</sup>
Under age two	2	2	2 <sup>1</sup>	1 <sup>1,2</sup>

<sup>1</sup> Requires approval of the manager of clinical services, after a clinical staffing, and the Director or designee~~licensing supervisor~~

<sup>2</sup> May allow one more child if approved via a staffing held at the convenience of the foster parent that includes licensing, clinical services, the child welfare workers for all involved children, and the foster parents.

An Expanded Capacity license may be issued only under the following conditions:

To allow a parenting youth in care to remain with their own child

To allow siblings to remain together

To allow a child with an established meaningful relationship with the family to remain with the family

To allow a foster family with special training or skills to provide care to a child who has a severe disability

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Organization, Information, Rulemaking and Hearings
- 2) Code Citation: 2 Ill. Adm. Code 1620
- 3) Section Number: 1620.20      Proposed Action: Amendment
- 4) Statutory Authority: Implementing Section 20-5 and authorized by Section 20-15(g) of the State Officials and Employees Ethics Act [5 ILCS 430/20-5 and 20-15] ("Ethics Act") and authorized by Section 20-15 of the same Act [5 ILCS 430/20-15].
- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking makes clear that Commission officers elected by the Commission to fill vacancies do so for the remainder of the two-year term of that office and that chairs and vice chairs may succeed themselves for one full term after serving a partial term.
- 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: The proposed rules do not establish or expand a State mandate under the State Mandates Act.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Comments on the proposed rulemaking may be submitted in writing for a period of 45 days following publication of this Notice to:

Illinois Executive Ethics Commission  
Attn: Stephen J. Rotello  
513 Stratton Office Building  
401 S. Spring St.  
Springfield, IL 62706

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENT

EEC.LegalStaff@illinois.gov and  
Stephen.Rotello@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: None
- 15) Regulatory Agenda on which this rulemaking was summarized: None. The rulemaking addresses a situation that arose very recently, and it is important to the Commission that the situation be addressed before officer terms expire at the end of the fiscal year.

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

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENT

TITLE 2: GOVERNMENTAL ORGANIZATION  
SUBTITLE E: MISCELLANEOUS STATE AGENCIES  
CHAPTER VI: EXECUTIVE ETHICS COMMISSION

## PART 1620

## ORGANIZATION, INFORMATION, RULEMAKING AND HEARINGS

## SUBPART A: ORGANIZATION

## Section

1620.5	Definitions
1620.10	Composition of Executive Ethics Commission
1620.20	Officers
1620.30	Appointment of Executive Director
1620.40	Duties of Executive Director
1620.50	Duties of Staff

## SUBPART B: INFORMATION

## Section

1620.110	Requests for Records
1620.120	Response to Requests for Records
1620.140	Copies of Public Records – Fees
1620.150	Materials Immediately Available

## SUBPART C: RULEMAKING

## Section

1620.200	Rulemaking Procedures
----------	-----------------------

## SUBPART D: INVESTIGATIONS

## Section

1620.300	Conduct of Investigations
1620.310	State Officer or Employee Case Initiation Form
1620.320	Case Initiation Form – Contents
1620.330	Opening an Investigation File
1620.340	Referral to the Appropriate Executive Inspector General
1620.350	Investigations

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENT

## SUBPART E: HEARINGS

Section	
1620.420	Attorney of Record
1620.430	Filing Requirements
1620.440	Complaint
1620.450	Complaint – Required Provisions
1620.460	Service
1620.470	Objections
1620.480	Sufficiency of the Complaint
1620.490	Discovery
1620.500	Subpoenas
1620.510	Motions
1620.520	Hearings
1620.525	20-63 Complainant's Right to Testify
1620.530	Decision of the Commission

## SUBPART F: REVOLVING DOOR PROHIBITION

Section	
1620.610	Revolving Door Prohibition
1620.640	Waiver of Prohibition of Executive Inspector General Employees as Judicial Appointee
1620.650	Waiver of Prohibition of Executive Inspector General Employees as Judicial Appointee – Commission Procedure

## SUBPART G: GIFT BAN

Section	
1620.700	Gift Ban

## SUBPART H: MISCELLANEOUS FILINGS

Section	
1620.800	Personnel Policies
1620.810	Quarterly and Six-Month Status Reports
1620.820	Ex Parte Communications
1620.825	Communications Related to Procurement

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENT

- 1620.826 Communications Related to Power Procurement by the Illinois Power Agency  
1620.830 Designation of Ethics Officer

## SUBPART I: TRAINING PROGRAMS

## Section

- 1620.900 Ethics Training  
1620.910 Harassment and Discrimination Prevention Training

## SUBPART J: INVESTIGATION REPORTS AND SUMMARY REVIEWS

## Section

- 1620.1000 Investigation Reports Finding a Violation  
1620.1010 Investigation Reports Finding No Violation  
1620.1020 Release of Summary Reports  
1620.1025 Allegations of Sexual Harassment Violations by Lobbyists

## SUBPART K: DISCIPLINARY ACTION

## Section

- 1620.1100 Disciplinary Action under the Ethics Act  
1620.1110 Hearings to Contest Disciplinary Actions

## SUBPART L: PROCUREMENT CODE PROVISIONS

## Section

- 1620.1200 Procurement Code Conflicts of Interest Exemptions  
1620.1250 Potential Conflict of Interest Submittal from the Procurement Policy Board  
1620.1270 Prohibited Bidder Exceptions for Higher Education

## SUBPART M: ACTIONS FOR REMOVING AND DISCIPLINING CERTAIN OFFICERS

## Section

- 1620.1300 Purpose  
1620.1310 Instituting a Complaint for Removal or Discipline  
1620.1320 Service of Process, Notice  
1620.1330 Contents of the Complaint and Amendments  
1620.1340 Objections to Sufficiency of Complaint  
1620.1350 Sufficiency of the Complaint

## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENT

1620.1360	Cause for Discharge or Discipline
1620.1370	Discovery
1620.1380	Subpoenas
1620.1390	Motions
1620.1400	Order of Evidentiary Hearing
1620.1410	Public Hearing
1620.1420	Proposal for Decision and Response
1620.1430	Decision of the Commission
1620.1440	Administrative Law Judge
1620.1450	Authority of Administrative Law Judge
1620.1460	Appearances – Representation
1620.1470	Record of Proceedings
1620.1480	Service of Pleadings

**AUTHORITY:** Implementing and authorized by Sections 20-5, 20-50 and 20-55 of the State Officials and Employees Ethics Act [5 ILCS 430/20-5, 20-50 and 20-55], Section 2002 of the Fiscal Control and Internal Auditing Act [30 ILCS 10/2002], and Sections 10-10, 10-5, and 10-20 of the Illinois Procurement Code [30 ILCS 500/10-10, 10-15, 10-20, and 50-39] and authorized by Section 20-15 of the State Officials and Employees Ethics Act [5 ILCS 430/20-15] and Section 10-5 of the Illinois Administrative Procedure Act [5 ILCS 100/10-5].

**SOURCE:** Adopted by emergency rulemaking at 29 Ill. Reg. 3340, effective February 23, 2005, for a maximum of 150 days; adopted at 29 Ill. Reg. 9619, effective July 1, 2005; amended at 32 Ill. Reg. 7099, effective July 1, 2008; amended at 34 Ill. Reg. 13108, effective August 27, 2010; amended at 34 Ill. Reg. 19507, effective December 6, 2010; emergency rulemaking at 35 Ill. Reg. 563, effective January 1, 2011, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 35 Ill. Reg. 3797, effective February 17, 2011, for the remainder of the 150 days; amended at 35 Ill. Reg. 7308, effective April 21, 2011; amended at 36 Ill. Reg. 13826, effective August 21, 2012; amended at 37 Ill. Reg. 19561, effective November 22, 2013; recodified at 42 Ill. Reg. 5044; amended at 42 Ill. Reg. 13550, effective June 26, 2018; emergency amendment at 44 Ill. Reg. 9987, effective May 22, 2020, for a maximum of 150 days; emergency expired October 18, 2020; emergency amendment at 45 Ill. Reg. 1700, effective January 22, 2021 through April 30, 2021; amended at 47 Ill. Reg. 12045, effective July 31, 2023; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: ORGANIZATION

**Section 1620.20 Officers**



## EXECUTIVE ETHICS COMMISSION

## NOTICE OF PROPOSED AMENDMENT

*The Executive Ethics Commission shall elect a Chair and Vice-Chair and any other officers it deems appropriate. The terms of officers shall be for two years commencing July 1 and running through June 30 of the second year. [5 ILCS 430/20-5(e)] Neither ~~ChairsChair~~ nor ~~Vice-ChairsVice-Chair~~ may succeed themselves except that a Commissioner elected to fill a vacancy in the office of Chair or Vice Chair during a term shall serve the remaining balance of that term and may be elected to a new two-year term to begin the following July 1.~~himself.~~*

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Narrative and Planning Policies
- 2) Code Citation: 77 Ill. Adm. Code 1100
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1100.40	New Section
1100.220	Amendment
1100.820	New Section
- 4) Statutory Authority: Authorized by Section 12 of, and implementing, the Illinois Health Facilities Planning Act [20 ILCS 3960].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking seeks to amend this Part to establish the Birth Center category of service. The rulemaking is needed to be consistent with similar requirements for categories of service that are referenced in Subpart D of this Part. The purpose of the rulemaking is to allow the Health Facilities and Services Review Board (HFSRB) to apply current laws and rules to review applications and deny or issue Certificates of Need for facilities consistent with the Birth Center Licensing Act [210 ILCS 170] and the Birth Center Licensing Code, 77 Ill. Adm. Code 264, which was effective September 8, 2023. The rulemaking is also needed to give notice to the applicants regarding the applicable standards, laws, and rules for applicant requirements. Additionally, the amendments give notice to the public regarding the applicable standards, laws, and rules to allow the public to submit informed public input.

The amendments to this Part provide the authority or guidance to establish the Birth Center category of service. This rulemaking is necessary so that the Birth Center category of service can be reviewed by the HFSRB using the same standards and criteria that are used for other categories of service that are under the HFSRB's jurisdiction.

Currently, Illinois Department of Public Health (IDPH) licenses Birth Centers under the Birth Center Licensing Act. Prior to the enactment of this statute, Birth Centers were licensed under the Alternative Health Care Delivery Act [210 ILCS 3]. In addition to the Birth Center Licensing Act, IDPH utilizes the Birth Center Licensing Code when issuing licenses to these facilities. With the promulgation of the Birth Center Licensing Code, the rules of the HFSRB will establish a category of service in this Part for Birth Centers that will be consistent with IDPH's regulations.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

The rulemaking includes statutory updates to Section 1100.220, Definitions, and adds the definition, "Social Vulnerability Index".

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their written comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. Written comments suggesting amendments to the rulemaking must provide the reason for the suggested amendment. An edited version of the rulemaking is acceptable if submitted with the written comments and supporting reasons. Send written comments to:  
  
Health Facilities and Services Review Board  
Attention: Donald Jones, Rules Coordinator  
525 West Jefferson Street, 2<sup>nd</sup> Floor  
Springfield, Illinois 62761  
  
dph.hfsrb.rules@illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: Health facilities and services providers will need to comply with new requirements.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

Most of the businesses that are affected by the HFSRB's rules fall under the definition of small businesses, small municipalities, and not for profit corporations. The HFSRB's policy is to adopt only minimum standards and thus not cause undue hardship on these small businesses, small municipalities, and not for profit corporations. The proposed rules were written with small businesses, small municipalities, and not for profit corporations in mind and the requirements are the bare minimum requirements needed to assure the public health, safety, and welfare of the citizens of the State of Illinois.

B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking will add reporting requirements and all other current procedures will remain the same.

C) Types of professional skills necessary for compliance: None

14) Small Business Impact Analysis:

A) Types of businesses subject to the proposed rule:

54 Professional, Scientific, and Technical Services  
62 Health Care and Social Assistance

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

ii. regulatory requirements

15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 77: PUBLIC HEALTH

## CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD

## SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

## PART 1100

## NARRATIVE AND PLANNING POLICIES

## SUBPART A: GENERAL NARRATIVE

## Section

1100.10	Introduction
1100.20	Authority
1100.30	Purpose
1100.40	<u>Incorporated and Referenced Materials</u> <del>Health Maintenance Organizations</del> (Repealed)
1100.50	Subchapter Organization
1100.60	Mandatory Reporting of Data
1100.70	Data Appendices
1100.75	Annual Bed Report
1100.80	Institutional Master Plan Hospitals (Repealed)
1100.90	Public Hearings (Repealed)

## SUBPART B: DEFINITIONS

## Section

1100.210	Introduction
1100.220	Definitions

## SUBPART C: PLANNING POLICIES

## Section

1100.310	Need Assessment
1100.320	Staffing
1100.330	Professional Education
1100.340	Public Testimony (Repealed)
1100.350	Multi-Institutional Systems
1100.360	Modern Facilities
1100.370	Occupancy/Utilization Standards
1100.380	Systems Planning

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

1100.390	Quality
1100.400	Location
1100.410	Needed Facilities
1100.420	Discontinuation
1100.430	Coordination with Other State Agencies
1100.440	Requirements for Authorized Hospital Beds

## SUBPART D: NEED ASSESSMENT

## Section

1100.510	Introduction, Formula Components, Planning Area Development Policies, and Distance Determinations
1100.520	Medical-Surgical/Pediatric Categories of Service
1100.530	Obstetric Care Category of Service
1100.540	Intensive Care Category of Service
1100.550	Comprehensive Physical Rehabilitation Category of Service
1100.560	Acute Mental Illness Treatment Category of Service
1100.570	Substance Abuse/Addiction Treatment Category of Service (Repealed)
1100.580	Neonatal Intensive Care Category of Service
1100.590	Burn Treatment Category of Service (Repealed)
1100.600	Therapeutic Radiology Equipment (Repealed)
1100.610	Open Heart Surgery Category of Service
1100.620	Cardiac Catheterization Services
1100.630	In-Center Hemodialysis Category of Service
1100.640	Non-Hospital Based Ambulatory Surgical Treatment Center Services – Category of Service
1100.650	Computer Systems (Repealed)
1100.660	General Long-Term Nursing Care Category of Service (Repealed)
1100.661	General Long-Term Care-Sheltered Care Category of Service (Repealed)
1100.670	Specialized Long-Term Care Categories of Service (Repealed)
1100.680	Intraoperative Magnetic Resonance Imaging Category of Service (Repealed)
1100.690	High Linear Energy Transfer (L.E.T.) (Repealed)
1100.700	Positron Emission Tomographic Scanning (P.E.T.) (Repealed)
1100.710	Extracorporeal Shock Wave Lithotripsy (Repealed)
1100.720	Selected Organ Transplantation
1100.730	Kidney Transplantation
1100.740	Subacute Care Hospital Model
1100.750	Postsurgical Recovery Care Center Alternative Health Care Model
1100.760	Children's Respite Care Center Alternative Health Care Model

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1100.770 Community-Based Residential Rehabilitation Center Alternative Health Care Model  
1100.800 Freestanding Emergency Center Medical Services Category of Service  
1100.810 Long-Term Acute Care Hospital Category of Service  
1100.820 Birth Center Category of Service

1100.APPENDIX A Applicable Codes and Standards Utilized in 77 Ill. Adm. Code: Chapter II, Subchapter a (Repealed)

AUTHORITY: Authorized by Section 12 of and implementing the Illinois Health Facilities Planning Act [20 ILCS 3960/12].

SOURCE: Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 15476; amended at 9 Ill. Reg. 3344, effective March 6, 1985; amended at 11 Ill. Reg. 7311, effective April 1, 1987; amended at 12 Ill. Reg. 16079, effective September 21, 1988; amended at 13 Ill. Reg. 16055, effective September 29, 1989; amended at 16 Ill. Reg. 16074, effective October 2, 1992; amended at 18 Ill. Reg. 2986, effective February 10, 1994; amended at 18 Ill. Reg. 8448, effective July 1, 1994; emergency amendment at 19 Ill. Reg. 1941, effective January 31, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 2985, effective March 1, 1995; amended at 19 Ill. Reg. 10143, effective June 30, 1995; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2594; amended at 20 Ill. Reg. 14778, effective November 15, 1996; amended at 21 Ill. Reg. 6220, effective May 30, 1997; expedited correction at 21 Ill. Reg. 17201, effective May 30, 1997; amended at 23 Ill. Reg. 2960, effective March 15, 1999; amended at 24 Ill. Reg. 6070, effective April 7, 2000; amended at 25 Ill. Reg. 10796, effective August 24, 2001; amended at 27 Ill. Reg. 2904, effective February 21, 2003; amended at 31 Ill. Reg. 15255, effective November 1, 2007; amended at 32 Ill. Reg. 4743, effective March 18, 2008; amended at 32 Ill. Reg. 12321, effective July 18, 2008; expedited correction at 33 Ill. Reg. 4040, effective July 18, 2008; amended at 34 Ill. Reg. 6067, effective April 13, 2010; amended at 35 Ill. Reg. 16978, effective October 7, 2011; amended at 36 Ill. Reg. 2542, effective January 31, 2012; amended at 38 Ill. Reg. 2822, effective February 1, 2014; amended at 42 Ill. Reg. 5410, effective March 7, 2018; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL NARRATIVE

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

**Section 1100.40 Incorporated or Referenced Materials~~Health Maintenance Organizations~~  
(Repealed)**

The following Illinois statutes and administrative rules are incorporated or referenced in this Part:

a) Illinois statutes:

- 1) Alternative Health Care Delivery Act [210 ILCS 3]
- 2) Ambulatory Surgical Treatment Center Act [210 ILCS 5]
- 3) Birth Center Licensing Act [210 ILCS 170]
- 4) Developmental Disability Prevention Act [410 ILCS 250]
- 5) Emergency Medical Services (EMS) Systems Act [210 ILCS 50]
- 6) Hospital Licensing Act [210 ILCS 85]
- 7) ID/DD Community Care Act [210 ILCS 47]
- 8) Illinois Administrative Procedure Act [5 ILCS 100]
- 9) Illinois Health Facilities Planning Act [20 ILCS 3960]
- 10) MC/DD Act [210 ILCS 46]
- 11) Mental Health and Developmental Disabilities Code [405 ILCS 5]
- 12) Nursing Home Care Act [210 ILCS 45]
- 13) Specialized Mental Health Rehabilitation Act of 2013 [210 ILCS 49]

b) Illinois administrative rules:

- 1) Processing, Classification Policies and Review Criteria (77 Ill. Adm. Code 1110)



## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 2) [Financial and Economic Feasibility Review \(77 Ill. Adm. Code 1120\)](#)
- 3) [Health Facilities and Services Review Operational Rules \(77 Ill. Adm. Code 1130\)](#)

(Source: Former Section 1100.40 repealed at 13 Ill. Reg. 16055, effective September 29, 1989; new Section 1100.40 adopted at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: DEFINITIONS

**Section 1100.220 Definitions**

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

"Acute Dialysis" means dialysis given on an intensive care, inpatient basis to patients suffering from (presumably reversible) acute renal failure, or to patients with chronic renal failure with serious complications.

"Acute Mental Illness" means a crisis state or an acute phase of one or more specific psychiatric disorders in which a person displays one or more specific psychiatric symptoms of such severity as to prohibit effective functioning in any community setting. Persons who are acutely mentally ill may be admitted to an acute mental illness facility or unit under the provisions of the Mental Health and Developmental Disabilities Code [405 ILCS 5], which determines the specific requirements for admission by age and type of admission.

"Acute Mental Illness Facility" or "Acute Mental Illness Unit" means a facility or a distinct unit in a facility that provides a program of acute mental illness treatment service (as defined in this Section); that is designed, equipped, organized and operated to deliver inpatient and supportive acute mental illness treatment services; and that is licensed by the Department of Public Health under the Hospital Licensing Act [210 ILCS 85] or is a facility operated or maintained by the State or a State agency.

"Acute Mental Illness Treatment Service" means a category of service that provides a program of care for those persons suffering from acute mental illness. These services are provided in a highly structured setting in a distinct psychiatric unit of a general hospital, in a private psychiatric hospital, or in a State-operated

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

facility to individuals who are severely mentally ill and in a state of acute crisis, in an effort to stabilize the individual and either effect his or her quick placement in a less restrictive setting or reach a determination that extended treatment is needed. Acute mental illness is typified by an average length of stay of 45 days or less for adults and 60 days or less for children and adolescents.

"Administrative *Perinatal Center*" or "APC" means a *referral facility* designated under the Regionalized Perinatal Health Care Code (77 Ill. Adm. Code 640) and *intended to care for the high risk patient before, during or after labor and delivery and characterized by sophistication and availability of personnel, equipment, laboratory, transportation techniques, consultation and other support services.* [410 ILCS 250/2(e)] An APC is a university or university-affiliated facility designated by the Department of Public Health that has a Level III hospital and is responsible for providing leadership and oversight of the Department of Public Health's regionalized perinatal health care program, including continuing education for health professions.

"Admissions" means the number of patients accepted for inpatient service during a 12-month period; newborns are not included.

"Adult Catheterization" means the cardiac catheterization of patients 15 years of age and older.

"Adverse Action" means a disciplinary action taken by Illinois Department of Public Health, Centers for Medicare and Medicaid Services, or any other State or federal agency against a person or entity that owns and/or operates a licensed or Medicare or Medicaid certified healthcare facility in the State of Illinois. These actions include, but are not limited to, all Type A violations. *A "Type A" violation means a violation of the Nursing Home Care Act or 77 Ill. Adm. Code 300, 330, 340, 350 or 390 that creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom.* [210 ILCS 45/1-129]

"Agency", "Department" or "IDPH" means the Illinois Department of Public Health. [20 ILCS 3960/3]

"Ambulatory Care" means all types of health care services that are provided on an outpatient basis, in contrast to services provided in the home or to persons who

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

are inpatients. While many inpatients may be ambulatory, the term ambulatory care usually implies that the patient must travel to a location to receive services that do not require an overnight stay. (Source: Glossary of Terms Commonly Used in Health Care (Illinois Health and Hospital Association, 1151 East Warrenville Road, PO Box 3015, Naperville IL 60566, 630/276-5400; 2004, no later amendments or editions included)).

"Ambulatory Surgical Treatment Center" or "ASTC" means any institution, place or building required to be licensed pursuant to the Ambulatory Surgical Treatment Center Act [210 ILCS 5].

"Authorized Hospital Bed Capacity" means the number of beds recognized for planning purposes at a hospital facility, as determined by HFSRB. The operational status of authorized hospital beds is identified as physically available, reserve, or transitional, as follows:

"Physically Available Beds" means beds that are physically set up, meet hospital licensure requirements, and are available for use. These are beds maintained in the hospital for the use of inpatients and that furnish accommodations with supporting services (such as food, laundry, and housekeeping). These beds may or may not be staffed, but are physically available.

"Reserve Beds" means beds that are not set up for inpatients, but could be made physically available for inpatient use within 72 hours.

"Transitional Beds" means beds for which a Certificate of Need (CON) has been issued, but that are not yet physically available, and beds that are temporarily unavailable due to modernization projects that do not require a CON.

"Authorized Long-Term Care Bed Capacity" means the number of beds by category of service, recognized, and licensed by IDPH for long-term care.

"Average Daily Census" or "ADC" means over a 12-month period the average number of inpatients receiving service on any given day.

"Average Length of Stay" or "ALOS" means over a 12-month period the average duration of inpatient stay expressed in days as determined by dividing total

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

inpatient days by total admissions.

"Base Year" means the calendar year, as determined by IDPH, that serves as the starting point or benchmark for the historical utilization and population projections.

"Birth Center" means a designated site, other than a hospital:

in which births are planned to occur following a normal, uncomplicated, and low-risk pregnancy;

that is not the pregnant person's usual place of residence;

that is dedicated to serving the childbirth-related needs of pregnant persons and their newborns, and has no more than 10 beds;

that offers prenatal care and community education services and coordinates these services with other health care services available in the community; and

that does not provide general anesthesia or surgery (except as allowed per 77 Ill. Adm. Code 264.1800(h) and (i) and Section 5 of the Birth Center Licensing Act [210 ILCS 170/5])

"Birth Center" or "Center" means an alternative health care delivery model that is *exclusively dedicated to serving the childbirth-related needs of women and their newborns and has no more than 10 beds. A birth center is a designated site that is away from the mother's usual place of residence and in which births are planned to occur following a normal, uncomplicated, and low-risk pregnancy.* [210 ILCS 3/35]

"Board Certified or Board Eligible Physician" means a physician who has satisfactorily completed an examination (or is "eligible" to take such examination) in a medical specialty and has taken all of the specific training requirements for certification by a specialty board. For purposes of this definition, "medical specialty" shall mean a specific area of medical practice by health care professionals.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

"Cardiac Catheterization Category of Service" means, for the purposes of this Part, the performance of catheterization procedures that, due to safety and quality considerations, are preferably performed within a cardiac catheterization laboratory or special procedure room. Procedures that do not require the use of such specialized settings, such as pericardiocentesis, myocardial biopsy, cardiac pacemaker insertion or replacement, right heart catheterization with a flow-directed catheter (e.g., Swan-Ganz catheter), intra-aortic balloon pump assistance with intra-aortic balloon catheter placement, certain types of electrophysiology, arterial pressure or blood gas monitoring, fluoroscopy, and cardiac ultrasound, are not recognized as procedures that, under this Subchapter, would in and of themselves qualify a facility as having a cardiac catheterization category of service.

"Cardiac Surgeon" means a physician board eligible or board certified by the American Board of Thoracic Surgery.

"Cardiac Surgery Room" means a physically identifiable room adequately staffed and equipped for the performance of open and closed heart surgery and extracorporeal bypass.

"Cardiological Team" means the designated specialists and support personnel who consistently work together in the performance of open-heart~~open-heart~~ surgery.

"Cardiovascular Surgical Procedures" means any surgical procedure dealing with the heart, coronary arteries, and surgery of the great vessels.

"Cardiovascular Surgical Services" means the programs, equipment and staff dealing with the surgery of the heart, coronary arteries, and great vessels.

"Category of Service" means a grouping by generic class of various types or levels of support functions, equipment, care, or treatment provided to patient/residents. Examples include but are not limited to medical-surgical, pediatrics, cardiac catheterization, etc. A category of service may include subcategories or levels of care that identify a particular degree or type of care within the category of service.

"Certified nurse midwife" or "CNM" means an advanced practice registered nurse license in Illinois under the Nurse Practice Act with full practice authority or who is delegated such authority as part of a written collaborative agreement

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

*with a physician who is associated with the birthing center or who has privileges at a nearby birthing hospital. [210 ILCS 170/5]*

"Chronic Renal Dialysis" means a category of service in which dialysis is performed on a regular long-term basis in patients with chronic irreversible renal failure. The maintenance and preparation of patients for kidney transplantation (including the immediate post-operative period and in case of organ rejection) or other acute conditions within a hospital does not constitute a chronic renal dialysis category of service.

"Clinical Encounter Time" means an instance of direct provider/practitioner to patient interaction, between a patient and a practitioner vested with primary responsibility for diagnosing, evaluating or treating the patient's condition, or both. The clinical encounter definition excludes practitioner actions in the absence of a patient, such as practitioner to practitioner interaction and practitioner to records interaction.

"Closed Heart Surgery" means any cardiovascular surgical procedures that do not include the use of a heart/lung pump.

"Combined Maternity and Gynecological Unit" means an entire facility or a distinct part of a facility that provides both a program of maternity care (as defined in this Section) and a program of obstetric gynecological care (as defined in this Section), and that is designed, equipped, organized, and operated in accordance with the requirements of the Hospital Licensing Act [210 ILCS 85].

"Community-Based Residential Rehabilitation" means *services that include, but are not limited to, case management, training and assistance with activities of daily living, nursing consultation, traditional therapies (physical, occupational, speech), functional interventions in the residence and community (job placement, shopping, banking, recreation), counseling, self-management strategies, productive activities, and multiple opportunities for skill acquisition and practice throughout the day.* [210 ILCS 3/35]

"Community-Based Residential Rehabilitation Center" means *a designated site that provides rehabilitation or support, or both, for persons who have experienced severe brain injury, who are medically stable, and who no longer require acute rehabilitative care or intense medical or nursing services. The*



## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

*average length of stay in a community-based residential rehabilitation center shall not exceed 4 months. [210 ILCS 3/35]*

"Comprehensive Physical Rehabilitation" means a category of service provided in a comprehensive physical rehabilitation facility providing the coordinated interdisciplinary team approach to physical disability under a physician licensed to practice medicine in all its branches who directs a plan of management of one or more of the classes of chronic or acute disabling disease or injury. Comprehensive physical rehabilitation services can be provided only by a comprehensive physical rehabilitation facility.

"Comprehensive Physical Rehabilitation Facility" means a distinct bed unit of a hospital or a special referral hospital that provides a program of comprehensive physical rehabilitation; that is designed, equipped, organized, and operated to deliver inpatient rehabilitation services; and that is licensed by the Department of Public Health under the Hospital Licensing Act or is a facility operated or maintained by the State or a State agency. Types of comprehensive physical rehabilitation facilities include:

"Freestanding comprehensive physical rehabilitation facility" means a specialty hospital dedicated to the provision of comprehensive rehabilitation; and

"Hospital-based comprehensive physical rehabilitation facility" means a distinct unit, located in a hospital, dedicated to the provision of comprehensive physical rehabilitation.

"Dedicated Cardiac Catheterization Laboratory" means a distinct laboratory that is staffed, equipped, and operated solely for the provision of cardiac catheterization.

"Designated Pediatric Beds" means beds within the facility that are primarily used for pediatric patients and are not a component part of a distinct pediatric unit as defined in this Section.

"Dialysis" means a process by which dissolved substances are removed from a patient's body by diffusion from one fluid compartment to another across a semi-permeable membrane. [210 ILCS 62/5] The two types of dialysis that are recognized in classical practice are hemodialysis and peritoneal dialysis.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

"Dialysis Technician" *means an individual who is not a registered nurse or physician and who provides dialysis care under the supervision of a registered nurse or physician.* [210 ILCS 62/5]

"Discontinuation" means to cease operation of an entire health care facility or to cease operation of a category of service and is further defined in 77 Ill. Adm. Code 1130.

"Distinct Unit" means a physically distinct area comprising all beds served by a nursing station in which a particular category of service is provided and utilizing a nursing staff assigned exclusively to the distinct area.

"DRG" means diagnostic related groups utilized in the Medicare and Medicaid programs for health care reimbursement.

"Emergency Medical Services System" or "EMS System" means *an organization of hospitals, vehicle service providers and personnel approved by IDPH in a specific geographic area, which coordinates and provides pre-hospital and inter-hospital emergency care and non-emergency medical transports at a BLS, ILS, and/or ALS level pursuant to a System program plan submitted to and approved by IDPH, and pursuant to the EMS Region Plan adopted for the EMS Region in which the System is located.* [210 ILCS 50/3.20]

"Emergent Care" means medical or surgical procedures and care provided to those patients treated in an emergency department (ED) of a hospital or freestanding emergency center who have traumatic conditions or illnesses with an acuity level that is classified as level one or level two based upon the Emergency Severity Index (ESI) as defined in the "Emergency Severity Index Version 4: Implementation Handbook" published by the Agency for Healthcare Research and Quality, Rockville MD (Gilboy N, Tanabe P, Travers DA, Rosenau AM, Eitel DR; AHRQ Publication No. 05-0046-2; May 2005, no later amendments or editions included).

"End Stage Renal Disease" or "ESRD" *means that stage of renal impairment that appears irreversible and permanent and that requires a regular course of dialysis or kidney transplantation to maintain life.* [210 ILCS 62/5]

"End Stage Renal Disease Facility" means a freestanding facility or a unit within an existing health care facility that furnishes in-center hemodialysis treatment and



## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

other routine dialysis services to end stage renal disease patients. These types of services may include self-dialysis, training in self-dialysis, dialysis performed by trained professional staff, and chronic maintenance dialysis, including peritoneal dialysis.

"Extracorporeal Circulation" or "Bypass" means, for the purpose of open heart surgery category of service, the circulation of blood outside the body, as through a heart/lung apparatus for carbon dioxide-oxygen exchange.

"Federally Qualified Health Center" means a health center funded under section 330 of the Public Health Service Act (42 USC 254b).

"Fertility Rate" means determinations by IDPH of population fertility that is based upon resident birth data for an area. The fertility rate data sources include:

- birth data from the Division of Vital Records by age of mother and by county; and
- population figures from IDPH estimates for females ~~aged~~<sup>age</sup> 15-44 by county.

"Freestanding Emergency Center" or "FEC" means a facility subject to licensure under Section 32.5 of the Emergency Medical Services (EMS) Systems Act [210 ILCS 50/32.5] that provides emergency medical and related services.

"Freestanding Emergency Center Medical Services" or "FECMS" means a category of service pertaining to the provision of emergency medical and related services provided in a freestanding emergency center.

"General Long-Term Care" means a classification of categories of service that provide inpatient levels of care primarily for convalescent or chronic disease adult patients/residents who do not require specialized long-term care services. The General Long-Term Care Classification includes the nursing category of service, which provides inpatient treatment for convalescent or chronic disease patients/residents and includes the skilled nursing level of care and/or the intermediate nursing level of care (both as defined in IDPH's Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300)).

"HFSRB" or "State Board" means the Health Facilities and Service Review Board

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

established by the Act.

"Health Professional Shortage Areas" means urban or rural areas, population groups, or medical or other public facilities that may have shortages of primary medical care, dental or mental health providers, as determined by HHS' Shortage Designation Branch in the Health Resources and Services Administration (HRSA) Bureau of Health Professions National Center for Health Workforce; and as determined by the Illinois Designation of Shortage Areas (77 Ill. Adm. Code 590.410).

"Health Service Area" or "HSA" means the following geographic areas:

HSA I – Illinois Counties of Boone, Carroll, DeKalb, Jo Daviess, Lee, Ogle, Stephenson, Whiteside, and Winnebago

HSA II – Illinois Counties of Bureau, Fulton, Henderson, Knox, LaSalle, Marshall, McDonough, Peoria, Putnam, Stark, Tazewell, Warren, and Woodford

HSA III – Illinois Counties of Adams, Brown, Calhoun, Cass, Christian, Greene, Hancock, Jersey, Logan, Macoupin, Mason, Menard, Montgomery, Morgan, Pike, Sangamon, Schuyler, and Scott

HSA IV – Illinois Counties of Champaign, Clark, Coles, Cumberland, DeWitt, Douglas, Edgar, Ford, Iroquois, Livingston, Macon, McLean, Moultrie, Piatt, Shelby, and Vermilion

HSA V – Illinois Counties of Alexander, Bond, Clay, Crawford, Edwards, Effingham, Fayette, Franklin, Gallatin, Hamilton, Hardin, Jackson, Jasper, Jefferson, Johnson, Lawrence, Marion, Massac, Perry, Pope, Pulaski, Randolph, Richland, Saline, Union, Wabash, Washington, Wayne, White, and Williamson

HSA VI – City of Chicago

HSA VII – DuPage County and Suburban Cook County

HSA VIII – Illinois Counties of Kane, Lake, and McHenry

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

HSA IX – Illinois Counties of Grundy, Kankakee, Kendall, and Will

HSA X – Illinois Counties of Henry, Mercer, and Rock Island

HSA XI – Illinois Counties of Clinton, Madison, Monroe, and St. Clair

"Hematocrit" means a measure of the packed cell volume of red blood cells expressed as a percentage of total blood volume.

"Hemodialysis" means a type of dialysis that involves the use of artificial kidney through which blood is circulated on one side of a semi-permeable membrane while the other side is bathed by a salt dialysis solution. The accumulated toxic products diffuse out of the blood into the dialysate bath solution. The concentration and total amount of water and salt in the body fluid are adjusted by appropriate alterations in composition of the dialysate fluid.

"Home Hemodialysis" means a type of dialysis that is done at home by the patient and a partner. Both are trained in the dialysis facility until the patient and partner become proficient to dialyze at home. The dialysis is usually three times per week.

"Home-Assisted Hemodialysis" means hemodialysis done in a home and/or long-term~~long-term~~ care setting through a staff-assisted program. The patient is not trained to do dialysis himself/herself.

"Hospital" means a facility, institution, place or building licensed pursuant to or operated in accordance with the Hospital Licensing Act [210 ILCS 45] or a State-operated facility that is utilized for the prevention, diagnosis, and treatment of physical and mental ills. For purposes of this Subchapter, two basic types of hospitals are recognized:

General Hospital – a facility that offers an integrated variety of categories of service and that offers and performs scheduled surgical procedures on an inpatient basis.

Special or Specialized Hospital – a facility that offers, primarily, a special or particular category of service.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

"In-Center Hemodialysis" means a category of service that is provided in an end stage renal disease facility ~~licensed by the State of Illinois~~ and/or certified by the Centers for Medicare and Medicaid Services.

"In-Center Hemodialysis Treatment" means a regimen of hemodialysis received by a patient usually three times a week, averaging four hours.

"Independent Travel Time Studies" means studies developed and submitted to refine or supplement the determination of Normal Travel Time. Independent Travel Time studies will be considered by HFSRB only if conducted utilizing the criteria specified in this Part.

"Index of Medically Underserved" or "IMU" means shortage designation criteria applied to determine Medically Underserved Area or Medically Underserved Population designation. The four variables of the IMU are ratio of primary medical care physicians per 1,000 population, infant mortality rate, percentage of the population with incomes below the poverty level, and percentage of the population age 65 or over (Source: Health Resources and Services Administration Bureau of Health Professions website [MUA Find \(hrsa.gov\)](http://bhpr.hrsa.gov) (~~http://bhpr.hrsa.gov~~)).

"Intensive Care Service" means a category of service providing the coordinated delivery of treatment to the critically ill patient or to patients requiring continuous care due to special diagnostic considerations requiring extensive monitoring of vital signs through mechanical means and through direct nursing supervision. This service is given at the direction of a physician on behalf of patients by physicians, dentists, nurses, and other professional and technical personnel. The intensive care category of service includes the following subcategories: medical ICU, surgical ICU, coronary care, pediatric ICU, and combinations of such ICUs. This category of service does not include intermediate intensive or coronary care and special care units that are included in the medical-surgical category of service.

"Intensive Care Unit" or "ICU" means a distinct part of a facility that provides a program of intensive care service; that is designed, equipped, organized, and operated to deliver optimal medical care for the critically ill or for patients with special diagnostic conditions requiring specialized equipment, procedures, and staff; and that is under the direct visual supervision of a nursing staff. Prior to February 15, 2003, the repeal of 77 Ill. Adm. Code 1110.1010, 1110.1020 and

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

1110.1030, the beds and corresponding utilization for the burn treatment category of service were included in the intensive care category of service.

"Inventory of Health Care Facilities and Services and Need Determinations" means a statewide inventory of beds and other services, and need determinations that HFSRB shall maintain and update on the Board's website, as mandated in the Health Facilities Planning Act. (See Section 12(4) of the Act [\[20 ILCS 3960\]](#).)

"Key Room" means a term used in space planning to designate the primary functional component of a department used to develop a space program or estimate of square feet for that department. Examples of key rooms include, but are not limited to, examination rooms for ambulatory care, operating rooms for surgical suites, treatment stations for dialysis, imaging rooms for radiology.

"Kidney Transplantation Center" means a hospital that directly furnishes transplantation and other medical and surgical specialty services required for the care of the kidney transplant patient, including inpatient dialysis furnished directly or under arrangement.

"Kidney Transplantation Service" means a category of service that involves the surgical replacement of a nonfunctioning human kidney with a donor kidney in order to restore renal function to the patient.

*"Licensed certified professional midwife" means a person who has successfully met the requirements under Section 45 of the Licensed Certified Professional Midwife Practice Act and holds an active license to practice as a licensed certified professional midwife in Illinois. [210 ILCS 170/5]*

"Maternity Care" means a subcategory of obstetric service related to the medical care of the patient prior to and during the act of giving birth either to a living child or to a dead fetus and to the continuing medical care of both patient and newborn infant under the direction of a physician, by physicians, nurses, and other professional and technical personnel.

"Maternity Facility" or "Maternity Unit" means an entire facility or a distinct part of a facility that provides a program of maternity and newborn care and that is designed, equipped, organized, and operated in accordance with the requirements of the Hospital Licensing Act.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

"Medically Underserved Areas" means a whole county or a group of contiguous counties, or a group of county or civil divisions, or a group of urban census tracts in which residents have a shortage of personal health services, as determined by HHS' Shortage Designation Branch in the Health Resources and Services Administration (HRSA) Bureau of Health Professions National Center for Health Workforce.

"Medically Underserved Populations" means groups of persons who face economic, cultural or linguistic barriers to health care, as determined by HHS' Shortage Designation Branch in the Health Resources and Services Administration (HRSA) Bureau of Health Professions National Center for Health Workforce.

"Medical-Surgical Service" means a category of service pertaining to the medical-surgical inpatient care performed at the direction of a physician, by physicians, dentists, nurses, and other professional and technical personnel. For purposes of 77 Ill. Adm. Code Chapter II, Subchapter a (Illinois Health Care Facilities Plan), this category of service may include medical-surgical and their respective subspecialties of service. The medical-surgical category of service specifically does not include the following other separate categories of service and their subcategories:

Obstetric Service;

Pediatric Service;

Intensive Care Service;

Comprehensive Physical Rehabilitation Service;

Acute and Chronic Mental Illness Treatment Service;

Neonatal Intensive Care Service;

General Long-Term Care Service;

Specialized Long-Term Care Service;

Long-Term Acute Care Service.



## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

"Medical-Surgical Unit" means an assemblage of inpatient beds and related facilities in which medical-surgical services are provided to a defined and limited class of patients according to their ~~particular~~ medical care needs.

"Modernization" means modification of an existing health care facility by means of building, alteration, reconstruction, remodeling, replacement and/or expansion, the erection of new buildings, or the acquisition, alteration, or replacement of equipment. Modification does not include a substantial change in either the bed count or scope of the facility.

"Neonatal Intensive Care" means a level of care providing constant and close medical coordination, multi-disciplinary consultation, and supervision to those neonates with serious and life threatening developmental or acquired medical and surgical problems that require highly specialized treatment and highly trained nursing personnel.

"Neonatal Intensive Care Service" means a category of service providing treatment of the infant for problems identified in the neonatal period that warrant intensive care. An intensive neonatal care service must include a related obstetric service for care of the high-risk mother (except when the facility is dedicated to the care of children).

"Neonatal Intensive Care Unit" means a distinct part of a facility that provides a program of intensive neonatal care and that is designed, equipped, and operated to deliver medical and surgical care to high-risk infants.

"Neonatologist" means a physician who is certified by the American Board of Pediatrics Subboard of Neonatal-Perinatal Medicine or a licensed osteopathic physician with equivalent training and experience and certified by the American Osteopathic Board of Pediatricians.

"Newborn Nursery Level I", "Newborn Nursery Level II", "Newborn Nursery Level II with Extended Neonatal Capabilities" and "Newborn Nursery Level III" mean designations for hospitals providing newborn health care as defined and listed in the Regionalized Perinatal Health Care Code (77 Ill. Adm. Code 640).

"Non-Hospital Based Ambulatory Surgery" means a category of service relating to surgery that is performed at ambulatory surgical treatment centers on patients

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

that arrive and are discharged the same day. Ambulatory surgery as the provision of surgical services may require anesthesia or a period of post-operative observation or both on a patient whose inpatient stay is not anticipated as being medically necessary.

"Non-emergent Care" means medical or surgical procedures and care provided to those patients treated in an emergency department (ED) of a hospital or freestanding emergency center who have conditions or illnesses that are not classified as level one or level two based upon the Emergency Severity Index.

"Observation Days" means the number of days of service provided to outpatients for the purpose of determining whether a patient requires admission as an inpatient or other treatment.

"Obstetric/Gynecological Care" means a subcategory of obstetric service in which medical care is provided to clean (non-infectious) gynecological, surgical, or medical cases that are admitted to a postpartum section of an obstetric unit in accordance with the requirements of the Hospital Licensing Act.

"Obstetric Service" means a category of service pertaining to the medical or surgical care of maternity and newborn patients or medical or surgical cases that may be admitted to a postpartum unit.

"Occupancy Rate" means a measure of inpatient health facility use, determined by dividing average daily census by the number of authorized beds. It measures the average percentage of a facility's beds occupied and may be institution-wide or specific for one department or service.

"Occupancy Target" means a utilization level established by IDPH for a facility or service reflecting adequate access as well as operational efficiency.

"Open Heart Surgery" means a category of service that utilizes any form of cardiac surgery that requires the use of extracorporeal circulation and oxygenation. The use of a pump during the procedure distinguishes "open heart" from "closed heart" surgery.

"Operating Room (Class B)" or "Surgical Procedure Room (Class B)" means a setting designed and equipped for major or minor surgical procedures performed in conjunction with oral, parenteral, or intravenous sedation or under analgesic or



## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

dissociative drugs. (Source: Guidelines for Optimal Ambulatory Surgical Care and Office-based Surgery, third edition, American College of Surgeons, 633 N. Saint Clair Street, Chicago IL 60611-3211, 312/202-5000; 2000, no later amendments or editions included)

"Operating Room (Class C)" means a setting designed and equipped for major surgical procedures that require general or regional block anesthesia and support of vital bodily functions. (Source: Guidelines for Optimal Ambulatory Surgical Care and Office-based Surgery, third edition, American College of Surgeons, 633 N. Saint Clair Street, Chicago IL 60611-3211, 312/202-5000; 2000, no later amendments or editions included)

"Out-of-Home Respite Care" means care provided in a facility setting to a clinically stable individual whose medical condition does not require major diagnostic procedures or therapeutic interventions and who normally receives care in a home environment for the purposes of providing a respite to the caregiver from the responsibilities of providing the care.

"Patient Care Unit" means the grouping of beds to provide an inpatient category of service. Units are physically identifiable areas that are staffed to provide all care required for ~~particular~~ service.

"Patient Days" means the total number of days of service provided to inpatients over a 12-month period, usually expressed as annual patient days measured. This figure includes observation days if the observation patient occupies a bed that is included in IDPH's Inventory of Health Care Facilities and Services and Need Determinations.

"Patient Migration" means the total number of patients who reside in a given planning area but receive services at health care facilities located in another planning area for a given year. Patient migration is determined by utilizing the latest available patient origin data concerning admissions to health care facilities by various categories of service for a given year. The term in-migration refers to the number of patients who are not residents of a planning area that enter the area to receive services, while the term out-migration refers to the number of planning area residents who leave the planning area to obtain services elsewhere.

"Pediatric Catheterization" means the cardiac catheterization of patients zero to 14 years in age.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

"Pediatric Facility" or "Distinct Pediatric Unit" means an entire facility or a distinct unit of a facility, where the nurses' station services only that unit, that provides a program of pediatric service and is designed, equipped, organized, and operated to render medical-surgical care to the zero to 14 age population.

"Pediatric Service" means a category of service for the delivery of treatment pertaining to the non-intensive medical-surgical care of a pediatric patient (zero to 14 years in age) performed at the direction of a physician on behalf of the patient by physicians, dentists, nurses and other professional and technical personnel.

"Perinatal Center" means a referral facility designated under the Regionalized Perinatal Health Care Code (77 Ill. Adm. Code 640) and intended to care for the ~~high-risk~~ ~~high-risk~~ patient before, during or after labor and delivery and characterized by sophistication and availability of personnel, equipment, laboratory, transportation techniques, consultation, and other support services. "Perinatal Center" is further defined in the Developmental Disability Prevention Act [410 ILCS 250/2(e)].

"Peritoneal Dialysis" means a type of dialysis in which the dialysate fluid is infused slowly into the peritoneum, causing dialysis of water and waste products to occur through the peritoneal sac, which acts as a semi-permeable membrane. The fluid and waste, after accumulating for a period of time (one hour), is drained from the abdomen and the process is repeated.

"Planning Area" means a defined geographic area within the State established by HFSRB as a basis for the collection, organization, and analysis of information to determine health care resources and needs and to serve as a basis for planning.

"Population Estimates" means the latest available numbers of residents of a geographic area based upon birth and death records and other inputs, as determined by IDPH. These numbers may be further broken down by age and sex cohorts.

"Population Projections" means the numbers of residents of a geographic area projected for one or more future time periods, as determined by IDPH and based upon State of Illinois population projections, as available. These numbers are for defined geographic areas and may be further broken down by age and sex cohorts.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

"Post-Anesthesia Recovery Phase I" means the phase in surgical recovery that focuses on providing a transition from a totally anesthetized state to one requiring less acute interventions. Recovery occurs in the post-anesthesia care unit (PACU). The purpose of this phase is for patients to regain physiological homeostasis and receive appropriate nursing intervention as needed.

"Post-Anesthesia Recovery Phase II" means the phase in surgical recovery that focuses on preparing the patient for self care, care by family members, or care in an extended care environment. The patient is discharged to phase II recovery when intensive nursing care no longer is needed. In the phase II area, sometimes referred to as the step-down or discharge area, the patient becomes more alert and functional.

"Postsurgical Recovery Care Center" *means a designated site which provides postsurgical recovery care for generally healthy patients undergoing surgical procedures that require overnight nursing care, pain control, or observation that would otherwise be provided in an inpatient setting. Such a center may be either freestanding or a defined unit of an ambulatory surgical treatment center or hospital. The maximum length of stay for patients in a postsurgical recovery care center is not to exceed 72 hours.* (Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3/35])

"Postsurgical Recovery Care Center Alternative Health Care Model" means a category of service for the provision of postsurgical recovery care within a postsurgical recovery care center.

"Pre-Dialysis" means that the initiation of hemodialysis therapy is anticipated within 12 months.

"Pump Procedures" means the utilization of a heart/lung pump in surgery to perform the work of the heart and lungs. Included in these procedures are myocardial revascularization, aortic and mitral valve replacement, ventricular aneurysm repairs, pulmonary valvuloplasty, and all other procedures utilizing a cardiac pump.

"Quality of Care", for purposes of 77 Ill. Adm. Code 1110.110, the degree to which delivered health services meet established professional standards and are judged to be of value to the consumer. Quality may also be seen as the degree to which actions taken or not taken maximize the probability of beneficial health

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

outcomes and minimize risk and other outcomes, given the existing state of medical science and art. (Source: "A Glossary of Terms for Community Health Care and Services for Older Persons", World Health Organization Centre for Health Development, 5-1, 1-chome, Wakinohama-Kaigandori, Chuo-Ku, Kobe 651-0073 Japan, tel. +81 78 230 3100; 2004, no later amendments or editions included)

"Rapid Population Growth Rate" means an average of the three most recent annual growth rates of a defined geographic area's population that has exceeded the average of three to seven immediately preceding annual growth rates by at least 100%.

"Renal Dialysis Facility" means a freestanding facility, or a unit within an existing health care facility, that furnishes routine chronic dialysis services to chronic renal disease patients. Routine services are self-dialysis, training in self-dialysis, dialysis performed by trained professional staff, and chronic maintenance dialysis, including peritoneal dialysis.

"Resource Hospital" means the hospital that is responsible for an Emergency Medical Services (EMS) System in a specific geographic region, as defined in the Emergency Medical Services (EMS) Systems Act [210 ILCS 50].

"Selected Organ Transplantation Center" means a hospital that provides staffing and other adult or pediatric medical and surgical specialty services required for the care of a transplant patient.

"Selected Organ Transplantation Service" means a category of service relating to the surgical transplantation of any of the following human organs: heart, lung, heart-lung, liver, pancreas, or intestine. It does not include bone marrow or cornea transplants.

"Self-Care Dialysis" or "Self-Dialysis" means maintenance dialysis performed by a trained patient in a special facility with or without the assistance of a family member or other helper.

"Self-Care Dialysis Training" means a program that trains patients or their helpers, or both, to perform self-care dialysis in the in-center setting.

"Site" means the location of an existing or proposed facility. An existing facility

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

site is determined by street address. In a proposed facility the legal property description or the street address can be used to identify the site.

"Special Procedures Laboratory with a Cardiac Catheterization Service" means a special procedures or angiography laboratory that has the equipment, staff and support services required to provide cardiac catheterization and in which catheterizations are routinely performed. The laboratory is also utilized for other procedures, such as angiography, not directly related to cardiac catheterization.

"Specialized Long-Term Care" means a classification consisting of categories of service that provide inpatient care primarily for children (ages zero through 21) or inpatient care for adults who require specialized treatment and care because of mental or developmental disabilities. The Specialized Long-Term Care Classification includes the following categories of services:

Chronic Mental Illness (MI) – levels of care provided to severely mentally ill clients in a structured setting in a psychiatric unit of a general hospital, in a private psychiatric hospital, or in a State-operated facility primarily in order to facilitate the improvement of their functioning level, to prevent further deterioration of their functioning level, or, in some instances, to maintain their current level of functioning.

Long-Term Care for the Developmentally Disabled (Adult) (DD-Adult) – levels of care for developmentally disabled adults as defined in the Illinois Mental Health and Developmental Disabilities Code [405 ILCS 5] (including those facilities licensed as Intermediate Care Facilities for the Developmentally Disabled (ICF/DD)) that provide an integrated, individually tailored program of services for developmentally disabled adults and that provide an active, aggressive and organized program of services directed toward achieving measurable behavioral and learning objectives.

Long-Term Care for the Developmentally Disabled (Children) (DD-Children) – levels of care for developmentally disabled children limited to those residents ages zero through 21 years and whose condition meets the definition of developmental disabilities in the Illinois Mental Health and Developmental Disabilities Code.

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

"Social Vulnerability Index" or "SVI" is a tool used by the U.S. Centers for Disease Control and Prevention to identify socially vulnerable populations. Information on the location and concentration of different types of social vulnerabilities can help plan for the specific needs of a community.

"Subacute Care" means the provision of *medical specialty care for patients who need a greater intensity or complexity of care than generally provided in a skilled nursing facility but who no longer require acute hospital care. Subacute care includes physician supervision, registered nursing and physiological monitoring on a continual basis.* (Section 35 of the Alternative Health Care Delivery Act [210 ILCS 3/35])

"Subacute Care Hospital" *means a designated site that provides medical specialty care for patients who need a greater intensity or complexity of care than generally provided in a skilled nursing facility but who no longer require acute hospital care. The average length of stay for patients treated in subacute care hospitals shall not be less than 20 days; for individual patients, the expected length of stay at the time of admission shall not be less than 10 days. A subacute care hospital is either a freestanding building or a distinct physical and operational entity within a hospital or nursing home building. A subacute care hospital shall only consist of beds currently existing in licensed hospitals or skilled nursing facilities.* (Section 35 of the Alternative Health Care Delivery Act)

"Subacute Care Hospital Model" means a category of service for the provision of subacute care.

"Surgical Referral Site" means an ambulatory surgical treatment center or hospital in which surgery will be performed and the surgical patient then transferred to the recovery care center.

"Teaching Institution" means, for the purpose of selected organ transplantation category of service, a hospital having a major relationship with a medical school as defined and listed in the Directory of Residency Training Programs developed by the American Medical Association and the National Organ Procurement and Transplantation Network (AMA, 535 N. Dearborn, Chicago IL 60610, 312/751-6079; 2009-2010, no later amendments or editions included).



## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

"Urea" means the chief product of urine and the final product of protein metabolism in the body.

"Urea Reduction Ratio" or "URR" means the amount of blood cleared of urea during dialysis. It is reflected by the ratio of the measured level of urea before dialysis and urea remaining after dialysis. The larger the URR, the greater the amount of urea removed during the dialysis treatment.

"Use Rate" means the ratio of inpatient days per 1,000 population over a 12-month period (Inpatient Days/Population in Thousands = Use Rate). For need assessment purposes, HFSRB may establish minimum or maximum use rates in order to promote the development of additional resources or to limit unnecessary duplication of services and beds in a planning area.

"Utilization Standards" means an operational target for facilities or services that may demonstrate operational efficiencies, minimum proficiency, or other performance parameters. Utilization standards and their purposes are established by category of service. Utilization may be expressed by various ratios, such as facility or bed service occupancy rates or hours of use for types of equipment, operating rooms, dialysis stations, etc.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART D: NEED ASSESSMENT

**Section 1100.820 Birth Center Category of Service**

- a) Planning Areas  
No planning areas are established for need determination purposes. Birth centers shall be inventoried by health service area.
- b) Age Groups  
Females aged 15 and over.
- c) Utilization Target  
Birth centers should operate at or above an annual minimum occupancy rate of 60%. This rate is consistent with the occupancy rate requirement for the Obstetric Care Category of Service for facilities with 1-10 beds. (see 77 Ill. Adm. Code 1100.530(c)(1))

## HEALTH FACILITIES AND SERVICES REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- d) Need Determination  
Need must be established pursuant to the applicable review criteria of 77 Ill. Adm. Code 1110.285.
- e) Bed Capacity  
Bed capacity at a birth center is a maximum of 10 beds. [210 ILCS 170/5(3)].

(Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Processing, Classification Policies and Review Criteria
- 2) Code Citation: 77 Ill. Adm. Code 1110
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1110.10	Amendment
1110.275	Repealed
1110.285	New Section
- 4) Statutory Authority: Implementing and authorized by Section 12(1) of the Illinois Health Facilities Planning Act [20 ILCS 3960/12], the Alternative Health Care Delivery Act [210 ILCS 3], and the Birth Center Licensing Act [210 ILCS 170].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking seeks to amend this Part to establish the Birth Center category of service. This rulemaking is needed to be consistent with similar requirements for categories of service that are referenced in Subpart C of this Part. The rulemaking also proposes the repeal of Section 1110.275, Birth Center Alternative Health Care Model, because the section is based on requirements under the Alternative Health Care Delivery Act.

Currently, Illinois Department of Public Health (IDPH) licenses Birth Centers under the Birth Center Licensing Act. Prior to the enactment of this statute, Birth Centers were licensed under the Alternative Health Care Delivery Act. In addition to the Birth Center Licensing Act, IDPH utilizes the Birth Center Licensing Code, 77 Ill. Adm. Code 264, effective September 8, 2023, when issuing licenses to these facilities. With the promulgation of the Birth Center Licensing Code, the rules of the Health Facilities and Services Review Board (HFSRB) needs to establish a category of service in this Part for Birth Centers and be consistent with IDPH's regulations.

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

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their written comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. Written comments suggesting amendments to the rulemaking must provide the reason for the suggested amendment. An edited version of the rulemaking is acceptable if submitted with the written comments and supporting reasons. Send written comments to:

Health Facilities and Services Review Board  
Attention: Donald Jones, Rules Coordinator  
525 West Jefferson Street, 2<sup>nd</sup> Floor  
Springfield, Illinois 62761

dph.hfsrb.rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Health facilities and services providers will need to comply with new requirements.
- Most of the businesses that are affected by the HFSRB's rules fall under the definition of small businesses, small municipalities, and not for profit corporations. The HFSRB's policy is to adopt only minimum standards and thus not cause undue hardship on these small businesses, small municipalities, and not for profit corporations. The proposed rules were written with small businesses, small municipalities, and not for profit corporations in mind and the requirements are the bare minimum requirements needed to assure the public health, safety, and welfare of the citizens of the State of Illinois.
- B) Reporting, bookkeeping or other procedures required for compliance: The rulemaking will add reporting requirements and all other current procedures will remain the same.

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rule:
- 54 Professional, Scientific, and Technical Services  
62 Health Care and Social Assistance
- B) Categories that the agency reasonably believes the rulemaking will impact, including:
- ii. regulatory requirements
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 77: PUBLIC HEALTH

## CHAPTER II: HEALTH FACILITIES AND SERVICES REVIEW BOARD

## SUBCHAPTER a: ILLINOIS HEALTH CARE FACILITIES PLAN

## PART 1110

## PROCESSING, CLASSIFICATION POLICIES AND REVIEW CRITERIA

## SUBPART A: APPLICABILITY; PROJECT CLASSIFICATION

## Section

- 1110.10 Introduction; Definition of Terms; Referenced Statutes
- 1110.20 Classification of Projects

SUBPART B: INTRODUCTION; GENERAL INFORMATION;  
GENERAL REVIEW CRITERIA

## Section

- 1110.100 Introduction
- 1110.110 Background of the Applicant, Purpose of Project, Safety Net Impact Statement and Alternatives – Information Requirements
- 1110.120 Project Scope and Size, Utilization and Unfinished/Shell Space – Review Criteria
- 1110.130 Additional General Review Criteria for Master Design and Related Projects Only

## SUBPART C: CATEGORY OF SERVICE REVIEW CRITERIA

## Section

- 1110.200 Medical/Surgical, Obstetric, Pediatric and Intensive Care
- 1110.205 Comprehensive Physical Rehabilitation Beds
- 1110.210 Acute Mental Illness and Chronic Mental Illness
- 1110.215 Neonatal Intensive Care
- 1110.220 Open Heart Surgery
- 1110.225 Cardiac Catheterization
- 1110.230 In-Center Hemodialysis Projects
- 1110.235 Non-Hospital Based Ambulatory Surgical Treatment Center Services
- 1110.240 Selected Organ Transplantation
- 1110.245 Kidney Transplantation
- 1110.250 Subacute Care Hospital Model
- 1110.255 Postsurgical Recovery Care Center Alternative Health Care Model
- 1110.260 Community-Based Residential Rehabilitation Center Alternative Health Care

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- Model
- 1110.265 Long Term Acute Care Hospital Bed Projects
- 1110.270 Clinical Service Areas Other Than Categories of Service
- 1110.275 Birth Center – Alternative Health Care Model ([Repealed](#))
- 1110.280 Freestanding Emergency Center Medical Services
- [1110.285 Birth Center Services](#)
- 1110.290 Discontinuation – Review Criteria
- 1110.APPENDIX A ASTC Services
- 1110.APPENDIX B State Guidelines – Square Footage and Utilization

**AUTHORITY:** Authorized by Section 12 of, and implementing, the Illinois Health Facilities Planning Act [20 ILCS 3960], the Alternative Health Care Delivery Act [210 ILCS 3], and the Birth Center Licensing Act [210 ILCS 170].

**SOURCE:** Fourth Edition adopted at 3 Ill. Reg. 30, p. 194, effective July 28, 1979; amended at 4 Ill. Reg. 4, p. 129, effective January 11, 1980; amended at 5 Ill. Reg. 4895, effective April 22, 1981; amended at 5 Ill. Reg. 10297, effective September 30, 1981; amended at 6 Ill. Reg. 3079, effective March 8, 1982; emergency amendments at 6 Ill. Reg. 6895, effective May 20, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11574, effective September 9, 1982; Fifth Edition adopted at 7 Ill. Reg. 5441, effective April 15, 1983; amended at 8 Ill. Reg. 1633, effective January 31, 1984; codified at 8 Ill. Reg. 18498; amended at 9 Ill. Reg. 3734, effective March 6, 1985; amended at 11 Ill. Reg. 7333, effective April 1, 1987; amended at 12 Ill. Reg. 16099, effective September 21, 1988; amended at 13 Ill. Reg. 16078, effective September 29, 1989; emergency amendments at 16 Ill. Reg. 13159, effective August 4, 1992, for a maximum of 150 days; emergency expired January 1, 1993; amended at 16 Ill. Reg. 16108, effective October 2, 1992; amended at 17 Ill. Reg. 4453, effective March 24, 1993; amended at 18 Ill. Reg. 2993, effective February 10, 1994; amended at 18 Ill. Reg. 8455, effective July 1, 1994; amended at 19 Ill. Reg. 2991, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 7981, effective May 31, 1995, for a maximum of 150 days; emergency expired October 27, 1995; emergency amendment at 19 Ill. Reg. 15273, effective October 20, 1995, for a maximum of 150 days; recodified from the Department of Public Health to the Health Facilities Planning Board at 20 Ill. Reg. 2600; amended at 20 Ill. Reg. 4734, effective March 22, 1996; amended at 20 Ill. Reg. 14785, effective November 15, 1996; amended at 23 Ill. Reg. 2987, effective March 15, 1999; amended at 24 Ill. Reg. 6075, effective April 7, 2000; amended at 25 Ill. Reg. 10806, effective August 24, 2001; amended at 27 Ill. Reg. 2916, effective February 21, 2003; amended at 32 Ill. Reg. 12332, effective July 18, 2008; amended at 33 Ill. Reg. 3312, effective February 6, 2009; amended at 34 Ill. Reg. 6121, effective April 13, 2010; amended at 35 Ill. Reg. 16989, effective October 7, 2011; amended at 36 Ill. Reg. 2569, effective January 31, 2012; amended at 38 Ill.

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

Reg. 8861, effective April 15, 2014; amended at 39 Ill. Reg. 13659, effective October 2, 2015; former Part repealed at 42 Ill. Reg. 5444, and new Part adopted at 42 Ill. Reg. 5447, effective March 7, 2018; amended at 42 Ill. Reg. 24907, effective December 12, 2018; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART A: APPLICABILITY; PROJECT CLASSIFICATION;  
DISCONTINUATION OF CATEGORY OF SERVICE

**Section 1110.10 Introduction; Definition of Terms; Referenced Statutes**

- a) Introduction

An application for permit *shall be made to the* Health Facilities and Services Review Board (HFSRB) and shall *contain such information as* HFSRB *deems necessary* [20 ILCS 3960/6(a)]. The applicant is responsible for addressing all pertinent review criteria that relate to the scope of a construction or modification project or to a project for the acquisition of major medical equipment. Applicable review criteria may include, but are not limited to, general review criteria, discontinuation, category of service criteria, and financial and economic feasibility criteria. Applications for permits shall be processed, classified and reviewed in accordance with all applicable HFSRB rules. HFSRB shall consider a project's conformance with all applicable review criteria in evaluating applications and in determining whether a permit should be issued.
- b) Definition of Terms

Definitions pertaining to this Part are contained in the Act, 77 Ill. Adm. Code 1100 and 1130, and various Sections of this Part. HFSRB's operational rules relating to the processing and review of applications for permit are contained in 77 Ill. Adm. Code 1130.
- c) Referenced Statutes
  - 1) Illinois Statutes
    - A) Alternative Health Care Delivery Act [210 ILCS 3]
    - B) Ambulatory Surgical Treatment Center Act [210 ILCS 5]
    - C) [Birth Center Licensing Act \[210 ILCS 170\]](#)

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

D) Clinical Social Work and Social Work Practice Act [225 ILCS 20]

E) Community Benefits Act [210 ILCS 76]

F) Dietitian Nutritionist Practice Act [225 ILCS 30]

G) Emergency Medical Services (EMS) Systems Act [210 ILCS 50]

~~End Stage Renal Disease Facility Act [210 ILCS 62]~~

H) Hospital Licensing Act [210 ILCS 85]

I) Illinois Administrative Procedure Act [5 ILCS 100]

J) Illinois Health Facilities Planning Act [20 ILCS 3960]

K) Nursing Home Care Act [210 ILCS 45]

2) Federal Statutes

A) Public Health Service Act (42 ~~U.S.C.~~USC 254E)

B) Social Security Act – Title XVIII (42 ~~U.S.C.~~USC 1395)

C) Social Security Act – Title XIX (42 ~~U.S.C.~~USC 1396)

D) Social Security Act Amendments of 1982 (PL 92-603) (42 ~~U.S.C.~~USC 1329)

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: CATEGORY OF SERVICE REVIEW CRITERIA

**Section 1110.275 Birth Center – Alternative Health Care Model (Repealed)**

a) **Introduction**

- 1) ~~This Section contains review criteria that pertain to the birth-center model category of service. The birth-center model category of service is a~~

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~demonstration program that is authorized by the Alternative Health Care Delivery Act. Definitions pertaining to this category of service are contained in 77 Ill. Adm. Code 1100 and 1130 and in the Alternative Health Care Delivery Act. These birth center model review criteria are utilized in addition to the applicable review criteria of Subpart B and 77 Ill. Adm. Code 1120.~~

- ~~2) A Certificate of Need (CON) permit shall be obtained to establish a birth center model. CON application forms are available from HFSRB's website (www.hfsrb.illinois.gov).~~
- ~~3) Failure to obtain a permit will result in the application of sanctions as provided for in the Illinois Health Facilities Planning Act.~~
- ~~4) CON applications for permits received for the birth center model shall be deemed complete upon receipt by HFSRB.~~
- ~~5) As the purpose of the demonstration project is to evaluate the birth center model for quality factors, access and the impact on health care costs, each applicant approved for the category of service will be required to periodically submit data necessary for evaluating the model's effectiveness.~~

b) ~~Review Criteria~~

1) ~~Location Requirements~~

- ~~A) There shall be no more than 10 birth center alternative health care models in the demonstration program including:~~
- ~~i) A total of 4 located in the combined Cook, DuPage, Kane, Lake, McHenry and Will counties;~~
  - ~~ii) A total of 3 located in municipalities with a population of 50,000 or more not located in an area described in subsection (b)(1)(A)(i); and~~
  - ~~iii) A total of 3 located in rural areas.~~



## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- B) ~~In each of the geographic groups identified in subsection (b)(1)(A), one birth center shall be owned or operated by a hospital and one birth center shall be owned and operated by a federally qualified health center.~~
- C) Documentation
- i) ~~The applicant shall document that the proposed birth center will be located in one of the geographic areas stated in the Alternative Health Care Delivery Act and described in subsection (b)(1)(A); and~~
- ii) ~~The applicant shall document that the proposed birth center is owned or operated by a hospital or owned or operated by a federally qualified health center or owned and operated by a private person or entity.~~
- D) ~~As stated in Section 30 of the Alternative Health Care Delivery Act, there shall be no more than 2 birth centers authorized to operate in any single health planning area for obstetric services as determined under the Illinois Health Facilities Planning Act [20 ILCS 3960].~~
- 2) Service Provision to a Health Professional Shortage Area
- A) ~~The first 3 birth centers authorized to be operated by IDPH shall be located in or predominantly serve the residents of a health professional shortage area, as determined by the U.S. Department of Health and Human Services. [210 ILCS 3/30]~~ The applicant shall document whether the proposed site is located in or will predominantly serve the residents of a health professional shortage area.
- B) ~~If a birth center is located outside of a health professional shortage area:~~
- i) ~~the birth center shall be located in a health planning area with a demonstrated need for obstetrical service beds, as~~

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~determined by the Health Facilities and Services Review Board; or~~

- ii) ~~there shall be a reduction in the existing number of obstetrical service beds in the planning area so that the establishment of the birth center does not result in an increase in the total number of obstetrical service beds in the health planning area. [210 ILCS 3/30]~~

3) Admission Policies

~~A birth center may not discriminate against any patient requiring treatment because of the source of payment for services, including Medicare and Medicaid recipients. [210 ILCS 3/35] Documentation shall consist of copies of all admission policies to be in effect at the facility and a signed statement that no restrictions on admissions due to these factors will occur.~~

4) Bed Capacity

~~The applicant shall document that the proposed birth center will have no more than 10 beds.~~

5) Staffing Availability

~~The applicant shall document that relevant clinical and professional staffing needs for the proposed project were considered and that licensure staffing requirements can be met. In addition, the applicant shall document that necessary staffing is available by providing a narrative explanation of how the proposed staffing will be achieved.~~

6) Emergency Surgical Backup

~~The applicant shall document that either:~~

- A) ~~The birth center will operate under a hospital license and will be located within 30 minutes ground travel time from the hospital to allow for an emergency caesarian delivery to be started within 30 minutes after the decision that a caesarian delivery is necessary; or~~
- B) ~~A contractual agreement has been signed with a licensed hospital for the referral and transfer of patients in need of an emergency caesarian delivery. Birth centers shall be located within 30~~

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~minutes ground travel time from the licensed hospital to allow for an emergency caesarian delivery to be started within 30 minutes after the decision that a caesarian delivery is necessary. [210 ILCS 3/35]~~

## 7) Education

~~A birth center shall offer prenatal care and community education services and shall coordinate these services with other health care services available in the community. [210 ILCS 3/35] Documentation shall consist of a written narrative on the prenatal care and community education services offered by the birth center and how these services are being coordinated with other health services in the community.~~

## 8) Inclusion in Perinatal System

## A) Requirements

- i) ~~At a minimum, the birth center's participation shall require a birth center to establish a letter of agreement with a hospital designated under the Perinatal System.~~
- ii) ~~A hospital that operated or has a letter of agreement with a birth center shall include the birth center under its maternity service plan under the Hospital Licensing Act and shall include the birth center in the hospital's letter of agreement with its perinatal center. [210 ILCS 3/30]~~

## B) Documentation

- i) A hospital that operated or has a letter of agreement with a birth center shall provide a copy of the hospital's letter of agreement with its perinatal center and of copy of the hospital's maternity service plan.
- ii) An applicant that is not a hospital shall identify the regional perinatal center that will provide neonatal intensive care services, as needed, to the applicant birth center patients. A letter of intent, signed by both the administrator of the

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

~~proposed birth center and the administrator of the regional perinatal center, shall be provided.~~

- 9) Medicare/Medicaid Certification  
~~The applicant shall document that the proposed birth center will be certified to participate in the Medicare and Medicaid programs under titles XVIII and XIX, respectively, of the federal Social Security Act (42 USC 1395 and 1396).~~
- 10) Charity Care  
~~All birth centers shall provide charitable care consistent with that provided by comparable health care providers in the geographic area. [210 ILCS 3/30] The applicant shall provide to HFSRB a copy of the charity care policy that will be adopted by the proposed birth center.~~
- 11) Quality Assurance  
~~Each birth center shall implement a quality assurance program with measurable benefits. [210 ILCS 3/30] The applicant shall provide to HFSRB a copy of the quality assurance program to be adopted by the birth center.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1110.285 Birth Center Services****a) Introduction**

- 1) A birth center shall obtain a certificate of need from the Health Facilities and Services Review Board under the Health Facilities Planning Act before receiving a license by the Department. [210 ILCS 170/17(a)]
- 2) All birth centers in existence as of September 1, 2023, shall obtain a valid license to operate by September 1, 2025. ([210 ILCS 170/10] and 77 Ill. Adm. Code 264.1250(a)).
- 3) If, after obtaining an initial certificate of need under subsection (a)(1), a birth center seeks to increase the bed capacity of the birth center, the birth center must obtain a certificate of need from the Health Facilities and

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

Services Review Board before increasing bed capacity. [210 ILCS 170/17(b)]

- 4) A birth center that is located in a medically underserved area, as determined by the U.S. Department of Health and Human Services, shall receive priority in obtaining a certificate of need. [210 ILCS 170/17(c)]

b) Review Criteria

- 1) These criteria are applicable only to those projects or components of projects involving the birth center category of service. In addition, the applicant shall address other applicable requirements in this Part, as well as those in 77 Ill. Adm. Code 1100, 1120 and 1130. Applicants proposing to establish, expand or modernize a birth center category of service shall comply with the applicable subsections of this Section, as follows:

<u>PROJECT TYPE</u>	<u>REQUIRED REVIEW CRITERIA</u>
<u>Establishment of Service</u>	<p>(c)(1) = <u>Formula Calculation</u></p> <p>(c)(2) = <u>Service to Area Residents</u></p> <p>(c)(3) = <u>Service Accessibility</u></p> <p>(d)(1) = <u>Unnecessary Duplication</u></p> <p>(d)(2) = <u>Maldistribution of Service</u></p> <p>(d)(3) = <u>Impact on Other Providers</u></p> <p>(d)(4) = <u>Request for Data from Other Providers</u></p> <p>(f) = <u>Staffing Availability</u></p>
<u>Expansion of Existing Service</u>	<p>(c)(2) = <u>Service to Area Residents</u></p> <p>(f) = <u>Staffing Availability</u></p>
<u>Category of Service Modernization</u>	<p>(e)(1) = <u>Deteriorated Facilities</u></p> <p>(e)(2) = <u>Documentation</u></p> <p>(e)(3) = <u>Additional Documentation</u></p>

- 2) If the proposed project involves the replacement of a birth center on the same site as the existing birth center, the applicant shall comply with the

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

requirements listed in subsection (b)(1) for Category of Service Modernization.

- 3) If the proposed project involves the replacement of the birth center on a new site, the applicant shall comply with the requirements listed in subsection (b)(1) for Establishment of Service.
- 4) All projects shall meet or exceed the utilization standards for the service, as specified in 77 Ill. Adm. Code 1100.820(c).
- 5) All projects for a birth center shall comply with the licensing requirements of the Illinois Department of Public Health, which are set forth in the Birth Center Licensing Act [210 ILCS 170] and the Birth Center Licensing Code (77 Ill. Adm. Code 264).
- 6) The applicant shall certify that it has reviewed and understands the requirements to become certified under Titles XVIII and IX of the federal Social Security Act and plans to seek certification under this Act.

c) Area Need – Establishment or Expansion of Service

- 1) 77 Ill. Adm. Code 1100 Formula Calculation  
No formula need calculation has been established for the Birth Center category of service.
- 2) Service to Area Residents  
Applicants proposing to establish or expand a birth center shall document that the primary purpose of the project will be to provide necessary health care to the residents of the geographic service area (GSA) as set forth under 77 Ill. Adm. Code 1100.510(d).
  - A) For projects to establish a Birth Center category of service, the applicant shall document that at least 50% of the projected patient volume will be residents of the GSA.
  - B) For projects to expand a Birth Center category of service, the applicant shall provide patient origin information for all admissions for the last 12-month period, verifying that at least 50% of admissions were residents of the GSA. For all other projects,



## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

applicants shall document that at least 50% of the projected patient volume will be from residents of the GSA.

3) Service Accessibility

The proposed project to establish or expand a Birth Center category of service is necessary to improve access for GSA residents. The applicant shall document the following:

A) Service Restrictions

The applicant shall document that at least one of the following factors exists in the GSA:

- i) The absence of a birth center within the GSA
- ii) The area population and existing care system exhibit indicators of medical care problems, such as high infant mortality;
- iii) All or part of the GSA is located in the Center for Disease Control and Prevention's Social Variability Index for Social and Economic Status. Factors contained within the Social and Economic Status include: number of persons living below the federal poverty level, a higher civilian unemployment rate (compared to the State rate), per capita income, and persons (age 25 and older) without a high school diploma;
- iv) Designation by the U.S. Department of Health Human Services that all or part of the GSA is located in a Health Professional Shortage Area or a Medically Underserved Area;
- v) All existing birth centers within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) meet or exceed the utilization standard specified in 77 Ill. Adm. Code 1100.820(c).

B) Supporting Documentation

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

The applicant shall provide the following documentation, as applicable, concerning existing restrictions to service access:

- i) The location and utilization of other GSA service providers;
- ii) Patient location information by zip code;
- iii) Travel-time studies; and
- iv) Scheduling or admission restrictions that exist with birth centers located within the GSA.

d) Unnecessary Duplication / Maldistribution – Review Criterion

- 1) The applicant shall document that the project will not result in an unnecessary duplication of birth centers. The applicant shall provide the following information:
  - A) A list of all zip code areas (in total or in part) that are located within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) of the project's site;
  - B) The total population of the identified zip code areas (based upon the most recent population numbers available for the State of Illinois); and
  - C) The names and locations of all existing or approved birth centers situated within the established radii outlined in 77 Ill. Adm. Code 1100.510(d).
- 2) The applicant shall document that the project will not result in maldistribution of services. Maldistribution exists when the birth centers identified is subsection (1)(C), as established by 77 Ill. Adm. Code 1100.510(d), have not met the target utilization. The applicant shall document the following:
  - A) Historical utilization (for the latest 12-month period prior to submission of the application) for existing birth centers within the



## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

established radii, as outlined in 77 Ill. Adm. Code 1100.510(d), of the applicant's site that is below the utilization standard established pursuant to 77 Ill. Adm. Code 1100.820(c); or

B) Insufficient population to provide the volume or caseload necessary to utilize the Birth Center services proposed by the project at or above utilization standards.

3) The applicant shall document that, within 24 months after project completion, the proposed project will not:

A) lower the utilization of other birth centers within the GSA below the utilization standard specified in 77 Ill. Adm. Code 1100.820(c); and

B) lower, to a further extent, the utilization of other birth centers within the GSA that are currently (during the latest 12-month period) operating below the utilization standard.

4) The applicant shall document that a written request was received by all existing facilities that provide birth center services located within the established radii outlined in 77 Ill. Adm. Code 1100.510(d) of the project site asking the anticipated impact of the proposed project upon the facility's utilization. The request shall include a statement that a written response is to be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility will not experience an adverse impact on utilization from the project. Copies of the applicant's request and any correspondence received from the facilities shall be included in the application.

e) Category of Service - Modernization

1) If the project involves modernization of an existing birth center, the applicant shall document that the existing treatment areas to be modernized have deteriorated or are functionally obsolete and need to be replaced or modernized, due to such factors as, but not limited to:

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- A) High cost of maintenance;
  - B) Non-compliance with licensing or life safety codes;
  - C) Changes in standards of care; or
  - D) Need for additional space for diagnostic or therapeutic purposes.
- 2) Documentation shall include the most recent:
  - A) IDPH Inspection reports; and
  - B) Commission for the Accreditation of Birth Centers reports.
- 3) Other documentation shall include the following, as applicable to the factors cited in the application:
  - A) Copies of maintenance reports;
  - B) Copies of citations for life safety code violations; and
  - C) Other pertinent reports and data.
- f) Staffing Availability
  - 1) An applicant proposing to establish a birth center category of service shall document that a sufficient supply of obstetric personnel will be available to staff the service. Sufficient staff availability shall be based upon evidence that, for the latest 12-month period prior to submission of the application, existing birth centers that are located in the GSA (in total or in part) have not experienced a staffing shortage.
  - 2) A staffing shortage is indicated by an average annual vacancy rate of more than 10% for budgeted full-time equivalent obstetric personnel (staff who deliver or assist in the delivery of a newborn). This staffing includes, but is not limited to, advanced practice registered nurses, certified nurse midwives, licensed certified professional midwives, obstetricians, and patient care technicians.

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

- 3) The applicant shall document that a written request for staffing information was received by all existing facilities within the GSA, and that the request included a statement that a written response be provided to the applicant no later than 15 days after receipt. Failure by an existing facility to respond to the applicant's request for information within the prescribed 15-day response period shall constitute an assumption that the existing facility has not experienced staffing vacancy rates in excess of 10%. Copies of the applicant's request and any correspondence received from the facilities shall be included in the application.
- 4) If more than 25% of the facilities contacted indicate an experienced obstetric staffing vacancy rate of more than 10% percent, the applicant shall provide documentation as to how sufficient staff shall be obtained to operate the proposed project, in accordance with licensing requirements.
- g) Charity Care  
*A birth center shall provide charitable care consistent with that provided by comparable health care providers in the GSA. [210 ILCS 170/40(c)]*  
Documentation shall include a copy of the charity care policy that will be in effect at the birth center and copies of charity care policies from other birth centers located within the GSA. The applicant's charity care policy shall be compared to the other birth center providers in the GSA. If the applicant's charity care policy is inconsistent with the charity care policy of comparable health care providers in the GSA, the applicant shall provide an explanation.
- h) Admission Policies
- 1) For projects to establish a birth center, an applicant shall document that the birth center may not discriminate against any patient requiring treatment because of the source of payment for services, including Medicare and Medicaid recipients. [210 ILCS 170/40(d)] Documentation shall consist of a signed statement that no restrictions on admissions due to these factors will occur.
- 2) For projects to establish a birth center, an applicant shall document that all admission protocols, as referenced at 77 Ill. Adm. Code 264.1550, will be implemented, and followed once the birth center is licensed. Documentation shall consist of a signed statement that the birth center will adhere to the established requirements.

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

i) Transfer Agreement and Hospital Proximity

For projects to establish a birth center, an applicant shall document that it will have the mandatory linkage and integration requirements and that it will have a transfer agreement with a nearby birthing hospital. An applicant shall document the following:

- 1) *A birth center shall link and integrate its services with at least one birthing hospital with a minimum Level 1 perinatal designation. [210 ILCS 170/20(a)] The applicant shall provide an attestation that it will establish the necessary services.*
- 2) *The birth center shall have an established agreement with a nearby receiving birthing hospital with policies and procedures for timely transfer of maternal and neonatal patients. [210 ILCS 170/20(b)] The transfer agreement shall be in place prior to initiating the planning and construction of the facility. (77 Ill. Adm. Code 264.2770(a)(2)(A)) Patient transfers shall be within 30 minutes travel time for both rural and nonrural hospitals. (77 Ill. Adm. Code 264.2250(b) and 264.2700(a)(3)) The applicant shall provide a copy of the transfer agreement in the application for permit (77 Ill. Adm. Code 264.2700(a)(2)(A)).*

j) Prenatal Care and Community Education

For projects to establish a birth center, the applicant shall document that it *offers prenatal care and community education services and coordinates these services with other health care services available in the community. [210 ILCS 170/5(5)]* The applicant shall provide a written narrative on how these services will be offered and coordinated with other health care services in the community.

k) Quality Assurance and Improvement

For projects to establish a birth center, the applicant shall document that it *shall implement a quality improvement program consistent with the requirements of the accrediting body and is encouraged to participate in quality improvement projects implemented by the Department's Administrative Perinatal Centers and other Department-supported perinatal quality improvement projects. [210 ILCS 170/35]* The applicant shall provide a written narrative on how this requirement will be implemented at the birth center.

l) Mandatory Reporting of Data

## HEALTH FACILITIES AND SERVICE REVIEW BOARD

## NOTICE OF PROPOSED AMENDMENTS

Per Sections 13 and 14.1 of the Health Facilities Planning Act and 77 Ill. Adm. Code 1100.60, licensed birth centers shall provide data needed for planning. Data provided from these facilities shall include, but not be limited to, facility capacity, utilization, and socio-economic information. Data obtained from these facilities shall be included in the State Board's Inventory of Health Care Facilities and Services and Need Determinations.

(Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Consultative Examination Process
- 2) Code Citation: 89 Ill. Adm. Code 840
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
840.10	Amendment
840.11	Repealed
840.20	Repealed
840.30	Repealed
840.40	Repealed
840.50	Repealed
840.60	Repealed
840.70	Repealed
840.75	Repealed
840.80	Repealed
840.90	Repealed
840.95	Repealed
840.100	Repealed
840.105	Repealed
840.110	Repealed
840.115	Repealed
840.APPENDIX A	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues involved: These rules were intended to help ensure quality and integrity of Disability Case Development. The Bureau of Disability Determination Services currently follows the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) in determining disability. The current rules are obsolete and no longer meet the SSA criteria. As such, the rules are being amended to directly incorporate POMS.
- 6) Published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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 present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

(217) 785-9772  
DHS.AdministrativeRules@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: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory agenda on which this rulemaking was summarized: July 2023

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES

## SUBCHAPTER g: BUREAU OF DISABILITY DETERMINATION SERVICES

## PART 840

## THE CONSULTATIVE EXAMINATION PROCESS

## SUBPART A: CONSULTATIVE EXAMINATION PROCEDURES

## Section

- 840.10 [Incorporation by Reference](#) ~~Definitions~~
- 840.11 Incorporation by Reference [\(Repealed\)](#)
- 840.20 Criteria for Purchase of Consultative Examinations [\(Repealed\)](#)
- 840.30 Type of Purchased Consultative Examinations [\(Repealed\)](#)
- 840.40 Selection of a Source [\(Repealed\)](#)
- 840.50 Arranging for a Consultative Examination [\(Repealed\)](#)
- 840.60 Failure or Refusal to Appear for Consultative Examination [\(Repealed\)](#)
- 840.70 Sending Consultative Examination Report to Claimant's Treating Source [\(Repealed\)](#)

SUBPART B: MONITORING AND MANAGING  
THE CONSULTATIVE EXAMINATION PROCESS

## Section

- 840.75 Consultative Examination Report Content [\(Repealed\)](#)
- 840.80 Review of Consultative Examination Reports [\(Repealed\)](#)
- 840.90 Consultative Examination Oversight Plan [\(Repealed\)](#)
- 840.95 Program Integrity [\(Repealed\)](#)
- 840.100 Conflict of Interest [\(Repealed\)](#)
- 840.105 Handling Situation When Properly Signed Report Not Received [\(Repealed\)](#)
- 840.110 Claimant Evaluation of Consultative Examination Providers [\(Repealed\)](#)
- 840.115 Monitoring Qualifications of Consultative Examination Provider's Support Staff [\(Repealed\)](#)

840.APPENDIX A Preferred Consultant Types [\(Repealed\)](#)

AUTHORITY: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405/3].



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted at 11 Ill. Reg. 9315, effective April 28, 1987; amended at 16 Ill. Reg. 10301, effective June 15, 1992; amended at 46 Ill. Reg. 2967, effective February 4, 2022; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: CONSULTATIVE EXAMINATION PROCEDURES

**Section 840.10 Incorporation by ReferenceDefinitions**

- a) The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519p and 404.1519q.
- b) The Bureau shall adhere to the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) Ensuring Quality and Integrity of Consultative Examination (CE) Reports with regard to reviewing reports of consultative examinations.

~~"Adjudicative staff" means the staff who participate in making disability determinations.~~

~~"Bureau" means the Bureau of Disability Determination Services within the Illinois Department of Rehabilitation Services.~~

~~"Chief Medical Consultant" means the physician within the Bureau who, together with the Medical Relations Unit, has responsibility for coordinating and monitoring the panel of physicians who perform consultative examinations for the Bureau.~~

~~"Consultative examination" (CE) means a medical examination purchased by the Bureau from a treating physician or psychologist, another source of record, or an independent source to secure additional information necessary to make a disability determination or to resolve conflicting information.~~

~~"Curriculum vitae" means a summary of academic and professional qualifications submitted to the Bureau by consultative examination providers for review and approval.~~

~~"Department" means the Illinois Department of Rehabilitation Services.~~

~~"Evidence" means any information submitted relative to a claim for disability as~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~described in the Code of Federal Regulations 20 CFR 404.1512 and 416.912 as amended August 1, 1991.~~

~~"Geographical section" means the operational component of the Bureau which is composed of five adjudicative units and is set up to provide service to disability claimants according to their place of residence.~~

~~"Hold status" means a situation where there is a temporary suspension of referrals to a consultative examination provider due to inability to schedule appointments within 30 days, unacceptable reports, pending Bureau investigation as described in Section 840.90(b)(3), late reports, or provider request.~~

~~"Key provider" means a consultative examination provider that meets at least one of the conditions described in the Code of Federal Regulations 20 CFR 404.1519s and 416.919s as amended August 1, 1991.~~

~~"Medical or psychological consultants" means those physicians and psychologists who work directly for the Bureau or under contract and also those who do review and adjudication work in the Bureau.~~

~~"Program Operations Manual System (POMS)" means the policies and procedures of the Social Security Administration which set forth the objectives and requirements of the disability programs and furnish the standards with which Social Security Administration operating components must comply in the administration of the functions they perform. The Social Security Act is the basis for all standards set forth in the Program Operations Manual System.~~

~~"Treating source" means a medical source currently providing treatment to a claimant for alleged or documented impairments as described in the Code of Federal Regulations 20 CFR 404.1502 and 416.902 as amended August 1, 1991.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.11 Incorporation by Reference (Repealed)**

~~Incorporations by reference in this Part do not include any later amendments or editions.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

**Section 840.20 Criteria for Purchase of Consultative Examinations (Repealed)**

~~The Bureau incorporates the criteria specified in the Code of Federal Regulations 20 CFR 404.1517, 404.1519, 404.1519a, 404.1519b, 416.917, 416.919, 416.919a and 416.919b as amended August 1, 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.30 Type of Purchased Consultative Examinations (Repealed)**

- a) ~~The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519f and 416.919f as amended August 1, 1991.~~
- b) ~~The Bureau uses the consultant types listed in Part 840, Appendix A to determine the preferred specialty for consultative examinations. Appendix A lists the consultant types in order of preference by body system and is adhered to unless the specialty is unavailable in the geographic area in which a claimant resides.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.40 Selection of a Source (Repealed)**

- a) ~~The Bureau incorporates the following criteria described in the Code of Federal Regulations 20 CFR 404.1519g, 404.1519h, 416.919g, and 416.919h as amended August 1, 1991.~~
- b) ~~If the treating physician or psychologist is not used to perform the consultative examination, then an independent source who has been accepted by the Bureau as a consultative examination provider will be selected according to the Code of Federal Regulations 20 CFR 404.1519i, 404.1519j, 416.919i, and 416.919j as amended August 1, 1991, and POMS DI 22510.011 as amended August 1991.~~
- e) ~~If a source other than the claimant's treating physician or psychologist is used for a purchased examination or test, a claimant will be provided with the name of one consultant for each examination requested using the following criteria:~~
  - 1) ~~Claimants will be referred to consultants as close as possible to the claimant's place of residence;~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 2) ~~Consultants will be fluent in English or will speak the language of the claimant. If there is no consultant available who speaks the claimant's language, then the Bureau will assist the claimant in arranging for an interpreter. The Bureau will pay for an interpreter if payment is requested.~~
- 3) ~~Consultants placed on "hold status" will not be selected;~~
- 4) ~~Consultants listed as previously used for a claimant will not be selected.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.50 Arranging for a Consultative Examination (Repealed)**

- a) ~~The Bureau incorporates the standards as stated in the Code of Federal Regulations 20 CFR 404.1519k, 404.1519m, 404.1519n, 416.919k, 416.919m, and 416.919n as amended August 1, 1991.~~
- b) ~~The Bureau has established the following procedure when arranging for a consultative examination:~~
  - 1) ~~The claimant will be sent a written notice as described in POMS DI 22510.016D as revised August 1991.~~
  - 2) ~~In the event that the claimant has a representative, the Bureau will follow the criteria specified in POMS DI 22510.016E as revised August 1991.~~
  - 3) ~~A voucher authorization explaining the type of examination and tests to be performed, how the appointment will be scheduled, and how to complete the vouchers for payment will be sent to the examining consultant.~~
  - 4) ~~If a source other than the treating physician or psychologist is used, background disability material will be sent to the consultant for review prior to the examination.~~
  - 5) ~~When a claimant objects to the consultant used for the examination, the Bureau will follow the criteria specified in the POMS DI 22510.010 as revised August 1991.~~
  - 6) ~~When a claimant objects to the date or time of the scheduled examination,~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~the Bureau will follow the criteria specified in the POMS DI 22510.017 as revised August 1991.~~

- 7) ~~In regard to consultative examination follow-up schedules with claimants, the Bureau will follow the criteria set forth in the POMS DI 22510.017 as revised August 1991.~~
- 8) ~~A claimant will be reimbursed for travel according to the policy stated in the Code of Federal Regulations 20 CFR 404.999a, 404.999b, 404.999c, 404.999d, 416.1495, 416.1496, 416.1498, and 416.1499 as amended March 14, 1986; and POMS DI 39525 as amended February 1989. Reimbursement for travel, meals, and lodging will be made in accordance with 80 Ill. Adm. Code 2800.~~
- 9) ~~A consultant making a home visit will be paid \$20.00 plus \$.40 per mile or a minimum of \$5.00 for travel and for mileage, if mileage is over 12 miles round trip from the consultant's office or home. Mileage will be computed using the most direct route from the consultant's office/home to the claimant's home.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.60 Failure or Refusal to Appear for Consultative Examination (Repealed)**

~~The Bureau will handle a situation in which the claimant fails or refuses to appear for a consultative examination according to the specifications of 89 Ill. Adm. Code 843.150.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.70 Sending Consultative Examination Report to Claimant's Treating Source (Repealed)**

~~The Bureau will send a copy of the consultative examination report upon request, following the specifications in POMS DI 22510.030 as amended August 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**SUBPART B: MONITORING AND MANAGING  
THE CONSULTATIVE EXAMINATION PROCESS**

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

**Section 840.75 Consultative Examination Report Content (Repealed)**

- a) ~~The Bureau incorporates the standards listed in the Code of Federal Regulations 20 CFR 404.1519n, 20 CFR 416.919n as amended August 1, 1991, and POMS DI 22510.021—22510.027 as revised August 1991.~~
- b) ~~To ensure that uniform standards are used in preparing consultative examination reports, the Bureau provides each consultant with a packet containing sample reports for his or her specialty.~~
- c) ~~The first five reports of new consultants are reviewed for acceptable report content according to the standards set forth in the Code of Federal Regulations 20 CFR 404.1519n, 20 CFR 416.919n as amended August 1, 1991, and POMS DI 22510.021—22510.027 as revised August 1991.~~
- d) ~~The Bureau conducts an ongoing review of cases with regard to consultative examination report content as described in the standards incorporated in 89 Ill. Adm. Code 840.75a.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.80 Review of Consultative Examination Reports (Repealed)**

- a) ~~The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519p and 404.1519q.~~
- b) ~~The Bureau shall adhere to POMS DI 39545.400 Ensuring Quality and Integrity of Consultative Examination (CE) Reports with regard to reviewing reports of consultative examinations.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.90 Consultative Examination Oversight Plan (Repealed)**

- a) ~~The Bureau will conduct a consultative examination oversight following the specifications set forth in the Code of Federal Regulations 20 CFR 404.1519s, 404.1519t, 416.919s, and 416.919t as amended August 1, 1991, and POMS DI~~



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~E39545.400—.425 as revised August 1991.~~

- b) ~~The Bureau also uses the following procedures with regard to establishment of a consultative examination oversight plan:~~
- 1) ~~The following steps will be taken with regard to recruitment of the consultative panel:~~
- A) ~~The Bureau will undertake active recruitment of the consultative panel by contacting county medical societies, medical schools, Department field offices, physicians, clinics and various other medical sources in the community by mail, telephone and in person indicating Bureau needs and explaining the consultative examination process.~~
- B) ~~After a potential consultant has agreed to accept the Bureau's medical fees, perform examinations and testing according to the Bureau's requirements and submit examination reports per the Bureau's criteria concerning substance, quality and timeliness, a curriculum vitae will be requested.~~
- C) ~~The curriculum vitae will be reviewed and approved or disapproved by the Chief Medical Consultant. If the curriculum vitae is not approved, the consultant will be notified and will be informed of the reason(s) for disapproval and what, if any, actions can be taken to correct the problems.~~
- D) ~~After review and approval of the curriculum vitae, the following actions will be taken:~~
- i) ~~The medical board of a physician consultant's speciality will be contacted to verify certification or eligibility for certification for the particular specialty (e.g., internal medicine, psychiatry, neurology, etc.).~~
- ii) ~~The Illinois Department of Registration and Education will be contacted to verify that the consultant is licensed and to determine if any disciplinary action has been taken or is pending against the consultant.~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- iii) ~~The State of Illinois Comptroller's office will be contacted if the consultant indicates employment by another State agency. If the consultant is employed full-time by another State agency, then the Bureau will request that the consultant obtain a waiver from the Governor's office to perform consultative examinations and submit it to the Bureau.~~
- iv) ~~If it is determined that the consultant is not board-certified or eligible for certification (except if the consultant is the claimant's treating physician or psychologist), is not licensed or has had disciplinary action taken or is pending, or has not or refuses to sign a waiver as described in Section 840.90(b) (1) (D) (iii) then the consultant will be given written notification that the Bureau will not accept his or her application to perform consultative examinations. He or she will be informed of the reasons for nonacceptance. The Bureau will indicate that, if the situation is rectified at a later time, the consultant can reapply.~~
- E) ~~According to the Code of Federal Regulations 20 CFR 404.1519s and 416.919s, orientation will be conducted before a consultant receives any referrals for examinations. The consultant will be given an orientation packet consisting of information on the Social Security disability program, medical evidence and consultative examination report requirements, consultative examination procedures, teledictation service, and confidentiality of records. He or she will also be given a copy of the Privacy Act of 1974 (5 U.S.C. 552a and 552a note), Handbook for Physicians, the Bureau's fee schedule, sample examination reports and sample information. The consultant will provide information for completion of a Consultative Panel Information Form which contains informaton about the consultant's practice and x ray, laboratory and testing procedures. The consultant will sign a Medical Disclosure Acknowledgement Form which explains that the consultant is prohibited from unauthorized disclosure of information obtained in conjunction with the Social Security~~



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~disability program.~~

- 2) ~~According to the Code of Federal Regulations 20 CFR 404.1519s and 416.919s as amended August 1, 1991, the Bureau will undertake a program of systematic, onsite reviews of key providers that will include annual onsite reviews of such providers when claimants are present for examinations. The Bureau will use the review protocol for onsite review as specified in POMS DI E39545.445 and E39545.900 as revised August 1991.~~
- 3) ~~The following situations are subject to investigation and shall result in removal of a consultative examination provider from the consultative panel, if the situation is not resolved:~~
  - A) ~~claimant complaints~~
  - B) ~~conflict of interest as described in Code of Federal Regulations 20 CFR 404.1519a and 416.919a as amended August 1, 1991~~
  - C) ~~evidence of fraud in report preparation~~
  - D) ~~facility in which exams are performed is unacceptable (e.g., inaccessible by persons with disabilities; the location, facility, equipment, or staff are not hygienic; improper use of equipment or equipment unacceptable per disability program requirements; license not displayed)~~
  - E) ~~unacceptable reports (e.g., objective evidence not provided, use of decisional comments, brevity to the point that completeness of exam is questionable)~~
  - F) ~~late reports~~
  - G) ~~license revoked or suspended~~
  - H) ~~fees which are above the usual and customary fees requested by other consultants in the area where the consultant is located~~
  - I) ~~American Medical Association complaints~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~J) any other situation which is detrimental to the claimant or the claimant's determination of disability or blindness~~

~~K) death, retirement, request to be removed from panel.~~

~~4) The consultant will be given the opportunity to submit evidence on his or her behalf and to correct the problems when possible. Referrals to the consultant may be suspended pending the outcome of an investigation.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.95 Program Integrity (Repealed)**

~~The Bureau will ensure program integrity by following the guidelines set forth in the Code of Federal Regulations 20 CFR 404.1503a and 416.903a as amended August 1, 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.100 Conflict of Interest (Repealed)**

~~The Bureau will avoid all implications of possible conflict of interest between medical or psychological consultants and their medical or psychological practices by following the guidelines indicated in the Code of Federal Regulations 20 CFR 404.1519q and 416.919q as amended August 1, 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.105 Handling Situation When Properly Signed Report Not Received (Repealed)**

~~The Bureau will take action when a properly signed report of consultative examination has not been received by following the guidelines specified in the Code Federal Regulations 20 CFR 404.1519o and 416.919o as amended August 1, 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.110 Claimant Evaluation of Consultative Examination Providers (Repealed)**

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~The Bureau will conduct claimant evaluation of consultative examination providers according to the guidelines set forth in POMS DI E39545.450 as revised August 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 840.115 Monitoring Qualifications of Consultative Examination Provider's Support Staff (Repealed)**

~~The physician or psychologist selected to perform a consultative examination may use support staff to help with the examination as described in the Code of Federal Regulations 20 CFR 404.1519g and 416.919g as amended August 1, 1991. The Bureau will follow the criteria indicated in POMS DI E39545.425 as revised August 1991 to monitor qualifications of consultative examination providers' support staff.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

**Section 840.APPENDIX A Preferred Consultant Types (Repealed)**

<u>Body System</u>	<u>Consultant Type</u>
<del>Bones and Muscles</del>	<del>Orthopedist (bone specialist), surgeon</del>
<del>Eye</del>	<del>Ophthalmologist (eye specialist)</del>
<del>Hearing</del>	<del>Ear, nose and throat specialist</del>
<del>Breathing</del>	<del>Internal medicine specialist, chest surgeon</del>
<del>Heart and Blood Vessels</del>	
<del>a. Heart disease</del>	<del>Cardiologist, (heart specialist), internal medicine specialist</del>
<del>b. Blood vessel disease</del>	<del>Vascular (blood vessel) surgeon, internal medicine specialist</del>
<del>Digestive (stomach, intestines, liver)</del>	<del>Gastroenterologist, internal medicine specialist</del>
<del>Kidneys and urinary tract</del>	<del>Urologist, internal medicine specialist</del>
<del>Blood and Lymph Nodes</del>	<del>Hematologist (blood specialist), internal blood specialist</del>
<del>Skin</del>	<del>Dermatologist (skin specialist), internist</del>
<del>Hormones</del>	<del>Internal medicine specialist, Endocrinologist (hormone specialist)</del>
<del>Multiple body system</del>	<del>Internal medicine specialist</del>
<del>Neurological (Nerves)</del>	<del>Neurologist (nerve specialist), internal medicine specialist</del>
<del>Mental disorders</del>	
<del>a. Schizophrenic, paranoid, mood, personality and anxiety disorders</del>	<del>Psychiatrist and/or psychologist</del>
<del>b. Mental retardation, chronic brain syndromes and substance abuse</del>	<del>Psychologist and/or psychologist or Neuropsychiatrist</del>
<del>Cancer</del>	<del>Surgeon, internal medicine specialist, oncologist (cancer specialist) (if appropriate)</del>

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Disability Case Development Process
- 2) Code Citation: 89 Ill. Adm. Code 843
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
843.10	Amendment
843.11	Repealed
843.20	Repealed
843.30	Repealed
843.40	Repealed
843.50	Repealed
843.60	Repealed
843.61	Repealed
843.70	Repealed
843.80	Repealed
843.90	Repealed
843.100	Repealed
843.110	Repealed
843.120	Repealed
843.121	Repealed
843.130	Repealed
843.140	Repealed
843.150	Repealed
843.160	Repealed
843.170	Repealed
843.180	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: These rules were intended to help ensure quality and integrity of Disability Case Development. The Bureau of Disability Determination Services currently follows the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) in determining disability. The current rules are obsolete and no longer meet the SSA criteria. As such, the rules are being amended to directly incorporate POMS and ensure the Bureau is operating under current SSA policy.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 6) Published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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 present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

(217) 785-9772  
DHS.AdministrativeRules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not or profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 14) Small Business Impact Analysis: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES

## SUBCHAPTER g: BUREAU OF DISABILITY DETERMINATION SERVICES

## PART 843

## DISABILITY CASE DEVELOPMENT PROCESS

## SUBPART A: INITIAL, RECONSIDERATION, AND REOPENING CASE DEVELOPMENT

## Section

- 843.10 [Incorporation by Reference](#) ~~Definitions~~
- 843.11 Incorporation by Reference [\(Repealed\)](#)
- 843.20 Preliminary Case Action [\(Repealed\)](#)
- 843.30 Medical Evidence of Record Development [\(Repealed\)](#)
- 843.40 Consultative Examination Procedure [\(Repealed\)](#)
- 843.50 Vocational Evidence Development [\(Repealed\)](#)
- 843.60 Daily Activities Development for Mental Impairment Claims [\(Repealed\)](#)
- 843.61 Case Development for Supplemental Security Income (SSI) Claimants Under Age Eighteen [\(Repealed\)](#)

## SUBPART B: CONTINUING DISABILITY REVIEW (CDR) CASE DEVELOPMENT

## Section

- 843.70 Contact With Claimants [\(Repealed\)](#)
- 843.80 Medical Evidence of Record Development [\(Repealed\)](#)
- 843.90 Conflicts Between the Individual and the Medical Source [\(Repealed\)](#)
- 843.100 Consultative Examination Procedure [\(Repealed\)](#)
- 843.110 Vocational Evidence Development [\(Repealed\)](#)
- 843.120 Cessation Without Full Medical Development (Clear-Cut Cessation) [\(Repealed\)](#)
- 843.121 Evaluation of Continuing Disability for SSI Childhood Claims [\(Repealed\)](#)

## SUBPART C: SPECIAL ISSUES AFFECTING CASE DEVELOPMENT

## Section

- 843.130 Capability Development [\(Repealed\)](#)
- 843.140 Claimant Representative Involvement [\(Repealed\)](#)
- 843.150 Issues Which Necessitate Curtailing Development [\(Repealed\)](#)
- 843.160 Issues Which Necessitate Reopening a Prior Decision [\(Repealed\)](#)
- 843.170 Disposition of Trailer Mail [\(Repealed\)](#)



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

843.180 Processing Out-of-State Court Cases (Repealed)

AUTHORITY: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405].

SOURCE: Adopted at 12 Ill. Reg. 13996, effective August 23, 1988; amended at 13 Ill. Reg. 4298, effective March 15, 1989; amended at 15 Ill. Reg. 8294, effective May 16, 1991; amended at 16 Ill. Reg. 10316, effective June 15, 1992; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: INITIAL, RECONSIDERATION, AND REOPENING CASE DEVELOPMENT

**Section 843.10 Incorporation by Reference Definitions**

- a) The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519p and 404.1519q.
- b) The Bureau shall adhere to the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) with regard to the disability case development process.

~~"Activities of daily living for children" means those activities of children that involve continuity of purpose and action, and goal or task orientation; that is, the practical implementation of skills mastered at earlier ages as specified in the Code of Federal Regulations 20 CFR 416.924a(C) as amended February 11, 1991.~~

~~"Age appropriate activities" means the normal activities of a child of any age; that is, what a child is expected to be able to do given his or her age as specified in the Code of Federal Regulations 20 CFR 416.924a(C) as amended February 11, 1991.~~

~~"Bureau" means the Bureau of Disability Determination Services.~~

~~"Claimant representative" means an attorney or other individual appointed by the claimant to act for him/her in the prosecution of a disability claim, who is qualified pursuant to the definition of "representative" in 89 Ill. Adm. Code 853.10.~~

~~"Clear-cut cessation" means a decision to discontinue disability benefits/payments without current medical development (i.e., the acquisition of medical evidence~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~subsequent to the receipt of the case file by the Bureau for the purpose of conducting continuing disability review) when the claimant has returned to full-time work as defined in and meets the criteria as set forth in the Program Operations Manual System DI 28030.035 et seq. as amended June 1991.~~

~~"Complete medical history" means the records of the claimant's medical sources covering a time period as specified in the Code of Federal Regulations 20 CFR 404.1512(d)(2) and 416.912(d)(2) as amended August 1, 1991.~~

~~"Continuing Disability review" means the periodic reexamination of a case, which is conducted pursuant to 89 Ill. Adm. Code 850 for which an allowance has been processed in order to determine if the claimant continues to be disabled.~~

~~"Daily activities development" means the process of obtaining a description of the claimant's customary actions, interests, and interpersonal relationships from medical and/or lay sources who have knowledge of the claimant's living conditions.~~

~~"Developmental domain" means a broad area of development including major spheres of physical, cognitive, communication, social, and emotional activity for children from birth to age six as specified in the Code of Federal Regulations 20 CFR 416.924a(C) as amended February 11, 1991.~~

~~"Developmental milestones" means a child's expected principal developmental achievements at particular points in time as specified in the Code of Federal Regulations 20 CFR 416.924a(C) as amended February 11, 1991.~~

~~"Domain" means a broad sphere of physical and mental functioning measured by how well the child can do age-appropriate activities as specified in the Code of Federal Regulations 20 CFR 416.924a(C) as amended February 11, 1991.~~

~~"Every reasonable effort" means that the Bureau will make an initial request for evidence from the claimant's medical source, and at any time between 10 and 20 calendar days after the initial request, if the evidence has not been received, the Bureau will make one follow-up request to obtain the medical evidence necessary to make a determination according to the specifications in the Code of Federal Regulations 20 CFR 404.1512(d)(1) and 416.912(d)(1) as amended August 1, 1991.~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~"Evidence" means any information submitted relative to a claim for disability as described in the Code of Federal Regulations 20 CFR 404.1512 and 416.912 as amended August 1, 1991.~~

~~"Functional domain" means a broad area of development including major spheres of physical, cognitive, communication, social, and emotional activity for children from age six to age sixteen as specified in the Code of Federal Regulations 20 CFR 416.924a(C) as amended February 11, 1991.~~

~~"Functional equivalence" means the decision, based on an assessment of a child's functioning, that an impairment(s) exists which is of comparable severity to an impairment which would disable an adult as specified in the Code of Federal Regulations 20 CFR 416.926a as amended February 11, 1991.~~

~~"Individualized functional assessment" means the evaluation of functional limitations and abilities in a child to determine whether an impairment(s) exists which would disable an adult as specified in the Code of Federal Regulations 20 CFR 416.924a(C) as amended February 11, 1991.~~

~~"Medical evidence of record" means medical information on file for a patient, such as reports of exams, progress notes, and test results, which are obtained from a treating source or source of record as defined in Program Operations Manual System DI 22505.003 as amended August 1991.~~

~~"Medical Information Unit" (MIU) means the unit established by the Bureau to perform various functions involving the consultative examination process and to coordinate all correspondence, communication, and record keeping between the Bureau and Cook County Hospital and Fantus Clinic of Chicago, Illinois.~~

~~"Presumptive disability/blindness decision" means a favorable decision rendered for a Supplemental Security Income (SSI) claim based on the evaluation criteria as set forth in the Program Operations Manual System DI 23535.005, as amended October 1988; such decision permits the claimant to receive payments prior to the formal decision.~~

~~"Program Operations Manual System" means the policies and procedures of the Social Security Administration which set forth the objectives and requirements of the disability programs and furnish the standards with which Social Security Administration operating components must comply in the administration of the~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~functions they perform. The Social Security Act is the basis for all standards set forth in the Program Operations Manual System.~~

~~"Residual functional capacity" means the ability to function in a work setting despite the limitations imposed by a physical or mental impairment as determined pursuant to Program Operations Manual System DI 24510.001 as amended July 1989 and DI 25001.001, as amended March 1989.~~

~~"Sequential evaluation" means the order in which factors regarding impairment severity and work status are considered in the adjudication process, pursuant to 89 Ill. Adm. Code 845.~~

~~"Source of record" means a hospital, clinic or other source that has provided the claimant with medical treatment or evaluation but does not have or did not have an ongoing treatment relationship with the claimant as described in the Code of Federal Regulations 20 CFR 404.1502 and 416.902 amended August 1, 1991.~~

~~"Trailer mail" means medical evidence and other case related correspondence received in the Bureau after the claim has been adjudicated and released.~~

~~"Treating source" means a medical source currently providing treatment to a claimant for alleged or documented impairments as described in the Code of Federal Regulations 20 CFR 404.1502 and 416.913 as amended August 1, 1991.~~

~~"Vocational evidence" means documentation of the claimant's residual functional capacity, age, education, and work experience used when a disability decision based on medical evidence alone cannot be made.~~

~~"Work evaluation" means a program conducted at a work evaluation facility, which has an annual service agreement pursuant to 89 Ill. Adm. Code 530, to assess by testing of function and job sampling the claimant's ability to adjust to work pursuant to Program Operations Manual System DI 22515.010 as amended November 1988.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.11 Incorporation by Reference (Repealed)**

~~Incorporations by reference in this Part do not include any later amendments or editions.~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.20 Preliminary Case Action (Repealed)**

- a) ~~A claimant will provide consent to the Bureau to contact sources who may have evidence to document the claim by signing the Disability Insurance Benefit and/or Supplemental Security Income (SSI) application(s) and a medical release form when filing for benefits/payments. The Bureau will obtain and disclose such evidence following the guidelines governing disclosure set forth in the Program Operations Manual System DI 30510.000 as amended February 1988 and DI 30515.000 et seq. as amended January 1986. The claimant may revoke the consent at any time, but the consent will be valid until final disposition of the disability claim or one year.~~
- b) ~~To insure the impartiality of the adjudicative team, the Bureau will assign a claim for which an earlier unfavorable determination was rendered, to an adjudicator and medical consultant who did not participate in that decision.~~
- e) ~~All incoming SSI cases will be reviewed to determine if a presumptive disability/blindness decision can be made following the criteria in the Program Operations Manual System DI 23535.000 et seq. as amended October 1988.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.30 Medical Evidence of Record Development (Repealed)**

- a) ~~The Bureau incorporates the standards for obtaining medical evidence of record as set forth in the Code of Federal Regulations 20 CFR 404.1512, 404.1513, 416.912 and 416.913 as amended August 1, 1991 and in the Program Operations Manual System DI 22505.000 et seq. as revised August 1991.~~
- b) ~~The Bureau's Medical Information Unit (MIU) will be responsible for processing all requests for medical evidence of record from Cook County Hospital and Fantus Clinic of Chicago, Illinois.~~
- e) ~~The Bureau has developed the following policy regarding payment for medical evidence:~~



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) ~~Only one payment will be proffered per source. Payment rates are established pursuant to provisions set forth in 89 Ill. Adm. Code 545.~~
- 2) ~~When a reconsideration claim is filed requiring that the same source be contacted for additional evidence, another payment will be proffered, because a new application at a higher level of appeal is being developed.~~
- 3) ~~If a contact does not yield medical evidence of record, payment will not be proffered.~~
- d) ~~The Bureau will handle opinion evidence submitted according to the guidelines set forth in the Code of Federal Regulations 20 CFR 404.1527 and 416.927 as amended August 1, 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.40 Consultative Examination Procedure (Repealed)**

~~For the provisions governing the Bureau's consultative examination procedure, refer to 89 Ill. Adm. Code 840 (the Consultative Examination Process).~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.50 Vocational Evidence Development (Repealed)**

- a) ~~The Bureau will determine whether complete vocational development is needed for the claim by following the steps of sequential evaluation described in 89 Ill. Adm. Code 845 (Sequential Evaluation Process for the Determination of Disability).~~
- b) ~~The Bureau incorporates the criteria for vocational evidence development as specified in the Program Operations Manual System DI 22515.000 et seq. as amended November 1988.~~
- e) ~~If the Bureau cannot assess the residual functional capacity based on medical and vocational evidence as defined by the Program Operations Manual System DI 22505.000 as amended August 1991, and DI 22515.000, as amended November 1988, the Bureau will provide the claimant with the following information:~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) ~~The reason that the additional evidence is needed;~~
  - 2) ~~A description of the work evaluation process;~~
  - 3) ~~The dates during which the evaluation will occur;~~
  - 4) ~~Transportation available from the facility or the travel reimbursement policy as set forth in 89 Ill. Adm. Code 840.50(b)(10);~~
  - 5) ~~Directions to get to the facility and the contact person at the site;~~
  - 6) ~~Instructions regarding medication, prostheses, and the money necessary for meals that should be taken to the evaluation;~~
  - 7) ~~Description of the lodging arrangement.~~
- d) ~~If a claimant fails to participate or cannot be contacted regarding a work evaluation, the Bureau will follow the guidelines for securing claimant cooperation as stated in the Program Operations Manual System DI 22501.003 et seq. as amended August 1988.~~
- e) ~~If a claimant fails to go to the work evaluation for a valid reason as set forth in Program Operations Manual System DI 22510.017 as revised August 1991, but is willing to participate, the Bureau will recontact the facility to arrange for the claimant to complete the evaluation.~~
- f) ~~Reimbursement for travel, meals and lodging will be made in accordance with 80 Ill. Adm. Code 2800.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.60 Daily Activities Development for Mental Impairment Claims (Repealed)**

- a) ~~The Bureau incorporates the guidelines for daily activities in mental impairment claims set forth in the Program Operations Manual System DI 22511.001–22511.013 as amended August 1988. Mental impairments are defined in 20 CFR 404.Subpart P, Appendix A, 12.00 (1990).~~
- b) ~~The Bureau will prepare a mental residual capacities assessment for cases~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~involving a mental impairment in accordance with the Program Operations Manual System DI 24510.025 and DI 24510.060—24510.065, as amended July 1989.~~

- e) ~~If a claimant alleging a mental impairment refuses or fails to comply with a Department request for further development without good and valid reason, as explained in the Program Operations Manual System DI 22501.003 as amended August 1988, the Bureau will obtain assistance through contact with a third party or Social Security Administration field office assistance according to the guidelines in the Program Operations Manual System DI 22501.003 et seq. as amended August 1988 and DI 22505.050 et seq. as amended October 1987.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.61 Case Development for Supplemental Security Income (SSI) Claimants Under Age Eighteen (Repealed)**

- a) ~~The Bureau incorporates the guidelines for conducting individualized functional assessments for SSI claimants under age eighteen as specified in the Code of Federal Regulations 20 CFR 416.924—416.924f as amended February 11, 1991.~~
- b) ~~The Bureau will determine functional equivalence for such claims in accordance with the Code of Federal Regulations 20 CFR 415.926a as amended February 11, 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**SUBPART B: CONTINUING DISABILITY REVIEW (CDR) CASE DEVELOPMENT**

**Section 843.70 Contact With Claimants (Repealed)**

- a) ~~If information obtained by the SSA field office during the CDR interview does not meet the requirements contained in the Program Operations Manual System DI 28030.020, as amended June 1991, and DI 28030.030, as amended June 1991, the Bureau will directly contact the claimant or his/her representative for the necessary information following the guidelines set forth in the Program Operations Manual System DI 28030.015(A) as amended June 1987.~~
- b) ~~If SSA field office assistance is needed to obtain the desired information,~~



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~according to the provisions in the Program Operations Manual System DI 28030.015(B) as amended June 1987, the Bureau will request such assistance in accordance with the guidelines set forth in the Program Operations Manual System DI 22505.050 et seq. as amended October 1987.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.80 Medical Evidence of Record Development (Repealed)**

~~The Bureau will develop medical evidence of record for the CDR claim according to the guidelines cited in the Code of Federal Regulations 20 CFR 404.1593 and 416.993 as amended August 1, 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.90 Conflicts Between the Individual and the Medical Source (Repealed)**

~~The Bureau will resolve conflicts between the claimant and the treating physician regarding ability to return to work by following the guidelines specified in the Program Operations Manual System DI 28030.020(C) as amended June 1987.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.100 Consultative Examination Procedure (Repealed)**

~~For the provisions governing the Bureau's consultative examination procedure, refer to 89 Ill. Adm. Code 840 (the Consultative Examination Process).~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.110 Vocational Evidence Development (Repealed)**

~~The Bureau will develop vocational evidence for the CDR claim according to the guidelines cited in Section 843.50.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.120 Cessation Without Full Medical Development (Clear-Cut Cessation) (Repealed)**

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~The Bureau will determine the need for a cessation of benefits without full medical development for the CDR claim according to the criteria set forth in the Program Operations Manual System DI 28030.035 et seq. as amended June 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.121 Evaluation of Continuing Disability for SSI Childhood Claims (Repealed)**

~~The Bureau will determine whether or not a child previously found to be disabled and eligible for SSI payments continues to be disabled according to the criteria set forth in the Code of Federal Regulations 20 CFR 416.994—416.994i as amended February 11, 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART C: SPECIAL ISSUES AFFECTING CASE DEVELOPMENT

**Section 843.130 Capability Development (Repealed)**

~~The Bureau incorporates the standards for capability development as set forth in the Program Operations Manual System DI 23001.000 et seq. as amended March 1989.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.140 Claimant Representative Involvement (Repealed)**

~~For the provisions governing the Bureau's procedure for handling claimant representative involvement, refer to 89 Ill. Adm. Code 853.110.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.150 Issues Which Necessitate Curtailing Development (Repealed)**

- a) ~~When the claimant leaves Illinois before a decision on the case has been made, the Bureau will follow the steps specified in the Program Operations Manual System DI 20101.035 et seq. as amended October 1987.~~
- b) ~~The Bureau will curtail development and return the case to the SSA field office as directed by the Program Operations Manual System DI 20101.000 et seq. as~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~amended October 1987.~~

- ~~e) The Bureau will take action when the claimant fails to cooperate with the Bureau or SSA field office in accordance with the criteria stated in the Program Operations Manual System DI 23010.000 et seq., as amended July 1989, DI 22505.012, DI 22510.10(A), DI 22510.018, DI 22510.017 and DI 22505.030 as amended August 1991.~~
- ~~d) When the claimant withdraws or does not wish to pursue the claim, the Bureau will follow the steps described in the Program Operations Manual System DI 23015.000 et seq. as amended January 1986.~~
- ~~e) When the claimant's whereabouts become unknown during the processing of the claim, the Bureau will take action as described in the Program Operations Manual System DI 23005.000 et seq. as amended February 1989.~~
- ~~f) When the claimant dies before completion of the case processing, the Bureau will follow the criteria set forth in the Program Operations Manual System DI 23510.000 et seq. as amended January 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.160 Issues Which Necessitate Reopening a Prior Decision (Repealed)**

- ~~a) Case development for initial and reconsideration claims will be curtailed and a prior decision reopened, when the Bureau finds a basis for such action according to the criteria set forth in the Program Operations Manual System DI 27501.000 and DI 27505.000 et seq. as amended July 1989.~~
- ~~b) Prior CDR decisions will be reopened following the criteria stated in the Program Operations Manual System DI 28501.000 et seq. as amended January 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.170 Disposition of Trailer Mail (Repealed)**

- ~~a) The Bureau will process trailer mail for initial, reconsideration, and reopening claims following the guidelines set forth in the Program Operations Manual System DI 22520.000 et seq. as amended January 1986.~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- b) ~~Trailer mail for CDR claims will be handled in accordance with the Program Operations Manual System DI 28030.040 as amended January 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 843.180 Processing Out-of-State Court Cases (Repealed)**

~~With regard to the following class action lawsuits, the Bureau incorporates the specified court-ordered criteria for development of medical and/or vocational evidence:~~

- a) ~~In the case of Boyd, et al. v. Sullivan, POMS DI 32532.000 et seq. revised March 1990.~~
- b) ~~In the case of Hyatt, et al. v. Sullivan, POMS DI 32548.000 et seq. revised January 1991.~~
- c) ~~In the case of Morrison, Doe and Decker, POMS DI 32551.000 et seq. revised August 1990.~~
- d) ~~In the case of Polaski, et al. v. Bowen, POMS DI 32553.000 et seq. revised August 1989.~~
- e) ~~In the case of Samuels, et al. v. Bowen, POMS DI 32555.000 et seq. revised March 1990.~~
- f) ~~In the case of Sullivan v. Zebley, POMS DI E32597.000 et seq. revised July 1991.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Sequential Evaluation Process for the Determination of Disability
- 2) Code Citation: 89 Ill. Adm. Code 845
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
845.10	Amendment
845.11	Repealed
845.20	Repealed
845.30	Repealed
845.40	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: These rules were intended to help ensure quality and integrity of Disability Case Development. The Bureau of Disability Determination Services currently follows the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) in determining disability. The current rules are obsolete and no longer meet the SSA criteria. As such, the rules are being amended to directly incorporate POMS and ensure the Bureau is operating under current SSA policy.
- 6) Published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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 present their comments concerning these rules

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

(217) 785-9772  
DHS.AdministrativeRules@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: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES

## SUBCHAPTER g: BUREAU OF DISABILITY DETERMINATION SERVICES

## PART 845

## SEQUENTIAL EVALUATION PROCESS FOR THE DETERMINATION OF DISABILITY

## Section

845.10	<u>Incorporation by Reference</u> <del>Definitions</del>
845.11	Incorporation by Reference <u>(Repealed)</u>
845.20	Steps of Sequential Evaluation <u>(Repealed)</u>
845.30	Multiple Impairments <u>(Repealed)</u>
845.40	Evaluation of Pain and Other Symptoms <u>(Repealed)</u>

AUTHORITY: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405].

SOURCE: Adopted at 10 Ill. Reg. 19764, effective November 6, 1986; peremptory amendment at 12 Ill. Reg. 5467, effective February 25, 1988; amended at 13 Ill. Reg. 19308, effective November 22, 1989; amended at 15 Ill. Reg. 8304, effective May 20, 1991; amended at 16 Ill. Reg. 2615, effective February 4, 1992; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 845.10 Incorporation by Reference~~Definitions~~**

- a) The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519p and 404.1519q.
- b) The Bureau shall adhere to the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) with regard to the sequential evaluation process for the determination of disability.

~~"Bureau" means the Bureau of Disability Determination Services within the Illinois Department of Rehabilitation Services.~~

~~"Duration requirement" means the requirement that a disability has lasted or is expected to last 12 continuous months or can be expected to result in death.~~

~~"Functional equivalence" means the decision that an impairment(s) exists which is of comparable severity to an impairment which would disable an adult based on~~



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~an assessment of a child's functioning.~~

~~"Individualized functional assessment" means the evaluation of functional limitations and abilities in a child to determine whether an impairment(s) exists which would disable an adult.~~

~~"Residual functional capacity" means the remaining ability to function in a work setting despite the limitations imposed by a physical or mental impairment.~~

~~"Vocational considerations" means information about an individual's residual functional capacity, age, education and work experience used when a disability decision based on medical evidence alone cannot be made.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 845.11 Incorporation by Reference (Repealed)**

~~Incorporations by reference in this Part do not include any later amendments or editions.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 845.20 Steps of Sequential Evaluation (Repealed)**

- a) ~~The Bureau incorporates the criteria specified in the Code of Federal Regulations 20 CFR 404.1520-1520a, 404.1581, and 416.981 revised April 1, 1989; 20 CFR 416.920, 416.923, 416.924-416.924f, 416.926-416.926c revised February 11, 1991; Social Security Rulings 86-8 (Titles II and XVI: The Sequential Evaluation Process) as Effective December 1, 1984; Social Security Ruling 91-3p (Title II: Determining Entitlement to Disability Benefits for Months Prior to January 1991 for Widows, Widowers, and Surviving Divorced Spouse Claims) as effective May 22, 1991; Section 5103 of the Omnibus Budget Reconciliation Act of 1990 (P.L. 101-508) as effective January 1, 1991.~~
- b) ~~The steps are as follows:~~
  - 1) ~~Is the individual engaging in substantial gainful activity?~~
    - A) ~~The Bureau incorporates the criteria for determining substantial gainful activity specified in the Code of Federal Regulations 20~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~CFR 404.1510, 404.1571-1576, 404.1591-1592, 416.910 and 416.971-976 revised April 1, 1989; Social Security Rulings 83-33 (Titles II and XVI: Determining Whether Work Is Substantial Gainful Activity—Employees), 83-34 (Titles II and XVI: Determining Whether Work Is Substantial Gainful Activity—Self-Employed Persons), 83-35 (Titles II and XVI: Averaging of Earnings in Determining Whether Work Is Substantial Gainful Activity) as Issued 1983; and 85-5c (Disabled Child's Benefits—Determining Whether Work Is Substantial Gainful Activity—Averaging Earnings from Employment) as Issued in Anderson vs. Heckler 762 F. 2nd 455 (8th Cir. 1984).~~

- B) ~~If the individual is performing substantial gainful activity, a determination that the individual is not disabled will be made regardless of the individual's medical condition, age, education, or work experience unless the individual meets the blindness provisions specified in 20 CFR 404.1581 as amended February 8, 1983, 20 CFR 404.1582 revised April 1, 1986, 20 CFR 404.1583 revised April 1, 1986, 20 CFR 404.1584 as amended May 16, 1983, 20 CFR 416.981, 20 CFR 416.982, 20 CFR 416.983 and 20 CFR 416.984 revised April 1, 1986.~~
- C) ~~According to Program Operations Manual System (POMS) Disability Insurance (DI) 24001, 24005, and 24010 revised June, 1987, the Social Security Administration Field Offices will have jurisdiction over work issue cases, that is, cases where there is an indication that a claimant is or has engaged in work activity during a period when disability was alleged or determined.~~
- 2) Does the individual have a severe impairment?  
~~The Bureau incorporates the provisions for determining whether an impairment is or is not severe as specified in 20 CFR 404.1520(e), 20 CFR 404.1521, and 20 CFR 416.920(e), as revised April 1, 1987; and 20 CFR 416.921 as revised February 11, 1991.~~
- 3) Does the individual have an impairment(s) that meets or equals the Listing of Impairments?
- A) ~~The Bureau incorporates the following criteria for the Listing of~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~Impairments:~~

- ~~i) Code of Federal Regulations 20 CFR 404.1525, 416.925, 404 Appendix 1 to Subpart P revised April 1, 1989;~~
  - ~~ii) POMS DI 24525.000 Evaluation of Acquired Immunodeficiency Syndrome (AIDS) and AIDS-Related Complex (ARC) revised February 1990; POMS DI 24530.000 Evaluation of Musculoskeletal Issues revised February 1988; POMS DI 24540.000 Evaluation of Specific Issues—Respiratory revised February 1989; POMS DI 24545.001 Postmyocardial Infarction Cases revised September 1988; POMS DI 24560.001 Evaluation of Chronic Myelogenous Leukemia and POMS DI 24580.000 Evaluation of Specific Issues—Neurological revised February 1988; and POMS DI 24575.000 Evaluation of Specific Issues—Multiple Body Systems revised March 1991;~~
  - ~~iii) With regard to the claims being reviewed under the Morrison, Doe and Decker class action lawsuit, the court-ordered criteria for evaluating drug addiction and alcoholism as specified in POMS DI 32551.000 et seq. revised August 1990.~~
- B) The Bureau incorporates the criteria for medical equivalence specified in the Code of Federal Regulations 20 CFR 404.1526 as revised April 1, 1989 and 20 CFR 416.926 as revised February 11, 1991.
- C) If the individual has an impairment that is determined to meet the duration requirement and is listed in the Listing of Impairments or equal to a listed impairment, a determination that the individual is disabled will be made regardless of the individual's age, education, or work experience unless the individual meets the criteria specified in 89 Ill. Adm. Code 845.20(b)(1)(B).
- 4) Does the individual's impairment prevent him/her from doing past relevant work?

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- A) ~~The Bureau incorporates the criteria for evaluation of residual functional capacity and past work as specified in the Code of Federal Regulations 20 CFR 404.1545, 404.1546, 416.945 and 416.946 revised April 1, 1989; Social Security Rulings 82-40 (Titles II and XVI: The Vocational Relevance of the Past Work Performed in a Foreign Country) as Effective May 14, 1982; 82-52 (Titles II and XVI: Duration of the Impairment), 82-53 (Titles II and XVI: Basic Disability Evaluation Guides), 82-56 (Titles II and XVI: The Sequential Evaluation Process), 82-61 (Titles II and XVI: Past Relevant Work—The Particular Job or Occupation as Generally Performed), 82-62 (Titles II and XVI: A Disability Claimant's Capacity To Do Past Relevant Work, In General) as Effective August 20, 1980; 85-16 (Titles II and XVI: Residual Functional Capacity for Mental Impairments), 85-28 (Titles II and XVI: Medical Impairments That Are Not Severe) as Issued 1985. With regard to claims being reviewed under the Hyatt class action lawsuit, the Bureau also incorporates the court-ordered criteria for evaluating allegations of hypertension or diabetes as specified in POMS DI 32548.000 et seq. revised September 1990 and January 1991.~~
- B) ~~If the individual has an impairment that cannot be evaluated on medical findings alone, then the residual functional capacity will be reviewed along with the physical and mental demands of the past work. This review will be conducted by a Bureau disability examiner as specified in 20 CFR 404.1520(e) amended March 5, 1985, 20 CFR 404.1615 revised April 1, 1986, 20 CFR 416.920(e) amended March 5, 1985, and 20 CFR 416.1015 amended May 29, 1981, and August 19, 1981.~~
- C) ~~If the individual can still do this kind of work, a determination that the individual is not disabled will be made.~~
- 5) ~~Does the individual's impairment prevent him/her from doing other work?~~
- A) ~~The Bureau incorporates the criteria for vocational considerations specified in the Code of Federal Regulations 20 CFR 404.1560-1568 and 416.960-968 revised April 1, 1989; Social Security~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~Rulings 82-41 (Titles II and XVI: Work Skills and Their Transferability as Intended by the Expanded Vocational Factors Regulations as Effective August 20, 1980), and 82-63 (Titles II and XVI: Medical-Vocational Profiles showing an Inability to Make an Adjustment to Other Work) as Effective August 20, 1980.~~

- ~~B) The Bureau incorporates the criteria for medical-vocational guidelines specified in the Code of Federal Regulations 20 CFR 404.1569, 20 CFR 404 Appendix 2 and 20 CFR 416.969 revised April 1, 1986; Social Security Rulings 83-10 (Title II and XVI: Determining Capability To Do Other Work — The Medical-Vocational Rules of Appendix 2), 83-11 (Titles II and XVI: Capability To Do Other Work — The Exertionally Based Medical-Vocational Rules Met), 83-12 (Titles II and XVI: Capability To Do Other Work — The Medical Vocational Rules As a Framework for Evaluating Exertional Limitations Within a Range of Work or Between Ranges of Work), 83-14 (Titles II and XVI: Capability To Do Other Work — The Medical — Vocational Rules As a Framework for Evaluating a Combination of Exertional and Nonexertional Impairments), and 85-15 (Titles II and XVI: Capability To Do Other Work — The Medical — Vocational Rules As a Framework for Evaluating Solely Nonexertional Impairments) as effective August 20, 1980. With regard to claims being reviewed under the Morrison, Doe and Decker class action lawsuit, the Bureau also incorporates the court-ordered criteria for evaluating residual functional capacity and making individualized vocational assessments as specified in POMS DI 32551.000 et seq. revised August 1990.~~
- ~~C) If the individual has an impairment that cannot be evaluated on medical findings alone, prevents him/her from performing past work but does not prevent him/her from doing other work, a determination that the individual is not disabled will be made.~~
- ~~D) If the impairment prevents him/her from doing other work, a determination that the individual is disabled will be made.~~
- e) When a fully or partially unfavorable determination has been made, an individual may request an administrative and judicial review of the determination according



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~to the process described in the Code of Federal Regulations 20 CFR 404.900 and 20 CFR 416.1400 revised April 1, 1986.~~

- d) ~~The Bureau will make disability determinations according to the criteria specified in the code of Federal Regulations 20 CFR 404.1615 revised April 1, 1986 and 20 CFR 416.1015 as amended May 29, 1981 and August 19, 1981.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 845.30 Multiple Impairments (Repealed)**

~~The Bureau incorporates the criteria for multiple impairments specified in the Code of Federal Regulations 20 CFR 404.1523 as amended March 5, 1985 and 20 CFR 416.923 as amended February 11, 1991. (See also 89 Ill. Adm. Code 845.20.)~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 845.40 Evaluation of Pain and Other Symptoms (Repealed)**

- a) ~~The Bureau incorporates the criteria for the evaluation of pain and other symptoms specified in the Code of Federal Regulations 20 CFR 404.1508, 404.1528, 404.1529, 416.908, 416.928, and 416.929 revised April 1988; the Program Operations Manual System, Disability Insurance (DI) 22511.000 as amended August 1988, DI 24510.000 as amended January 1986, DI 24515.060 as amended October 1986, DI 24525.000 as amended February 1990, DI 24540.000 as amended February 1989, DI 24575.000 as amended March 1991, DI 24580.000 as amended February 1988, and DI 25005.000 as amended March 1989; and Social Security Rulings 82-53 (Titles II and XVI: Basic Disability Evaluations Guides), 83-19 (Titles II and XVI: Finding Disability on the Basis of Medical Considerations Alone — The Listing of Impairments and Medical Equivalency) as effective August 20, 1980; and 88-13 (Titles II and XVI: Evaluation of Pain and Other Symptoms) as effective July 20, 1988.~~
- b) ~~The Bureau will consider the evaluation of pain and other symptoms in regard to the Listing of Impairments as described in 89 Ill. Adm. Code 860 (Listing of Impairments).~~
- c) ~~With regard to the following class action lawsuits, the Bureau also incorporates the specified court-ordered criteria for evaluating pain:~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) ~~In the case of Boyd, et al. v. Sullivan, POMS DI 32532.000 et seq. revised March 1990.~~
- 2) ~~In the case of Hyatt, et al. v. Bowen, POMS DI 32548.000 et seq. revised September 1990 and January 1991.~~
- 3) ~~In the case of Polaski, et al. v. Bowen, POMS DI 32553.000 et seq. revised December 1989.~~
- 4) ~~In the case of Samuels, et al. v. Bowen, POMS DI 32555.000 et seq. revised March 1990.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Qualifications of Medical Consultants
- 2) Code Citation: 89 Ill. Adm. Code 846
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
846.10	Amendment
846.20	Repealed
846.30	Repealed
846.40	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: These rules were intended to help ensure quality and integrity of Disability Case Development. The Bureau of Disability Determination Services currently follows the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) in determining disability. The current rules are obsolete and no longer meet the SSA criteria. As such, the rules are being amended to directly incorporate POMS and ensure the Bureau is operating under current SSA policy.
- 6) Published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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 present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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

(217) 785-9772  
DHS.AdministrativeRules@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: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES

## SUBCHAPTER g: BUREAU OF DISABILITY DETERMINATION SERVICES

## PART 846

## QUALIFICATIONS OF MEDICAL CONSULTANTS

## Section

- 846.10 [Incorporation by Reference](#)~~Definitions~~
- 846.20 Qualifications of Bureau Physician Medical Consultants [\(Repealed\)](#)
- 846.30 Qualifications of Bureau Nurse Medical Consultants [\(Repealed\)](#)
- 846.40 Qualifications of Bureau Psychologist Medical Consultants [\(Repealed\)](#)

AUTHORITY: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405].

SOURCE: Adopted at 11 Ill. Reg. 3227, effective January 27, 1987; amended at 12 Ill. Reg. 7722, effective April 14, 1988; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 846.10 [Incorporation by Reference](#)~~Definitions~~**

- a) [The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519p and 404.1519q.](#)
- b) [The Bureau shall adhere to the Program Operations Manual System \(POMS\) as set forth by the Social Security Administration \(SSA\) with regard to the qualifications of medical consultants.](#)

~~"Bureau" means the Bureau of Disability Determination Services.~~

~~"Medical consultant" means physicians, psychologists and nurses hired by the Bureau on a contractual basis to provide expert professional advice regarding the evaluation of physical and mental disabilities; and, in the case of physicians and psychologists, medical consultants participate in the disability decision.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 846.20 Qualifications of Bureau Physician Medical Consultants [\(Repealed\)](#)**

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- a) ~~Physicians employed contractually by the Bureau as medical consultants shall be licensed for the practice of medicine in all of its branches according to the provisions of~~
- 1) ~~The Illinois Medical Practice Act generally (Ill. Rev. Stat. 1985, ch. 111, pars. 4401 et seq. see in particular par. 4411(1)), or~~
  - 2) ~~a comparable medical practice act of any of the other forty-nine United States.~~
- b) ~~If, at the time a physician is hired, he/she possesses a license from a State other than Illinois, he/she will be given a grace period of six months in which to obtain an Illinois license.~~
- c) ~~If a physician does not obtain an Illinois license within the six-month prescribed period, one six-month extension will be granted providing he/she meets the criteria in the Ill. Rev. Stat. 1985, ch. 111, par. 4407 and continues to be in good standing with the Illinois Department of Registration and Education as a candidate for licensure.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 846.30 Qualifications of Bureau Nurse Medical Consultants (Repealed)**

~~Nurses employed contractually by the Bureau as medical consultants shall be:~~

- a) ~~registered nurses or registered professional nurses as defined in the Illinois Nursing Act (Ill. Rev. Stat. 1985, ch. 111, par. 3405(2)), and~~
- b) ~~currently licensed as such by the Illinois Department of Registration and Education, and~~
- c) ~~possessors of Associate in Applied Science in Nursing degrees with a minimum of three years nursing experience, or~~
- d) ~~possessors of Bachelor of Science degrees with a minimum of one year nursing experience, or~~
- e) ~~non-degree registered nurses with a minimum of five years nursing experience.~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 846.40 Qualifications of Bureau Psychologist Medical Consultants (Repealed)**

- a) ~~Psychologists who were employed by the Bureau on or before January 27, 1987, based on holding Masters degrees in psychology may continue their employment in a professional advisory capacity; they are permitted to participate in disability decisions only to the extent of assisting a psychologist meeting the qualifications of subsection (b) or a psychiatrist. The Bureau will hire no more psychologists not meeting the qualifications of subsection b.~~
- b) ~~For all other psychologists employed contractually, the Bureau incorporates by reference the criteria in POMS 24501.010(B)(2), revised January 1986. This incorporation does not include any later amendments or editions.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Medical Improvement Review Standard for Continuing Disability
- 2) Code Citation: 89 Ill. Adm. Code 850
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
850.10	Amendment
850.11	Repealed
850.20	Repealed
850.30	Repealed
850.40	Repealed
850.50	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: These rules were intended to help ensure quality and integrity of Disability Case Development. The Bureau of Disability Determination Services currently follows the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) in determining disability. The current rules are obsolete and no longer meet the SSA criteria. As such, the rules are being amended to directly incorporate POMS and ensure the Bureau is operating under current SSA policy.
- 6) Published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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 present their comments concerning these rules

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

(217) 785-9772  
DHS.AdministrativeRules@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: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES

## SUBCHAPTER g: BUREAU OF DISABILITY DETERMINATION SERVICES

## PART 850

## MEDICAL IMPROVEMENT REVIEW STANDARD FOR CONTINUING DISABILITY

## Section

- 850.10 [Incorporation by Reference](#)~~Definitions~~
- 850.11 Incorporation by Reference [\(Repealed\)](#)
- 850.20 Criteria for Medical Improvement Review Standard [\(Repealed\)](#)
- 850.30 Frequency of Disability Reviews [\(Repealed\)](#)
- 850.40 Due Process and Notification Procedures for Cessation Determinations  
[\(Repealed\)](#)
- 850.50 Appeals Process for Cessation Determinations [\(Repealed\)](#)

AUTHORITY: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405].

SOURCE: Adopted at 11 Ill. Reg. 2855, effective January 27, 1987, amended at 12 Ill. Reg. 3781, effective February 1, 1988; amended at 12 Ill. Reg. 22454, effective December 15, 1988; corrected at 13 Ill. Reg. 3196; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_

**Section 850.10** [Incorporation by Reference](#)~~Definitions~~

- a) [The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519p and 404.1519q.](#)
- b) [The Bureau shall adhere to the Program Operations Manual System \(POMS\) as set forth by the Social Security Administration \(SSA\) with regard to the medical improvement review standard for continuing disability.](#)

~~"Bureau" means the Bureau of Disability Determination Services.~~

~~"Cessation determination" means an initial decision that the physical or mental impairment on the basis of which benefits have been payable has ended, did not exist or is no longer disabling.~~

~~"Medical improvement review standard" means the criteria used to determine if~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~an individual's disability has ended.~~

~~"Medical improvement" means any decrease in the severity of an individual's condition since the most recent favorable medical disability decision.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 850.11 Incorporation by Reference (Repealed)**

~~Incorporations by reference in this Part do not include any later amendments or editions.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 850.20 Criteria for Medical Improvement Review Standard (Repealed)**

~~The Bureau incorporates the criteria specified in the Code of Federal Regulations 20 CFR 404.1579 (a) (h); 20 CFR 404.1594 (a) (h); and 20 CFR 416.994 (a) (d) as amended December 6, 1985. This incorporation includes no later amendments or editions.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 850.30 Frequency of Disability Reviews (Repealed)**

~~In conducting continuing disability reviews, the Bureau shall review those cases selected by the Social Security Administration. In selecting such cases, the Social Security Administration is governed by the frequency criteria specified in 20 CFR 404.1590 and 20 CFR 416.990 as revised April 1, 1987.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 850.40 Due Process and Notification Procedures for Cessation Determinations (Repealed)**

- a) ~~The Bureau incorporates by reference the criteria for due process in POMS 28080 ff revised January 1986 and the criteria for notification in 89 Ill. Adm. Code 855.20(a).~~
- b) ~~Definitions of frequently used acronyms in the aforesaid POMS section are as follows:~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) ~~"DDS" means Disability Determination Services.~~
- 2) ~~"SGA" means substantial gainful activity.~~
- 3) ~~"MI" means myocardial infarction.~~
- 4) ~~"SSI" means Supplemental Security Income.~~
- 5) ~~"ODO" means Office of Disability Operations.~~
- 6) ~~"PSC" means Program Services Center.~~
- 7) ~~"FO" means Field Office.~~
- 8) ~~"SAOR" means State Agency Operations Report.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 850.50 Appeals Process for Cessation Determinations (Repealed)**

- a) ~~The Bureau incorporates the provisions of 20 CFR 404.1597 and 20 CFR 416.1331(b) as revised April 1, 1987. See also 89 Ill. Adm. Code 853 for a description of hearing procedures at the reconsideration level.~~
- b) ~~Except as otherwise required by the federal guidelines for payment of travel expenses contained in 20 CFR 404.999(a) (d), 416.1495, 416.1496, 416.1498 and 416.1499 as revised April 1, 1987, the State of Illinois guidelines for payment of travel expenses contained in 80 Ill. Adm. Code 2800 shall apply. With regard to amount of payment for travel expenses, the State of Illinois guidelines shall apply.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Disability Hearings at the Reconsideration Level
- 2) Code Citation: 89 Ill. Adm. Code 853
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
853.10	Amendment
853.11	Repealed
853.20	Repealed
853.30	Repealed
853.40	Repealed
853.50	Repealed
853.60	Repealed
853.70	Repealed
853.80	Repealed
853.90	Repealed
853.93	Repealed
853.100	Repealed
853.103	Repealed
853.110	Repealed
853.120	Repealed
853.130	Repealed
853.140	Repealed
853.143	Repealed
853.150	Repealed
853.160	Repealed
853.170	Repealed
853.180	Repealed
853.190	Repealed
853.193	Repealed
853.200	Repealed
853.210	Repealed
853.220	Repealed
853.230	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: These rules were intended to help ensure quality and integrity of Disability Case Development. The Bureau of

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Disability Determination Services currently follows the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) in determining disability. The current rules are obsolete and no longer meet the SSA criteria. As such, the rules are being amended to directly incorporate POMS and ensure the Bureau is operating under current SSA policy.

- 6) Published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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 present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

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

(217) 785-9772  
DHS.AdministrativeRules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
  - A) Types of small businesses, small municipalities and not for profit corporations affected: None

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES

## SUBCHAPTER g: BUREAU OF DISABILITY DETERMINATION SERVICES

## PART 853

## DISABILITY HEARINGS AT THE RECONSIDERATION LEVEL

## Section

- 853.10 [Incorporation by Reference](#) ~~Definitions~~
- 853.11 Incorporation by Reference [\(Repealed\)](#)
- 853.20 General Provisions [\(Repealed\)](#)
- 853.30 Case Preparation [\(Repealed\)](#)
- 853.40 Favorable Reconsideration Determination Without a Hearing [\(Repealed\)](#)
- 853.50 Hearing Sites [\(Repealed\)](#)
- 853.60 Waiver of Appearance [\(Repealed\)](#)
- 853.70 Scheduling Criteria for Hearings [\(Repealed\)](#)
- 853.80 Notification of the Hearing [\(Repealed\)](#)
- 853.90 Cancellation, Postponement or Change of Time or Place of Hearing [\(Repealed\)](#)
- 853.93 Transfer of Case to Different Disability Hearing Unit [\(Repealed\)](#)
- 853.100 Change of Hearing Officer [\(Repealed\)](#)
- 853.103 Hearing Officer Who Held Hearing Becomes Unable to Write Decision [\(Repealed\)](#)
- 853.110 Representation of Beneficiary [\(Repealed\)](#)
- 853.120 Interpreters [\(Repealed\)](#)
- 853.130 Beneficiary/Representative Review of Claims Folder [\(Repealed\)](#)
- 853.140 Subpoenas [\(Repealed\)](#)
- 853.143 Witnesses [\(Repealed\)](#)
- 853.150 Request for Withdrawal of Reconsideration of Disability Cessation [\(Repealed\)](#)
- 853.160 Reimbursement for Travel Expenses [\(Repealed\)](#)
- 853.170 Returns for Additional Development [\(Repealed\)](#)
- 853.180 Opportunity to Submit Additional Evidence After the Hearing [\(Repealed\)](#)
- 853.190 Opportunity to Review and Comment on Evidence Obtained or Developed After the Hearing [\(Repealed\)](#)
- 853.193 Continuance of Disability Hearing [\(Repealed\)](#)
- 853.200 Disability Hearing Officer's Reconsidered Determination [\(Repealed\)](#)
- 853.210 Review of the Disability Hearing Officer's Reconsidered Determination Before It Is Issued [\(Repealed\)](#)
- 853.220 Effect of a Reconsidered Determination [\(Repealed\)](#)
- 853.230 Claimant Dies Before Determination Made on Request for Reconsideration –



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Disability Cessation (Repealed)

AUTHORITY: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405].

SOURCE: Adopted at 11 Ill. Reg. 3704, effective February 10, 1987; amended at 12 Ill. Reg. 11248, effective June 15, 1988; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 853.10 Incorporation by Reference Definitions**

- a) The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519p and 404.1519q.
- b) The Bureau shall adhere to the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) with regard to disability hearings at the reconsideration level.

~~"Beneficiary" means an individual who is entitled to and has been awarded benefits under the disability provisions of the Social Security Act.~~

~~"Bureau" means the Bureau of Disability Determination Services.~~

~~"Disability hearing" means a face-to-face evidentiary proceeding which takes place when an individual requests reconsideration of an initial determination that the physical or mental impairment on the basis of which benefits have been payable has ceased, did not exist or is no longer disabling.~~

~~"Disability Hearing Division" means that part of the Bureau of Disability Determination Services which has responsibility for the entire disability hearing operations.~~

~~"Disability hearing officer" means a person appointed to conduct the disability hearing and prepare a reconsidered determination.~~

~~"Reconsideration" means the first step in the administrative review process provided to claimants/beneficiaries who are dissatisfied with the initial determination.~~

~~"Representative" means an attorney who meets all of the requirements of 20 CFR~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~404.1705(a) or 20 CFR 416.1505(a), or a person other than an attorney who meets all of the requirements of 20 CFR 404.1705(b) or 20 CFR 416.1505(b), and whom the beneficiary appoints to represent him/her in dealings with the Social Security Administration (SSA).~~

~~"Supervising hearing officer" means an experienced disability examiner supervisor appointed to manage the disability hearing process.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.11 Incorporation by Reference (Repealed)**

~~Incorporations by reference in this Part do not include any later amendments or editions.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.20 General Provisions (Repealed)**

~~The Bureau incorporates the criteria specified in the Code of Federal Regulations 20 CFR 404.914, 20 CFR 404.915, 20 CFR 416.1414, 20 CFR 416.1415, 20 CFR 422.140 and 20 CFR 422.203 as amended January 3, 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.30 Case Preparation (Repealed)**

~~The Bureau incorporates the criteria specified in the Code of Federal Regulations 20 CFR 404.916(c) and 20 CFR 416.1416(c) as amended January 3, 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.40 Favorable Reconsideration Determination Without a Hearing (Repealed)**

~~The Bureau incorporates the criteria specified in the Code of Federal Regulations 20 CFR 404.916(d) and 20 CFR 416.1416(d) as amended January 3, 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.50 Hearing Sites (Repealed)**

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- a) ~~The Disability Hearing Division will use the following locations as sites for disability hearings:~~
  - 1) ~~SSA District Offices;~~
  - 2) ~~Disability Hearing Office in Springfield;~~
  - 3) ~~Centrally located office in the Chicago Loop;~~
  - 4) ~~Other designated sites, such as Federal court offices, when the SSA district offices have inadequate facilities or are not readily accessible.~~
- b) ~~The disability hearing sites will be accessible to disabled individuals and to various modes of public transportation.~~
- e) ~~Scheduling of hearings at a site will be affected by the following factors:~~
  - 1) ~~Number of hearings requiring scheduling within a particular geographic area;~~
  - 2) ~~Availability of hearings officers, and~~
  - 3) ~~Amount of travel required.~~
- d) ~~When factors dictate (i.e., two or more hearings require scheduling within a particular geographic area, the availability of hearings officers is limited and/or a large amount of travel time is required), hearings will be grouped and held at a centrally located site within the geographic area involved.~~
- e) ~~The Disability Hearing Division will make every effort to conduct hearings at a site close to the beneficiary's place of residence and to ensure that the beneficiary will not be requested to travel more than 75 miles one way from his/her place of residence to a hearing site.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.60 Waiver of Appearance (Repealed)**

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~The beneficiary has the right to waive appearance at the hearing. This must be done by completing form SSA-773-U4. The beneficiary will be informed that the decision to waive appearance at the hearing can be changed prior to the date of review and preparation of the hearing decision by contacting the Disability Hearing Division or the SSA district office.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.70 Scheduling Criteria for Hearings (Repealed)**

- a) ~~The Disability Hearing Division will be responsible for establishing and maintaining a schedule of cases involved in the disability hearing process.~~
- b) ~~The Disability Hearing Division will use the following criteria in establishing the schedule for hearings:~~
  - 1) ~~Hearings will be held within 30 days from receipt of the claims folder in the Disability Hearings Unit or at the earliest date possible if there is a backlog of hearings or if the claimant requests delay;~~
  - 2) ~~The following factors will also be considered when scheduling hearing dates and times:~~
    - A) ~~Number of hearing officers available;~~
    - B) ~~Amount of travel required;~~
    - C) ~~Type of case and impairment;~~
    - D) ~~Need for interpreter;~~
    - E) ~~Time required for the beneficiary, representative, if any, and the hearing officer to review the claims folder prior to the hearing; and~~
    - F) ~~Time required for hearing itself and preparation of the decision.~~
  - 3) ~~The schedule will also allow for the processing of waiver of appearance cases.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

**Section 853.80 Notification of the Hearing (Repealed)**

- a) ~~A notice will be sent to the beneficiary and representative, if any, at least 20 days, excluding mail time, prior to the scheduled hearing date unless the beneficiary has waived such a notice by completing form SSA-773 U4.~~
- b) ~~The notice will explain the following information:~~
  - 1) ~~The date, time and location of the hearing;~~
  - 2) ~~The beneficiary's right to appoint a representative for the hearing;~~
  - 3) ~~The beneficiary's right to request assistance in obtaining evidence for the hearing, including a subpoena to produce evidence;~~
  - 4) ~~The beneficiary and representative's right to review the case file on the day of the hearing or to make arrangements to review the file prior to the date of the hearing;~~
  - 5) ~~The beneficiary's right to present witnesses and question witnesses at the hearing;~~
  - 6) ~~The beneficiary's right to waive appearance at the hearing;~~
  - 7) ~~The beneficiary's right to request an interpreter;~~
  - 8) ~~The name, address and telephone number of the hearing officer who will conduct the hearing;~~
  - 9) ~~Travel reimbursement procedures if the beneficiary is required to travel more than 75 miles one way for the hearing.~~
- e) ~~The Department recognizes that the SSA district office generally determines whether Spanish language scheduling notices are required in a particular case. Spanish language scheduling notice will be sent to beneficiaries who meet one or more of the following criteria:~~
  - 1) ~~The application shows the individual was born in Puerto Rico or a country~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~where Spanish is the primary language.~~

- ~~2) The individual has a Spanish surname.~~
- ~~3) The individual lives in a known Spanish-speaking area as determined by the SSA district office.~~
- ~~4) The SSA district office interview is conducted in Spanish or with the assistance of a translator.~~
- ~~5) The individual has difficulty with English during the interview but shows familiarity with Spanish.~~
- d) ~~In the event one or more of the Spanish language criteria are met and the beneficiary does not wish to receive Spanish language notices, the beneficiary will be requested to sign a waiver form SSA-381-SP. The beneficiary will be informed that the decision regarding Spanish notices can be changed at any time by contacting the local SSA district office.~~
- e) ~~When there is evidence that the beneficiary is unable to understand a written notice or has difficulty complying with instructions given, the Disability Hearing Division will request assistance for the beneficiary through the SSA district office.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.90 Cancellation, Postponement or Change of Time or Place of Hearing**  
**(Repealed)**

- a) ~~When it is necessary to cancel or postpone a scheduled hearing, the beneficiary and representative, if there is one, will be notified. The notice will include the reason for the cancellation/postponement and any subsequently scheduled hearing.~~
- b) ~~A scheduled hearing will be cancelled by the Disability Hearing Division if, after review of evidence in file, the beneficiary is found to be still disabled.~~
- e) ~~A beneficiary can request a change of time or place of the hearing according to the criteria as specified in 20 CFR 404.914(e)(2) and 20 CFR 416.1414(e)(2) as~~



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~amended January 3, 1986.~~

- d) ~~When there is evidence that the beneficiary is unable to understand a written notice or has difficulty complying with instructions given, the Disability Hearing Division will request assistance for the beneficiary through the SSA district office.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.93 Transfer of Case to Different Disability Hearing Unit (Repealed)**

~~For instructions involving the handling of requests for transfer of a case from one Disability Hearing Unit (DHU) to a DHU in another State or for a different hearing site which falls within the jurisdiction of a DHU in another State, the Bureau incorporates by reference the instructions specified in Program Operations Manual System (POMS) 33010.040 et seq., revised October 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.100 Change of Hearing Officer (Repealed)**

~~The Bureau incorporates by reference the criteria for the disqualification of a disability hearing officer and the role of the supervising hearing officer in this action set forth in POMS 33015.045 et seq., revised October 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.103 Hearing Officer Who Held Hearing Becomes Unable to Write Decision (Repealed)**

~~For handling the situation in which a disability hearing officer who held the hearing becomes unable to write the decision, the Bureau incorporates by reference the steps specified in POMS 33015.022 et seq., revised October 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.110 Representation of Beneficiary (Repealed)**

- a) ~~A beneficiary has the right to appoint an attorney or other qualified individual to~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~act for him/her in the disability claims process. Representation may occur at any time in the claims process. The Bureau incorporates the provisions governing representation as described in 20 CFR 404.1705, 20 CFR 404.1707, 20 CFR 404.1710, 20 CFR 1720, 20 CFR 404.1725, 20 CFR 404.1730, 20 CFR 416.1505, 20 CFR 416.1507, 20 CFR 416.1510, 20 CFR 416.1520 and 20 CFR 416.1525 revised April 1, 1986.~~

- b) ~~For handling the issue of suspension or disqualification of a representative, the Bureau incorporates by reference the provisions provided in POMS 33010.070 et seq., revised October 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.120 Interpreters (Repealed)**

- a) ~~A beneficiary may request an interpreter or the Disability Hearing Division will determine the need for an interpreter through contact with the beneficiary, the beneficiary's representative or the SSA district office. An interpreter will be used in those situations where the beneficiary is hearing impaired or does not speak English well enough to communicate and understand the issues of the hearing.~~
- b) ~~Interpreters must be able to translate technical medical technology and concepts.~~
- c) ~~The beneficiary can provide his/her own interpreter or can request the Disability Hearing Division to provide an interpreter.~~
- d) ~~If the beneficiary provides his/her own interpreter and the Supervising Hearing Officer determines that the interpreter is unqualified (e.g., a young child), the Disability Hearing Division will make arrangements to have another interpreter present. The Disability Hearing Division will inform the beneficiary that arrangements have been made to have an interpreter at the hearing and will advise the beneficiary that although it will not be necessary to bring his/her own interpreter, he/she can do so.~~
- e) ~~The Disability Hearing Division will reimburse interpreters pursuant to 89 Ill. Adm. Code 545: Ratemaking and 44 Ill. Adm. Code 1175: Purchasing when:~~
- 1) ~~the interpreter requests payment for services,~~



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 2) ~~the need for an interpreter has been satisfied according to subsection (a) of this Section, and~~
- 3) ~~the interpreter is deemed qualified according to subsections (b) and (d) of this Section.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.130 Beneficiary/Representative Review of Claims Folder (Repealed)**

- a) ~~The Bureau incorporates by reference the criteria for beneficiary/representative review of the claims folder set forth in POMS 33015.005(A), revised October 1986.~~
- b) ~~The Bureau incorporates by reference the procedure for requesting photocopies of claims folder material described in POMS 33015.005(B), revised October 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.140 Subpoenas (Repealed)**

~~The Bureau incorporates the criteria specified in the Code of Federal Regulations 20 CFR 404.950(d) and 20 CFR 416.1450(d) revised April 1, 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.143 Witnesses (Repealed)**

- a) ~~The Bureau incorporates by reference POMS 33015.015(K) and 33015.020(C)(5), revised October 1986 regarding the definition of "witness" and a description of witness testimony.~~
- b) ~~The Bureau incorporates by reference POMS 33010.045(B), revised October 1986 for criteria regarding travel reimbursement for witnesses.~~
- e) ~~The Bureau incorporates by reference POMS 33015.030(C)(2), revised October 1986 for steps to be taken if a witness fails to appear.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

**Section 853.150 Request for Withdrawal of Reconsideration of Disability Cessation  
(Repealed)**

- a) ~~A beneficiary may withdraw the Request for Reconsideration—Disability Cessation (SSA-789-U4) by contacting the local Social Security Administration (SSA) district office or the Disability Hearing Division.~~
- b) ~~A request for withdrawal must be in writing and signed by the beneficiary. The statement should be in the beneficiary's own words (or, if applicable, in the representative's own words) and should give a detailed account of the reason for the request. The statement must indicate understanding that a reconsideration is a prerequisite for an administrative law judge hearing and that a request for withdrawal will result in the loss of future appeal rights on the initial cessation determination.~~
- e) ~~Any hearing previously scheduled will be postponed pending disposition of the request for withdrawal.~~
- d) ~~The Disability Hearing Division recognizes that the SSA district office has sole authority to approve the withdrawal.~~
- e) ~~A beneficiary may request cancellation of a withdrawal if such request is filed within 60 days from the date the notice of approval of withdrawal is received or meets the good cause requirements specified in 20 CFR 404.911(b) and 20 CFR 416.1411(b), revised April 1, 1986. The Disability Hearing Division, however, recognizes that the SSA district office has sole authority to process the beneficiary's request to cancel a withdrawal.~~
- f) ~~When there is evidence that the beneficiary is unable to understand the withdrawal process or has difficulty complying with instructions, the Disability Hearing Division will request assistance for the beneficiary through the SSA district office.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.160 Reimbursement for Travel Expenses (Repealed)**

~~The Bureau incorporates the criteria specified in 20 CFR 404.999a, 20 CFR 404.999b, 20 CFR~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~404.999e, 20 CFR 404.999d, 20 CFR 416.1495, 20 CFR 416.1496, 20 CFR 416.1498 and 20 CFR 416.1499 as amended March 14, 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.170 Returns for Additional Development (Repealed)**

~~A hearing case will be returned to the Bureau for additional development when the file contains insufficient evidence upon which to base a decision. A return for additional development can occur before or after the disability hearing. The beneficiary/representative will be notified of the action being taken and that the hearing/decision will be delayed pending further development.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.180 Opportunity to Submit Additional Evidence After the Hearing (Repealed)**

~~The beneficiary will be given the opportunity to submit additional evidence after the hearing according to criteria specified in 20 CFR 404.916(e) and 20 CFR 416.1416(e) as amended January 3, 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.190 Opportunity to Review and Comment on Evidence Obtained or Developed After the Hearing (Repealed)**

~~The Bureau incorporates the criteria specified in 20 CFR 404.916(f) and 20 CFR 416.1416(f) as amended January 3, 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.193 Continuance of Disability Hearing (Repealed)**

~~The Bureau incorporates by reference the criteria in POMS 33015.030(C), revised October 1986 regarding continuance of disability hearing: the adjourning and reconvening of the disability hearing at a later date.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.200 Disability Hearing Officer's Reconsidered Determination (Repealed)**

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~The Bureau incorporates the criteria specified in 20 CFR 404.917 and 20 CFR 416.1417 as amended January 3, 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.210 Review of the Disability Hearing Officer's Reconsidered Determination Before It Is Issued (Repealed)**

~~The Bureau incorporates the criteria specified in 20 CFR 404.918 and 20 CFR 416.1418 as amended January 3, 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.220 Effect of a Reconsidered Determination (Repealed)**

~~The Bureau incorporates the criteria specified in 20 CFR 404.921 and 20 CFR 416.1421 as amended January 3, 1986.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 853.230 Claimant Dies Before Determination Made on Request for Reconsideration – Disability Cessation (Repealed)**

~~The Bureau incorporates by reference the criteria specified in POMS 33010.060 et seq., revised October 1986 regarding action to be taken when the claimant dies before a determination is made on a request for reconsideration of disability cessation.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Claimant Notification
- 2) Code Citation: 89 Ill. Adm. Code 855
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
855.10	Amendment
855.20	Repealed
855.30	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: These rules were intended to help ensure quality and integrity of Disability Case Development. The Bureau of Disability Determination Services currently follows the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) in determining disability. The current rules are obsolete and no longer meet the SSA criteria. As such, the rules are being amended to directly incorporate POMS and ensure the Bureau is operating under current SSA policy.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking? None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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 present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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

(217) 785-9772  
DHS.AdministrativeRules@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: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES

## SUBCHAPTER g: BUREAU OF DISABILITY DETERMINATION SERVICES

## PART 855

## CLAIMANT NOTIFICATION

## Section

- 855.10 [Incorporation by Reference](#)~~Definitions~~
- 855.20 Notice Preparation [\(Repealed\)](#)
- 855.30 Content of Personalized Notice [\(Repealed\)](#)

AUTHORITY: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405].

SOURCE: Adopted at 10 Ill. Reg. 8146, effective May 2, 1986; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 855.10 [Incorporation by Reference](#)~~Definitions~~**

- a) [The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519p and 404.1519q.](#)
- b) [The Bureau shall adhere to the Program Operations Manual System \(POMS\) as set forth by the Social Security Administration \(SSA\) with regard to disability hearings at the reconsideration level.](#)

~~"Bureau" means the Bureau of Disability Determination Services within the Illinois Department of Rehabilitation Services.~~

~~"Consultative examination" means a medical examination purchased by the Bureau from an attending physician, another source of record, or an independent source to secure additional information necessary to make a disability determination or to resolve conflicting information.~~

~~"Continuing disability review" means a review of an individual's current condition to determine if disability continues.~~

~~"Partially unfavorable disability decision" means a disability decision where the~~



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~onset date for disability set by the Bureau does not agree with the onset date for disability as stated by the claimant.~~

~~"Personalized notice" means a letter to a claimant which contains a statement of the case written in understandable language, provides a discussion of the evidence and states the reason for the decision according to Public Law (P.L.) 96-265, Section 305 (The Social Security Disability Amendments of 1980).~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 855.20 Notice Preparation (Repealed)**

- a) ~~A personalized notice to a claimant will be prepared when a totally unfavorable disability decision (a denial or cessation of disability benefits) is made according to Section 205(b), title II section 1631(c)(1), title XVI of the Social Security Act.~~
- b) ~~A personalized notice to a claimant will be prepared when a partially unfavorable disability decision is made under section 205(b), title II section 1631(c)(1), title XVI of the Social Security Act if the onset date stated by the Bureau differs from the onset date stated by the claimant and adversely affects payment of benefits.~~
- e) ~~A notice to the claimant will be prepared on fully favorable title II and title XVI continuing disability review decisions (continuation of disability benefits).~~
- d) ~~Spanish language notices will be handled as follows:~~
  - 1) ~~A Spanish language notice will be provided to claimants who request Spanish notices. If a claimant does not request a Spanish notice but meets one of the following criteria, then the claimant will be contacted by staff from the Social Security Administration district office to determine if the claimant wants Spanish language notices. The criteria are:~~
    - A) ~~The application shows the individual was born in Puerto Rico or a country where Spanish is the primary language.~~
    - B) ~~The individual has a Spanish surname.~~
    - C) ~~The individual lives in a known Spanish-speaking area.~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- ~~D) The interview is conducted in Spanish or with the assistance of a translator.~~
- ~~E) The individual has difficulty with English during the interview but shows familiarity with Spanish.~~
- ~~2) In the event one or more of the criteria are met and the claimant does not wish to receive Spanish language notices, the claimant will be requested to sign a waiver form SSA-381-SP. The claimant will be informed that the decision regarding Spanish notices can be changed at any time by contacting the local Social Security Administrative district office.~~
- ~~e) Spanish language notices consist of a standardized Spanish text and a personalized English explanation of the decision. In cases where the Social Security Administration does not provide standardized Spanish text, the Spanish language notice will consist of English standardized text and a personalized English explanation with Spanish language appeal rights.~~
- ~~f) A Braille notice of the determination decision will be provided to claimants whenever they request one. Braille notices are prepared by the Social Security Administration.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 855.30 Content of Personalized Notice (Repealed)**

- ~~a) A personalized notice will contain the following elements:~~
  - ~~1) A list of the medical/vocational reports evaluated.~~
  - ~~2) A statement indicating that the Bureau obtained and evaluated those medical/vocational reports necessary to make a decision. When sources of evidence are unresponsive (an unresponsive source is a source who has not responded to at least two Bureau requests for reports regarding the claimant), the statement will indicate that additional reports were not obtainable, but there is enough evidence to evaluate the claimant's condition.~~
  - ~~3) A paragraph explaining the basis for the decision.~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 4) ~~A list of the impairments evaluated in laymen's terms.~~
  - 5) ~~An explanation of the evidence. When the effects of pain and/or other symptoms have been considered in making the decision, a discussion will also be included of how often the symptom occurs and how long it lasts, what causes the symptom to appear or makes it worsen, third party and physician reports and/or observations and a medical opinion regarding the effects of the symptom on the individual's ability to function. Where there are conflicting opinions in file about the individual's ability to function, a discussion will be included regarding the consideration given to the opinions and the basis for conclusions regarding the individual's ability to function.~~
  - 6) ~~When the basis for an unfavorable decision of disability is the ability to do past work, the job to which the claimant can return.~~
  - 7) ~~When the basis for an unfavorable decision is the ability to do work other than what the claimant has done in the past, a statement that although the individual is unable to do work done in the past considering age, education and past work experience, the individual retains the capacity to do other types of work which are less physically or mentally demanding.~~
  - 8) ~~When the basis for an unfavorable decision is that the 12 month duration requirement is not met, an explanation of this issue.~~
  - 9) ~~When an unfavorable decision is based on factors such as insufficient evidence or failure/refusal to submit to a consultative examination, an explanation of the decision based on these factors.~~
  - 10) ~~When an unfavorable decision is based on failure to follow prescribed treatment, a discussion of the prescribed treatment the individual is not following and what the treatment would accomplish, if followed.~~
  - 11) ~~When a partially unfavorable decision is made, a discussion of the evidence including dates and time periods involved.~~
- b) A personalized notice will be written in the following manner:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) ~~Abbreviations, jargon, acronyms, technical terms or complex medical language will not be used.~~
- 2) ~~Information provided will be concise and relevant to the disability determination.~~
- 3) ~~Dates will be abbreviated by number (e.g., 12/14/81).~~
- 4) ~~Statements will be made as simply and clearly as possible using proper language.~~
- 5) ~~Language used will be sensitive to the claimant's feelings and needs.~~
- 6) ~~Language will be written in the third person when the notice will be sent to an individual filing on behalf of another person.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Listing of Impairments
- 2) Code Citation: 89 Ill. Adm. Code 860
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
860.10	Amendment
860.20	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: These rules were intended to help ensure quality and integrity of Disability Case Development. The Bureau of Disability Determination Services currently follows the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) in determining disability. The current rules are obsolete and no longer meet the SSA criteria. As such, the rules are being amended to directly incorporate POMS and ensure the Bureau is operating under current SSA policy.
- 6) Published studies or reports, along with the sources of underlying data, that were used when composing this rulemaking? None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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 present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

Tracie Drew, Chief

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

Bureau of Administrative Rules and Procedures  
Department of Human Services  
100 South Grand Avenue East  
Harris Building, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762

DHS.AdministrativeRules@illinois.gov  
(217) 785-9772

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
  - B) Reporting, bookkeeping or other procedures required for compliance: None
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES

## SUBCHAPTER g: BUREAU OF DISABILITY DETERMINATION SERVICES

## PART 860

## LISTING OF IMPAIRMENTS

## Section

860.10 Incorporation by Reference~~Definitions~~860.20 Criteria for Listing of Impairments (Repealed)

AUTHORITY: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405].

SOURCE: Adopted at 10 Ill. Reg. 13342, effective July 29, 1986; amended at 15 Ill. Reg. 11500, effective July 25, 1991; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 860.10 Incorporation by Reference~~Definitions~~**

- a) The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519p and 404.1519q.
- b) The Bureau shall adhere to the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) with regard to the listing of impairments.

~~"Bureau" means the Bureau of Disability Determination Services.~~

~~"Listing of Impairments" means medical criteria used to evaluate disability and blindness without consideration of vocational factors, such as age, education and work experience.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 860.20 Criteria for Listing of Impairments (Repealed)**

- a) ~~The Bureau incorporates the criteria specified in the Code of Federal Regulations 20 CFR 404.1525(a)-(e); 20 CFR 416.925(a)-(e) revised April 1, 1990; and 20 CFR 404 Appendix 1 Part A and Part B, Listing of Impairments amended December 12, 1990. This incorporation does not include any later amendments or~~



DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

~~editions.~~

- b) ~~The medical criteria contained in the Listing of Impairments are used within the framework of the sequential evaluation process as specified in 89 Ill. Adm. Code 845.20(e)(2).~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Disability Assistance Unit
- 2) Code Citation: 89 Ill. Adm. Code 870
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
870.10	Amendment
870.11	Repealed
870.20	Repealed
- 4) Statutory Authority: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405/3].
- 5) A Complete Description of the Subjects and Issues Involved: These rules were intended to help ensure quality and integrity of Disability Case Development. The Bureau of Disability Determination Services currently follows the Program Operations Manual System (POMS) as set forth by the Social Security Administration (SSA) in determining disability. The current rules are obsolete and no longer meet the SSA criteria. As such, the rules are being amended to directly incorporate POMS and ensure the Bureau is operating under current SSA policy.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking? None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: 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 present their comments concerning these rules within 45 days after the date of this issue of the *Illinois Register*. All requests and comments should be submitted in writing to:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

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

(217) 785-9772  
DHS.AdministrativeRules@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: This rulemaking will not have an adverse impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 89: SOCIAL SERVICES

## CHAPTER IV: DEPARTMENT OF REHABILITATION SERVICES

## SUBCHAPTER g: BUREAU OF DISABILITY DETERMINATION SERVICES

## PART 870

## THE DISABILITY ASSISTANCE UNIT

## Section

- 870.10 [Incorporation by Reference](#)~~Definitions~~
- 870.11 Incorporation by Reference [\(Repealed\)](#)
- 870.20 Services Provided by the Disability Assistance Unit [\(Repealed\)](#)

AUTHORITY: Implementing and authorized by Section 3 of the Rehabilitation of Persons with Disabilities Act [20 ILCS 2405].

SOURCE: Adopted at 12 Ill. Reg. 11493, effective June 22, 1988; amended at 13 Ill. Reg. 20122, effective December 11, 1989; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 870.10 [Incorporation by Reference](#)~~Definitions~~**

- a) [The Bureau incorporates the standards set forth in the Code of Federal Regulations 20 CFR 404.1519p and 404.1519q.](#)
- b) [The Bureau shall adhere to the Program Operations Manual System \(POMS\) as set forth by the Social Security Administration \(SSA\) with regard to the Disability Assistance Unit.](#)

~~"Consultative examination" means a medical examination purchased by the Bureau from a treating physician, another source of record, or an independent source to secure additional information necessary to make a disability determination or to resolve conflicting information pursuant to 89 Ill. Adm. Code 840.~~

~~"Crisis intervention training" means a seminar conducted by mental health professionals for the Disability Assistance Unit professional staff to teach them skills to be used in suicide prevention and conflict management during the disability determination process.~~

~~"Disability Assistance Unit" means the unit within the Bureau of Disability~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~Determination Services created to respond to public official and claimant inquiries and to serve as an advocacy system to reinforce the rights of Illinois citizens with disabilities and to improve state administration of the disability determination process.~~

~~"Disability determination process" means the system of developing medical/vocational evidence under Titles II and XVI of the Social Security Act 42 U.S.C., Chapter 7, as amended August 28, 1950 and October 30, 1972 for the purpose of evaluating a claimant's impairment(s) according to 20 CFR 404.1503, 404.1505, 404.1581, 416.903, 416.905, 416.906, and 416.981 as amended April 1986 with no later amendments or editions. Refer, also, to 89 Ill. Adm. Code 845 and 860.~~

~~"Toll-free telephone hotline" means an 800 telephone number through which Illinois residents can gain immediate access to the Disability Assistance Unit.~~

~~"Vocational evidence development" means functional and vocational capacities testing conducted in vocational assessment facilities, pursuant to 89 Ill. Adm. Code 843.50.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 870.11 Incorporation by Reference (Repealed)**

~~Incorporations by reference in this Part do not include any later amendments or editions.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 870.20 Services Provided by the Disability Assistance Unit (Repealed)**

- a) ~~The Disability Assistance Unit (DAU) will assist the claimant in processing the disability claim, upon request, through the following actions:~~
- ~~1) Explaining the Social Security Administration disability determination process;~~
  - ~~2) Explaining legal rulings which affect that process;~~
  - ~~3) Making travel/lodging arrangements necessary for consultative~~

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF PROPOSED AMENDMENTS

~~examinations and vocational evidence development;~~

- ~~4) Investigating and resolving delays in case processing;~~
- ~~5) Referring claimants to social service agencies.~~
- b) The DAU will operate a toll-free telephone hotline to answer questions, hear complaints, and provide assistance to Illinois residents in pursuing disability claims.
- e) The DAU will keep a file of records of suspected child abuse/neglect reported by the Bureau according to the regulations set forth by the Department of Children and Family Services pursuant to the Abused and Neglected Child Reporting Act (Ill. Rev. Stat. 1987, ch. 23, pars. 2051 et seq.).
- d) The DAU will report, to the Department on Aging, instances of abuse of elderly persons, as defined by the Department on Aging's rules at 89 Ill. Adm. Code 250.120, and will report, to the Department of Public Health, instances of abuse in long-term care facilities in accordance with the Abused and Neglected Long-Term Care Facility Residents Reporting Act (Ill. Rev. Stat. 1987, ch. 111½, par. 4161 et seq.).
- e) The DAU will intervene in claimant crises involving suicide or other threats of violence by employing methods learned in crisis intervention training and by notifying authorities and family members as indicated by the situation.
- f) The DAU will operate a Voice/Telecommunication Device for the Deaf to assist adjudicators in communicating with disability claimants with hearing impairments.
- g) The DAU will publicize the existence of their service to the general public and professional, community, and advocacy groups through the media, informational brochures, and correspondence to claimants.
- h) The DAU will respond to federal, state, and local public official inquiries in keeping with the Privacy Act of 1974 (5 U.S.C. 552a) P.L. 93-579, the Freedom of Information Act (5 U.S.C. 552 added by P.L. 90-23 and amended by P.L. 93-502 and P.L. 94-409) and the guidelines set forth in the Program Operations Manual DI 30500.000 as amended January 1989.

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Timber Buyer Licensing and Harvest Fees
- 2) Code Citation: 17 Ill. Adm. Code 1535
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1535.1	Renumbered; New Section
1535.3	Renumbered; Amendment
1535.4	New Section
1535.5	Amendment
1535.10	Amendment
1535.15	Repealed
1535.16	Repealed
1535.20	Amendment
1535.25	Amendment
1535.50	Amendment
1535.60	Amendment
- 4) Statutory Authority: Implementing and authorized by the Timber Buyers Licensing Act [225 ILCS 735].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended pursuant to P.A. 103-218.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

John Fischer, Legal Counsel  
Department of Natural Resources  
One Natural Resources  
Springfield, IL 62702

(217) 782-1809  
dnr.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Timber Buyers
- B) Reporting, bookkeeping or other procedures required for compliance: Reporting and records retention as required under the Timber Buyer's Act
- C) Types of professional skills necessary for compliance: Bookkeeping

14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed rule:
  - 11 Agriculture, Forestry, Fishing and Hunting
- B) Categories that the agency reasonably believes the rulemaking will impact, including:
  - i. hiring and additional staffing;
  - ii. regulatory requirements;
  - iv. insurance charges;
  - v. licensing fees;
  - viii. record keeping.

15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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 d: FORESTRY

## PART 1535

## TIMBER BUYER LICENSING AND HARVEST FEES

## Section

1535.1	<a href="#">Definitions</a> <del>Timber Buyer's License</del>
<a href="#">1535.3</a>	<a href="#">Timber Buyer Application and Department Verification</a>
<a href="#">1535.4</a>	<a href="#">License and Timber Buyer Identification Cards</a>
1535.5	Records <a href="#">and Reporting</a>
1535.10	Payment of 4% Fee to Department
1535.15	Bonding Definitions <a href="#">(Repealed)</a>
1535.16	Bonding Requirements <a href="#">(Repealed)</a>
1535.20	Value Determination
1535.25	Aggregate Value Determinations of Timber
1535.30	Volume Estimates
1535.40	Arbitration (Repealed)
1535.50	Information
1535.60	<a href="#">Suspension or Revocation of Timber Buyer's License</a> <del>Penalty</del>

AUTHORITY: Implementing and authorized by the Timber Buyers Licensing Act [225 ILCS 735].

SOURCE: Adopted and codified at 8 Ill. Reg. 4492, effective March 28, 1984; amended at 9 Ill. Reg. 2942, effective February 26, 1985; amended at 12 Ill. Reg. 16018, effective September 27, 1988; amended at 13 Ill. Reg. 19954, effective December 12, 1989; amended at 15 Ill. Reg. 5219, effective March 28, 1991; amended at 16 Ill. Reg. 8499, effective May 26, 1992; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 27 Ill. Reg. 7761, effective April 21, 2003; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1535.1** [Definitions](#)~~Timber Buyer's License~~

"Act" means the Timber Buyers Licensing Act [225 ILCS 735].

"Agent" means any person acting on behalf of a timber buyer, employed by a timber buyer, or under an agreement, whether oral or written, with a timber

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

buyer who buys timber, attempts to buy timber, procures contracts for the purchase or cutting of timber, or attempts to procure contracts for the purchase of cutting of timber. [225 ILCS 735/2]

"Department" means the Illinois Department of Natural Resources.

"Fair market value" means the price that property would sell for on the open market. It is the price that would be agreed on between a willing buyer and a willing seller, with neither being required to act, and both having reasonable knowledge of the relevant facts.

"Good standing" means any person who is not:

currently serving a sentence of probation, or conditional discharge, for a violation of this Act or administrative rules adopted under this Act;

owes any amount of money pursuant to a civil judgment regarding the sale, cutting, or transportation of timber;

owes the Department any required fee, payment, or money required under this Act; or

is currently serving a suspension or revocation of any privilege that is granted under this Act. [225 ILCS 735/2]

"Harvest fee" means:

an amount of money equal to 4% of the purchase price for timber between a timber buyer and a timber grower;

4% of the minimum fair market value of timber, as determined by administrative rule, when the purchase price of timber between a timber buyer and a timber grower cannot otherwise be determined; or

4% of the minimum fair market value of the timber utilized by a timber grower that was produced on land the timber grower owns or operates for sawing into lumber, for processing, or for resale and such timber or lumber is not the personal use of the timber grower.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

"Illinois Timber Prices Survey" means a survey published by the Illinois Department of Natural Resources that contains the lowest, highest and State average prices for timber.

"Liability insurance" means no less than \$500,000 in insurance covering a timber buyer's business and agents that shall insure against the liability of the insured for the death, injury, or disability of an employee or other person and insurance against the liability of the insured for damage to or destruction of another person's property [225 ILCS 735/2]

"Stumpage value" means the value of timber as it stands uncut in terms of an amount per unit of volume expressed as dollar value per board foot for that portion of a tree or timber deemed merchantable by Illinois forest products markets. [740 ILCS 185/1]

"Timber" means trees, standing or felled, and parts thereof which can be used for sawing or processing into lumber for building or structural purposes or for the manufacture of any article. "Timber" does not include firewood, Christmas trees, fruit or ornamental trees, or wood products not used or to be used for building, structural, manufacturing, or processing purposes. [225 ILCS 735/2]

"Timber buyer" means any person licensed or unlicensed, who is engaged in the business of buying timber from the timber growers thereof for sawing into lumber, for processing or for resale, but does not include any person who occasionally purchases timber for sawing or processing for the person's his own use and not for resale. [225 ILCS 735/2]

"Timber grower" means the owner, tenant, or operator of land in this State who has an interest in or is entitled to receive any part of the proceeds from the sale of timber grown in this State and includes persons exercising authority to sell timber. [225 ILCS 735/2]

"Utilized" means timber produced on the land a timber grower owns or operates for sawing into lumber, for processing, or for resale.

"Yearly quarter" means and are as follows:

Quarter 1 – January 1 through March 31

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Quarter 2 – April 1 through June 30

Quarter 3 – July 1 through September 30

Quarter 4 – October 1 through December 31

(Source: Section 1535.1 renumbered to Section 1535.3; new Section 1535.1 added at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1535.3 Timber Buyer Application and Department Verification****Buyer's License**

- a) All timber buyers, ~~as defined by the Illinois Timber Buyers Licensing Act [225 ILCS 735/2]~~, shall obtain a license from the Department before engaging in the business of timber buying. Application for such license shall be filed on forms provided by the Department and shall contain the following minimum information:
- 1) Name, date of birth and address of the applicant;
  - 2) Business name, if any, including if the business is a corporation, partnership or limited liability company;
  - ~~3~~2) Principal officers if applicant is a corporation or the partners if applicant is a partnership;
  - ~~4~~3) Location of the principal office or place of business of the applicant;
  - ~~5~~4) The counties in the State of Illinois which the applicant proposes to engage in the business of timber buyer;
  - ~~6~~5) Name, date of birth,~~The names~~ and address of all agents of the applicant~~addresses of any persons authorized to purchase timber in the name of the licensed buyer;~~
  - ~~7~~6) A certificate of liability insurance issued by an insurance company or surety company that is authorized to do business in the State of Illinois in the principal amount of not less than \$500,000 and shall include the expiration date of the policy~~Type and amount of bond;~~ and

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- ~~87)~~ Any other information as required by the Department in the application.
- b) The Department shall approve the issuance of a timber buyer's license if all of the following criteria are met:~~Only persons listed with the Department as authorized buyers may represent the licensee. Authorized buyers shall designate in all contractual arrangements that the licensee is the timber buyer. Failure to comply with this provision shall constitute "buying timber without a timber buyer's license". Authorized buyers may only be listed on one license. To be eligible to hold a timber buyer's license, the applicant must be at least 18 years of age.~~
- 1) The applicant has provided all documentation required in the application to the Department's satisfaction.
  - 2) The applicant has paid the application fee pursuant to Section 8 of the Act. The fee is:
    - A) \$125 for residents
    - B) \$300 for non-residents
  - 3) The applicant has provided proof of liability insurance as required by the Act and this Part.
  - 4) The applicant and all agents listed in the application are in good standing with the Department.
  - 5) The applicant and all agents listed in the application are 18 years of age or older.

(Source: Section renumbered from 1535.1 to Section 1535.3 and amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1535.4 License and Timber Buyer Identification Cards**

- a) License. If a timber buyer's application is approved by the Department, then a license shall be issued by the Department and shall contain the following information:
- 1) name of the licensee and license number;

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 2) business name of the licensee, if any;
  - 3) address of the licensee;
  - 4) names of all agents listed in the licensee's application that are in good standing with the Department; and
  - 5) expiration date of the timber buyer license.
- b) Timber Buyer Identification Cards. All timber buyer identification cards shall be issued by the Department to all timber buyers and the timber buyer's agents that are in good standing with the Department. A timber buyer identification card shall contain the following information:
- 1) name of the timber buyer or agent that the card is issued to;
  - 2) name and license number of the licensed timber buyer that the timber buyer identification card is being issued under;
  - 3) address and telephone number of the licensed timber buyer that the timber buyer identification card is being issued under; and
  - 4) the expiration date of the timber buyer identification card.

(Source: Added at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1535.5 Records and Reporting**

- a) Records of the Timber Buyer.  
A timber buyer shall retain the books, accounts, records, proof of ownership, or other documentation required under this Act or administrative rule used in the conduct of the buyer's business for a period of 3 years after any purchase, cutting, or transportation of timber made by the timber buyer or buyer's employee. [225 ILCS 735/9]
- b) Harvest Fee – Report of Purchase. When a timber buyer buys timber in this State, the timber buyer shall file a report to the Department on a report form provided by the Department. [225 ILCS 735/9a(b)] Each timber purchase shall be fully



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

reported by the timber buyer no later than 30 days from the end of each yearly quarter that the timber purchase occurred. Such report shall be on the Department provided reporting form and shall include~~The books, accounts, records and papers used in the conduct of a timber buyer's business must contain, at a minimum,~~ the following information ~~regarding each timber purchase:~~

- 1~~a~~) date of purchase. For all purposes, except the payment of harvest fees, the date of purchase shall be the date the purchase agreement was made;
- 2~~b~~) date of payments;
- 3~~e~~) amount of payments;
- 4~~d~~) amount of harvest fee;
- 5~~e~~) date harvest fee sent to Illinois Department of Natural Resources; ~~and~~
- 6~~f~~) name, address and telephone number of timber grower; and~~seller.~~
- 7) any other information as required by the Department.

c) Timber Grower Report of Utilization

- 1) *Every timber grower who utilizes timber produced on land the timber grower owns or operates for sawing into lumber for processing or for resale, shall report periodically, as required by this Act or administrative rule of the Department, the quantity, value, and species of timber produced and utilized by the owner or operator during the reporting period. [225 ILCS 735/9a(d)]*
- 2) Each Timber Grower Report of Utilization shall be fully reported by the timber grower no later than 30 days from the end of each yearly quarter that the timber utilization occurred. Such report shall be on the Department provided reporting form and shall include the following information:
  - A) quantity, dollar value, and species of the timber produced and utilized by the timber grower;



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- B) the minimum fair market value of the timber that was produced on the timber grower's land and utilized by the timber grower;
- C) parcel identification number of where the timber was grown;
- D) amount of harvest fee;
- E) date harvest fee sent to Illinois Department of Natural Resources;
- F) name, address and telephone number of timber grower; and
- G) any other information as required by the Department.

d) Liability Insurance Changes or Cancellation

- 1) Any licensed timber buyer that cancels or alters their liability insurance shall inform the Department in writing within 14 days of the cancellation or alteration of such policy.
- 2) Unless the timber buyer is cancelling or surrendering their license to the Department, a notification to the Department of a cancellation or alteration of liability insurance shall also include a new certificate of insurance showing the new or altered insurance policy that has been issued to the timber buyer. Such new or altered insurance policy must conform to all requirements of the Act and this Part.
- 3) *At any such time as a licensee fails to have the necessary liability insurance, as required herein, the Department may immediately, and without notice, suspend the privileges of such licensee. In the event of such suspension, the Department shall give immediate notice of the same to the licensee and shall further reinstate such license upon filing with the Department a certificate of liability insurance that conforms to the requirements of this Act. [225 ILCS 735/4]*

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1535.10 Payment of 4% Fee to Department**

- a) All 4% harvest fees required to be paid to the Department by~~collected from~~

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

timber buyers pursuant to Section 9a(a) of the Act and timber growers pursuant to Section 9a(c) of the Act~~owners or values determined in barter transactions or in timber harvests by owners from their lands~~ shall be sent to the Department, along with the Department provided fee reporting form, no later than 30 days from the end of each yearly quarter~~of Natural Resources (Department or DNR) accompanied by a completed Form FPF-1 (Harvest Fee – Report of Purchase) as supplied by the Department.~~

- b) Any timber buyer purchasing timber from the federal government shall not be required to deduct the 4% harvest fee from the purchase price, report such purchases or make payment to the Department of an amount that equals 4% of the purchase price.
- c) Payments are to be made payable to the Department of Natural Resources and must be in the exact amount shown due on the Department provided fee reporting form~~accompanying Form FPF-1~~. When any payment is returned to the Department by the Office of the State Treasurer as non-negotiable, the person issuing the check or order will be given written demand delivered by certified mail for payment equal to the original amount by certified instrument, such as a cashier's check or money order, to the person's last known address. ~~Failure to pay the original amount within 30 days after such delivery shall result in the bond being forfeited to the Department.~~
- d) Payments to the Department may be made on an individual sales or quarterly basis. ~~A quarterly and individual sales report cannot be filed for the same quarter. Quarters are established by the calendar year and shall be for the periods of: January–March, April–June, July–September, October–December.~~
- e) All timber transactions for which monies are due to the Department shall be submitted no later than 30 days from the end of the quarter in which the timber transaction occurred~~by the last day of the month following the end of each quarter.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1535.15 Bonding Definitions (Repealed)**

- a) ~~Bond means surety bond or other security in lieu thereof described in 225 ILCS 735/4.~~

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- b) ~~Surety bond means an indemnity agreement in a sum certain payable to the Department, executed by the timber buyer as principal and that is supported by the guarantee of a corporation authorized to transact business as a surety in Illinois.~~
- e) ~~Other security means an indemnity agreement in a sum certain executed by the timber buyer as principal that is supported by the deposit with the Department of one or more of the following:~~
  - 1) ~~An irrevocable letter of credit of any bank organized or authorized to transact business in Illinois, payable only to the Department upon presentation;~~
  - 2) ~~Certificates of deposit, drawn on a federally insured bank, made payable or assigned to the Department and placed in its possession.~~

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1535.16 Bonding Requirements (Repealed)**

- a) ~~Surety Bond Requirements~~
  - 1) ~~Bonds shall be signed by the timber buyer as principal, and by a good and sufficient corporate surety, authorized to transact business as a surety in Illinois.~~
  - 2) ~~Each surety bond shall provide that the bond shall not be cancelled by the surety except after not less than 60 days notice to the Department. The notice shall be served upon the Department in writing by registered or certified mail to the Department's Springfield offices.~~
  - 3) ~~Prior to the expiration of the 60 days notice of cancellation, the timber buyer shall deliver to the Department a replacement bond. If the bond is not delivered, all activities covered by the permit and bond shall cease at the expiration of the 60 day period.~~
- b) ~~Other Securities Requirements~~

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) ~~Letters of credit shall be subject to the following conditions:~~
  - A) ~~The letter may only be issued by a bank organized or authorized to do business in the United States (issuing bank). If the issuing bank does not have an office for collection in Illinois, there shall be either a confirming bank designated that is authorized to accept, negotiate and pay the letter upon presentment in Illinois, or an Illinois registered agent designated by the issuing bank.~~
  - B) ~~Letters of credit shall be irrevocable during their terms. A letter of credit shall be forfeited and shall be collected by the Department if not replaced by other suitable bond or letter of credit at least 30 days before its expiration date.~~
  - C) ~~The letter of credit shall provide on its face that the Department, its lawful assigns, or the attorneys for the Department or its assigns, may sue, waive notice and process, appear on behalf of, and confess judgment against the issuing bank (and any confirming bank) in the event that the letter of credit is dishonored. The letter of credit shall be deemed to be made in Sangamon County, Illinois, for the purpose of enforcement and any actions thereon shall be enforceable in the Courts of Illinois, and shall be construed under Illinois law.~~
- 2) ~~Certificates of deposit shall be subject to the following conditions:~~
  - A) ~~The Department shall require that certificates of deposit be made payable to or assigned to the Department both in writing and upon the records of the bank issuing the certificates. If assigned, the Department shall require the banks issuing these certificates to waive all rights of setoff or liens against those certificates.~~
  - B) ~~Any interest accruing on a certificate of deposit shall be for the benefit of the timber buyer.~~
  - C) ~~The certificate of deposit, if a negotiable instrument, shall be placed in the Department's possession. If the certificate of deposit is not a negotiable instrument, a withdrawal receipt, endorsed by the timber buyer, shall be placed in the Department's possession.~~

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

(Source: Repealed at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1535.20 Value Determination**

- a) The value of timber purchased shall be the gross amount received by the timber grower~~owner~~ and paid by the timber buyer for any interests involved in the timber purchase.
- b) When timber is purchased in whole or in part by barter, the fair market value of the bartered item or service used as payment for timber or logs to the timber grower~~owner~~ shall be used in determining the harvest fee due the Department of Natural Resources. Any payment made from any source shall require a 4% harvest fee payment to the Department. The following formula shall be used: Aggregate Value of Timber x 0.04 = 4% fee to be paid to the Department.
- c) If timber is cut from an owner's land without establishing the amount to be paid or the bartered value of the timber or logs, such timber or logs shall have the stumpage value~~set at the point in the marketing system where ownership changes at the mill or primary processing plant.~~
  - 1) ~~When harvested logs (used for lumber, cooperage, piling or veneer) are piled and sold but not delivered to the primary plant site by the timber owner, a deduction of \$100 per thousand board feet or 50% of the purchase price, whichever is less, may be taken from the purchase price paid by the timber buyer prior to determining the 4% harvest fee. This deduction is not available to persons in the business of timber buying or acting as a timber buyer.~~
  - 2) ~~When logs (used for lumber, cooperage, piling or veneer) are sold and delivered to the primary plant site by the timber owner, a deduction of \$125 per thousand board feet or 50% of the purchase price, whichever is less, may be taken from the purchase price paid by the timber buyer prior to determining the 4% harvest fee. This deduction is not available to persons in the business of timber buying or acting as a timber buyer.~~
  - 3) ~~For pulpwood purchased by weight and delivered to the mill by the timber owner, 50% of the purchase price may be deducted prior to determining the 4% harvest fee.~~



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- d) ~~Value determination methods at the mill site, other than for logs for lumber, cooperage, piling, veneer, or pulpwood, shall be determined by the Department on request. All requests must state in detail the nature of the product and method of determining mill site value.~~
- de) For timber cut on lands owned by a timber ~~grower~~buyer or mill and used by that timber ~~grower~~buyer or mill in its production process, value will be the minimum fair market~~determined as a stumpage~~ value. The Illinois Timber Prices Survey, for the quarter when the timber was harvested, may be used as a guide for determining value. ~~("Illinois Timber Prices" survey published by the Illinois Agricultural Statistics Service and the Illinois Department of Natural Resources.)~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1535.25 Aggregate Value Determinations of Timber**

- a) Primary determination of the aggregate value of timber shall be the total dollar value paid at the first point of sale or change of ownership~~to a processing facility~~.
- b) Secondary determination of the aggregate value of timber shall be calculated using the Doyle Log Rule, as published in the Forestry Handbook Second Edition (1984) edited for the Society of American Foresters by Karl F. Wenger and published by John Wiley and Sons, to determine volume. The highest dollar amount of the commercial timber for tree species had it been offered for sale on the open market will be used for the price. The "Illinois Timber Prices Survey"~~report issued by the Illinois Agricultural Statistics Service and the Illinois Department of Natural Resources~~, for the time frame of the timber harvest, shall be used to determine the commercial timber value.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1535.50 Information**

Anyone wishing additional information concerning this Part, or a supply of Department approved form~~Form FPF-1~~, may contact the Department of Natural Resources at the following address:

Department of Natural Resources

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

~~Division of Forestry~~~~Office of Law Enforcement~~  
One Natural Resources Way  
Springfield, IL 62702-1271  
[DNR.timber@illinois.gov](mailto:DNR.timber@illinois.gov)

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1535.60** Suspension or Revocation of Timber Buyer's License~~Penalty~~

- a) Any person violating the provisions of this Part shall, upon finding of guilt by a court of law, be subject ~~to statutory penalties as prescribed by the Timber Buyers Licensing Act [225 ILCS 735] and~~ to revocation of license and suspension of privileges, ~~as set out in the Timber Buyers Licensing Act.~~
- b) Any such revocation/suspension procedures shall be governed by the Timber Buyers Licensing Act and by Department Revocation Procedures (17 Ill. Adm. Code 2530). Any conflict between this Part and 17 Ill. Adm. Code 2530, this Part shall control.
- c) Those persons convicted of a violation of the Act or this Part shall be suspended from obtaining or renewing a timber buyers license and any such license that has been issued at the time of the suspension shall be revoked by the Department. The suspension and revocation timeframes shall be as set in 17 Ill. Adm. Code 2530.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Revocation Procedures for Conservation Offenses
- 2) Code Citation: 17 Ill. Adm. Code 2530
- 3) Section Number: 2530.240      Proposed Action: Amendment
- 4) Statutory Authority: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100], Sections 70 and 105 of the Herptiles-Herps Act [510 ILCS 68] and authorized by Sections 5-625, 805-518, 805-545 and 805-550 of the Civil Administrative Code of Illinois. (General Provisions and Departments of State Government) [20 ILCS 5/5-625, 805-518, 805-545 and 805-550].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to update the regulations pursuant to P.A. 103-218.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT

John Fischer, Legal Counsel  
Department of Natural Resources  
One Natural Resources  
Springfield, IL 62702

217-782-1809  
dnr.rules@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: None
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not summarized in a regulatory agenda because it was not anticipated.

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

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT

## TITLE 17: CONSERVATION

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## SUBCHAPTER f: ADMINISTRATIVE SERVICES

## PART 2530

REVOCATION PROCEDURES  
FOR CONSERVATION OFFENSES

## SUBPART A: GENERAL RULES

## Section

2530.10	Applicability
2530.20	Definitions
2530.30	Filing
2530.35	Parties
2530.40	Documents
2530.50	Computation of Time
2530.60	Appearances

SUBPART B: SUMMARY REVOCATION/SUSPENSION  
BASED ON ACCUMULATION OF POINTS

## Section

2530.110	Applicability (Recodified)
2530.130	Rules Proposed by Member of Public (Recodified)
2530.140	Authorization of Hearing (Recodified)
2530.150	Notice of Hearing (Recodified)
2530.160	Hearing Officer (Recodified)
2530.180	Written Submission (Recodified)
2530.190	Record (Recodified)
2530.200	Revision of Proposed Rules (Recodified)
2530.210	Filing and Publication of Final Rules (Recodified)
2530.220	Applicability
2530.230	Point System
2530.240	Points
2530.245	Single Incident Rule
2530.250	Groups
2530.255	Types of Offenses
2530.260	Computation of Suspension Period

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT

- 2530.270 Summary Revocation/Suspension Procedures
- 2530.275 Notice of Revocation/Suspension
- 2530.280 Request for Hearing to Appeal Summary Revocation/Suspension

SUBPART C: DEPARTMENT INITIATED REVOCATIONS/SUSPENSIONS  
BASED UPON COURSE OF CONDUCT

## Section

- 2530.300 Department Initiated Revocation/Suspension Based Upon Course of Conduct
- 2530.310 Applicability
- 2530.320 General Procedures (Repealed)
- 2530.330 Parties (Renumbered)
- 2530.340 Notice and Complaint (Department Initiated Proceeding) (Renumbered)

## SUBPART D: HEARINGS OF CONTESTED CASES

- 2530.350 Service (Department Initiated Proceeding) (Repealed)
- 2530.355 General Procedures of Hearings
- 2530.360 Time and Location of Hearing
- 2530.370 Prehearing Conferences
- 2530.380 Authority of Hearing Officer
- 2530.390 Order of Administrative Hearings
- 2530.400 Official Notice
- 2530.410 Default
- 2530.420 Evidence
- 2530.430 Motions and Answers
- 2530.470 Administrative Record
- 2530.480 Briefs and Oral Arguments
- 2530.482 Decision, Order and Disposition
- 2530.484 Compelling Appearance at Hearing
- 2530.486 Recording of Hearing
- 2530.488 Hearing on Timber Buyers – Second and Subsequent Suspensions
- 2530.490 Decision and Order (Repealed)

## SUBPART E: INTERSTATE WILDLIFE VIOLATOR COMPACT

## Section

- 2530.500 Interstate Wildlife Violator Compact Membership

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT

## SUBPART F: REINSTATEMENT OF PRIVILEGES

## Section

2530.600 Reinstatement Procedures

2530.610 Reinstatement Fees

## SUBPART G: STATUTORILY MANDATED SUSPENSIONS

## Section

2530.700 Suspension of Operating Privileges

## SUBPART H: EVICTION FROM DEPARTMENT LANDS

## Section

2530.800 Applicability

2530.810 Immediate Eviction and Removal from Department Lands for up to 90 Days

2530.820 Request for Hearing to Appeal Immediate Eviction and Removal

2530.830 Eviction and Removal from Department Lands for Longer than 90 Days

2530.840 Department Request for Eviction and Removal Longer than 90 Days

2530.850 Procedures for Eviction/Removal Hearings

AUTHORITY: Implementing and authorized by Sections 1-125 and 20-105 of the Fish and Aquatic Life Code of 1971 [515 ILCS 5/1-125 and 20-105], Sections 1.4 and 3.36 of the Wildlife Code [520 ILCS 5/1.4 and 3.36], Sections 4 and 5 of the Illinois Endangered Species Protection Act [520 ILCS 10/4 and 5], Section 3B-8 of the Boat Registration and Safety Act [625 ILCS 45/3B-8], Sections 10 and 13 of the Timber Buyers Licensing Act [225 ILCS 735/10 and 13], Section 6 of the Ginseng Harvesting Act [525 ILCS 20/6] and the Illinois Administrative Procedure Act [5 ILCS 100], Sections 70 and 105 of the Herptiles-Herps Act [510 ILCS 68] and authorized by Sections 5-625, 805-518, 805-545 and 805-550 of the Civil Administrative Code of Illinois. (General Provisions and Departments of State Government) [20 ILCS 5/5-625, 805-518, 805-545 and 805-550].

SOURCE: Filed December 21, 1977; effective December 31, 1977; codified at 5 Ill. Reg. 10664; amended at 6 Ill. Reg. 10687, effective August 25, 1982; Subpart B recodified to 2 Ill. Adm. Code 825: Subpart B at 8 Ill. Reg. 4133, effective March 19, 1984; amended at 10 Ill. Reg. 20201, effective November 25, 1986; recodified by changing the agency name from Department of Conservation to Department of Natural Resources at 20 Ill. Reg. 9389; amended at 25 Ill. Reg. 3659, effective February 26, 2001; amended at 25 Ill. Reg. 14126, effective October 22, 2001; amended at 28 Ill. Reg. 9990, effective July 6, 2004; amended at 31 Ill. Reg.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT

9215, effective June 18, 2007; amended at 32 Ill. Reg. 17481, effective October 24, 2008; amended at 35 Ill. Reg. 13268, effective July 26, 2011; recodified at 38 Ill. Reg. 6747; amended at 38 Ill. Reg. 17001, effective July 25, 2014; amended at 43 Ill. Reg. 4837, effective April 11, 2019; amended at 45 Ill. Reg. 8415, effective June 23, 2021; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

SUBPART B: SUMMARY REVOCATION/SUSPENSION  
BASED ON ACCUMULATION OF POINTS

**Section 2530.240 Points**

- a) Unless otherwise specified in subsection (b), points shall be assessed by classification of offense as follows:
  - 1) For a petty offense – 3 points
  - 2) For a Class C Misdemeanor – 6 points
  - 3) For a Class B Misdemeanor – 9 points
  - 4) For a Class A Misdemeanor – 12 points
  - 5) For a Class 4 Felony – 24 points
  - 6) For a Class 3 Felony or Higher – 60 points
- b) Points for the following violations shall be assessed as follows:
  - 1) For any violation committed during a period of suspension – 60 points
  - 2) For any violation of any of the following sections of ~~offenses under~~ the Timber Buyers Licensing Act – 13 points:
    - A) a Class A misdemeanor for a violation of Section 5(a); ~~For any person previously suspended once under Group C (Timber Buyers Licensing Act), a minimum of 60 points and up to a maximum of 120 points shall be assessed for a second suspension. The actual number of points and length of suspension shall be determined at a hearing or by the Hearing Officer in the event of a default, as~~

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENT

~~defined in Section 2530.410.~~

- B) any violation of Section 5(c); or ~~For any person previously suspended twice under Group C (Timber Buyers Licensing Act), a minimum of 120 points and up to a maximum of 900 points shall be assessed for a third or subsequent suspension. The actual number of points and length of suspension shall be determined at a hearing or by the Hearing Officer in the event of a default, as defined in Section 2530.410.~~

C) any violation of Section 5(d).

- 3) Federal offenses shall be assessed points based upon the classification of offense for the corresponding Illinois violation, rather than the federal classification of the offense.
- 4) For any person found guilty of Section 2.33(cc) of the Wildlife Code – 13 points.
- 5) For any person found guilty of Section 2.38 of the Wildlife Code – 13 points.
- 6) For any person found guilty of Section 20-120(h) of the Fish and Aquatic Life Code – 13 points.
- 7) For any person found guilty of Section 20-125(d) of the Fish and Aquatic Life Code – 13 points.
- 8) For any person found guilty of Section 48-3(b)(9) or (b)(10) of the Criminal Code of 2012 – 13 points.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Conservation Stewardship Program
- 2) Code Citation: 17 Ill. Adm. Code 2580
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2580.10	Amendment
2580.20	Amendment
2580.40	Amendment
2580.60	Amendment
2580.120	Amendment
2580.180	Amendment
- 4) Statutory Authority: Implementing and authorized by the Conservation Stewardship Law [35 ILCS 200/Art. 10, Div. 16].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to provide detailed information regarding the Conservation Stewardship Program and the requirements that must be upheld to qualify, apply, and maintain enrollment.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Nicole Thomas, Legal Counsel  
Department of Natural Resources  
One Natural Resources

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Springfield, IL 62702

(217) 782-1809

[dnr.rules@illinois.gov](mailto:dnr.rules@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: None
- 15) Regulatory Agenda on which this rulemaking was summarized: July 2023

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 f: ADMINISTRATIVE SERVICES

## PART 2580

## CONSERVATION STEWARDSHIP PROGRAM

## Section

2580.10	Definitions
2580.20	Eligibility
2580.30	Conservation Management Plan Development
2580.40	Taxpayer Contact Information
2580.50	Location of Managed Land
2580.60	Map of Managed Land
2580.70	Description of Managed Land
2580.80	Recent History of Managed Land
2580.90	Plants and Animals Present
2580.100	Adjacent Land Use
2580.110	Management Objectives
2580.120	Management Practices
2580.130	Protection Measures
2580.140	Exotic/Non-Native Invasive Species
2580.150	Uses of Managed Lands to be Allowed by Landowner
2580.160	Taxpayer Signature
2580.170	Plan Review and Appeal Procedures
2580.180	Conservation Management Plan Non-Compliance

AUTHORITY: Implementing and authorized by the Conservation Stewardship Law [35 ILCS 200/Art. 10, Div. 16].

SOURCE: Adopted by emergency rulemaking at 31 Ill. Reg. 16751, effective December 6, 2007; adopted at 32 Ill. Reg. 7778, effective April 30, 2008; amended at 39 Ill. Reg. 7702, effective May 18, 2015; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 2580.10 Definitions**

"Conservation Management Plan" means a plan approved by the Department of Natural Resources that specifies conservation and management practices, ~~including uses~~ that will be conducted to preserve and restore unimproved land.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

"Conservation Stewardship Program" or "CSP" means the program described in this Part designed to incentivize landowners to maintain, preserve, conserve and manage unimproved land by reducing the valuation of property taxes of landowners with a conservation management plan approved by the Department.

"Contiguous" means not separated by anything other than rivers, streams, road or right-of-way easement.

"Department" means the Illinois Department of Natural Resources.

"Managed Land" means unimproved land of 5 contiguous acres or more that is subject to a conservation management plan.

"Materially Disturbs the Land" means to degrade the natural state of the land.

"Schedule of Practices" means a table indicating the type of management practice, years each practice will occur, the Stand number each practice occurs within, and the approximate acreage each management practice will cover over the 10-year management period.

"Stand" means management unit delineated based on land cover type (forest, pond, grassland, wetland), species composition, topography, and/or vegetation age.

"Taxpayer" means the individual or entity responsible for payment of taxes on the enrolled ~~land~~~~property~~ or on the ~~land~~~~property~~ for which enrollment in CSP is sought.

"Unimproved Land" means woodlands, ~~grassland~~~~prairie~~, wetlands or other vacant and undeveloped land that is not used for any residential or commercial purpose that materially disturbs the land.

"Wooded Acreage" means unimproved land that is predominately tree and shrub cover.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.20 Eligibility**

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- a) A taxpayer who has a conservation management plan for unimproved land of 5 or more contiguous acres may be accepted into the Conservation Stewardship Program. Unimproved land in Cook County is not eligible for the special valuation under this Section.
- b) A taxpayer may apply for reassessment under this Section, and shall not be penalized for doing so, if the taxpayer owns land:
  - 1) included in a forestry management plan under Section 10-150 of the Property Tax Code [35 ILCS 200/10-150];
  - 2) registered or encumbered by conservation rights under Section 10-166 of the Property Tax Code [35 ILCS 200/10-166]; or
  - 3) registered as a Land and Water Reserve under Section 16 of the [Illinois Natural Areas Preservation Act](#) [525 ILCS 30/16].
- c) A taxpayer may apply for reassessment of land formerly assessed as farmland under Sections 10-110 through 10-145 of the Property Tax Code [35 ILCS 200/10-110 through 10-145] during the first year in which the land is not used for farm purposes as defined in Section 1-60 of the Property Tax Code. The special valuation offered under this Section cannot be applied to land formerly assessed as farmland until the second year in which the land is not used for farm purposes.
- d) A taxpayer must have legal access (not landlocked) to the [land](#)~~property~~ prior to enrollment.
- e) [Conservation Stewardship Program enrollment expires after](#)~~CSP plans expire every~~ 10 years. For continuous CSP tax valuation, taxpayers must reapply for CSP prior to [the expiration of their 10-year enrollment plan](#)~~contract expiring or there is a change in ownership of acreage enrolled in CSP~~.
- f) [If ownership of the enrolled land changes during the term of an existing CSP, the Department will allow new landowners to continue the CSP enrollment. For this to occur, landowners must provide an updated tax bill or deed, Stand map, Schedule of Practices, and a change of ownership form to the Department for approval. The change of ownership form can be found on the Department's website, \[www.dnr.illinois.gov\]\(http://www.dnr.illinois.gov\)](#)~~New landowners of previously enrolled CSP~~

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

~~properties may submit an application for enrollment only after they have taken control of the property.~~

- g) Upon approval, the new CSP landowners will receive a certification letter with their expiration date and information regarding the management practices indicated in their Schedule of Practices. The expiration date of the CSP will remain the same. If the new landowner does not elect to continue CSP and complete enrollment within 6 months of the date of sale of the enrolled land, the Department will remove the enrolled land from CSP and notify the chief county assessment officer and the Illinois Department of Revenue.
- h) A taxpayer must timely pay all tax debts on the CSP ~~land~~property, and the CSP ~~land~~property must not be in foreclosure at any time during the enrollment process or during enrollment in CSP. ~~Failure to timely pay all tax debts on CSP land, or CSP land being in foreclosure at any time during the enrollment process or during enrollment will result in removal of the land from the program.~~
- i) Changes in ownership that result in CSP eligible land being below 5 acres will result in removal from the program.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.40 Taxpayer Contact Information**

The taxpayer's name, mailing address, electronic mail (e-mail) address and phone numbers shall be included in the conservation management plan. ~~An electronic mail (e-mail) address may be included at the taxpayer's discretion.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.60 Map of Managed Land**

Maps of the enrolled managed land and vicinity shall be included with the application. The map shall be at a minimum scale of 2 inches to the mile and shall depict an area large enough to include local landmarks (roads, streams, municipalities, etc.) that will allow a reviewer to locate the managed land within a larger landscape. Maps should be printed on 8.5" x 11" paper ~~or larger~~. An aerial ~~Stand~~stand map (identifies areas designated for native species management (~~Stand~~sstand)) and, a tax assessor's Property Index Number map, ~~and a plat book map~~ are required.

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.120 Management Practices**

- a) The specific management practices (herbicide application, planting, prescribed burning, tree thinning, water control structures, etc.) that will be used to achieve the management objectives shall be described. If a management practice is to be implemented on only a portion of the managed land, the portion on which each practice will be applied shall be specified and delineated on an aerial map included in the conservation management plan.
- b) The description of management practices to be implemented on the managed land shall include a Schedule of Practices for the entire 10-year program commitment~~detailed annual implementation schedule for the first five years of management. That schedule shall specify the times at which each management practice will be implemented, the portion of the managed land on which each management practice will be implemented, and the identity of the persons who will implement each management practice (the taxpayer, a private contractor, volunteers from a conservation organization, or others).~~
- e) ~~The description of management practices to be implemented on the managed land shall include a general annual implementation schedule for the fifth through tenth years of management. That schedule shall list the management practices that will be implemented on the managed land during each of the calendar years.~~
- cd) During the third, sixth, and ninth years~~each year~~ of the enrollment period, the landowner shall report to the Department, ~~on an annual basis,~~ the management practices that were implemented the previous three years~~year~~. Reports must be returned to the Department by March 31 of the following year using the CSP triennial report form. This form can be found at the Department's website: [www.illinois.gov](http://www.illinois.gov). For monitoring purposes, any receipts, expenditures, or invoices related to management work completed on the enrolled parcel should be provided to the Department with the triennial report form.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 2580.180 Conservation Management Plan Non-Compliance**



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- a) If the Department determines, based on field inspections or other reasonable evidence, that the land no longer meets the criteria under the Conservation Stewardship Law, the Department shall withdraw all or a portion of the land from the special valuation.
- b) The chief county assessment officer shall notify the Department when the ~~land~~property no longer qualifies for the special valuation because the ~~land~~property no longer meets the land use or minimum acreage requirements.
- c) The chief county assessment officer shall notify the Department when he or she has reasonable evidence that shows non-compliance with the approved conservation management plan. Reasonable evidence must be based on, but not limited to, visual inspection of the ~~land~~property, evidence of improper land use, or the taxpayer's refusal to respond to the chief county assessment officer's request for information about the land use or other similar information pertinent to the continued special valuation of the land. Notification shall be made, in writing, to the Department. Upon receipt, the Department shall, within a reasonable length of time, visually inspect the ~~land~~property and pertinent conservation management plans and shall determine if the owner is complying with the approved management plan. Within 15 days after inspecting the ~~land~~property, the Department shall notify the chief county assessment officer and the Illinois Department of Revenue of its determination. If the ~~land~~property is found to be non-compliant, the chief county assessment officer shall remove the ~~land~~property from the special valuation.
- d) If, after attempting to remind the taxpayer, the Department determines that the taxpayer is not fulfilling its obligation to update and report management activities on CSP-enrolled ~~land~~property, the Department can remove the ~~land~~property from CSP and notify chief county assessment officer and the Illinois Department of Revenue.
- e) ~~If ownership of the enrolled acres changes, the Department will remove them from CSP. However, the new property owner may re-enroll the property.~~

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Illinois Oil and Gas Act
- 2) Code Citation: 62 Ill. Adm. Code 240
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
240.420	Amendment
240.1305	Amendment
240.1710	Amendment
- 4) Statutory Authority: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725], the Illinois Underground Natural Gas Storage Safety Act [415 ILCS 160], and Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100].
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being amended to better implement the processing of drilling unit permit applications; allow for better processing of service to coal companies and determine deadline for permit applications where applications call for drilling in areas of mining activity and to better communicate with permittees by use of electronic mail.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:

Carrie Leitner, Legal Counsel  
Department of Natural Resources  
One Natural Resources

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

Springfield, IL 62702

(217) 782-1809

[dnr.rules@illinois.gov](mailto:dnr.rules@illinois.gov)

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Oil operators should benefit from stream-lined permitting processes.
  - 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 2023

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



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 62: MINING

## CHAPTER I: DEPARTMENT OF NATURAL RESOURCES

## PART 240

## THE ILLINOIS OIL AND GAS ACT

## SUBPART A: GENERAL PROVISIONS

Section	
240.10	Definitions
240.20	Prevention of Waste (Repealed)
240.30	Jurisdiction (Repealed)
240.40	Enforcement of Act (Repealed)
240.50	Delegation of Authority (Repealed)
240.60	Right of Inspection (Repealed)
240.70	Right of Access (Repealed)
240.80	Sworn Statements (Repealed)
240.90	Additional Reports (Repealed)
240.100	When Rules Become Effective (Repealed)
240.110	Notice of Rules (Repealed)
240.120	Forms (Repealed)
240.125	Notice
240.130	Hearings – Notices (Repealed)
240.134	Lease Validation Petitions
240.135	Falsification or Misstatement of Information
240.131	Unitization Hearings
240.132	Integration Hearings
240.133	Hearings to Establish Pool-Wide Drilling Units
240.140	Notice of Noncompliance
240.150	Notice of Violation
240.155	Civil Complaint
240.160	Director's Decision
240.170	Cessation Order (Repealed)
240.180	Enforcement Hearings
240.185	Cessation of Operations Orders
240.186	Cessation of Conditions Creating an Imminent Danger to Public Health and Safety and the Environment (Repealed)
240.190	Temporary Relief Hearings
240.195	Subpoenas

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART B: PERMIT APPLICATION PROCEDURES FOR PRODUCTION WELLS

## Section

240.200	Applicability
240.210	Application for Permit to Drill, Deepen or Convert to a Production Well
240.220	Contents of Application
240.230	Authority of Person Signing Application
240.240	Additional Requirements for Directional Drilling
240.245	Additional Requirements for Horizontal Drilling
240.250	Issuance of Permit to Drill or Operate
240.251	Revocation of Permit to Drill
240.255	Conversion of a Production Well to a Water Well
240.260	Change of Well Location
240.270	Application for Approval of Enhanced Recovery Injection and Disposal Operations (Repealed)
240.280	Duration of Underground Injection Well Orders (Repealed)

## SUBPART C: PERMIT APPLICATION PROCEDURES FOR CLASS II UIC WELLS

## Section

240.300	Applicability
240.305	Transfer of Management (Recodified)
240.310	Application for Permit to Drill, Deepen, or Convert or Amend to a Class II UIC Well
240.311	Application for Freshwater Aquifer Exemption
240.312	Freshwater Aquifer Exemptions
240.320	Contents of Application
240.330	Authority of Person Signing Application
240.340	Proposed Well Construction and Operating Parameters
240.350	Groundwater and Potable Water Supply Information
240.360	Area of Review
240.370	Public Notice
240.380	Issuance of Permit
240.385	Conversion of a Class II Well to a Water Well
240.390	Permit Amendments
240.395	Update of Class II UIC Well Permits Issued Prior to July 1, 1987

## SUBPART D: SPACING OF WELLS

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## Section

240.400	Definitions
240.410	Drilling Units
240.420	Well Location Exceptions within Drilling Unit
240.425	Change of a Permitted Drilling Location
240.430	Drilling Unit Exceptions
240.440	More Than One Well on a Drilling Unit
240.450	Directional Drilling
240.455	Horizontal Drilling
240.460	Modified Drilling Unit
240.465	Special Drilling Unit
240.470	Establishment of Pool-Wide Drilling Units Based Upon Reservoir Characteristics

SUBPART E: WELL DRILLING,  
COMPLETION AND WORKOVER REQUIREMENTS

## Section

240.500	Definitions
240.510	Department Permit Posted
240.520	Drilling Fluid Handling and Storage
240.525	Saltwater or Oil Based Drilling Fluid Handling and Storage
240.530	Completion Fluid and Completion Fluid Waste Handling and Storage
240.540	Drilling and Completion Pit Restoration
240.550	Disposal of General Oilfield Wastes and Other Wastes

SUBPART F: WELL CONSTRUCTION, OPERATING AND REPORTING  
REQUIREMENTS FOR PRODUCTION WELLS

## Section

240.600	Applicability
240.605	Drilled Out Plugged Hole (DOPH) Notification
240.610	Construction Requirements for Production Wells
240.620	Remedial Cementing of Leaking Wells
240.630	Operating Requirements
240.640	Reporting Requirements
240.650	Confidentiality of Well Data
240.655	Mechanical Integrity Testing for Class II Injection Wells (Repealed)
240.660	Monitoring and Reporting Requirements for Enhanced Recovery Injection and

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- Disposal Wells (Repealed)  
240.670 Avoidable Waste of Gas (Repealed)  
240.680 Escape of Unburned Gas Prohibited (Repealed)

SUBPART G: WELL CONSTRUCTION, OPERATING  
AND REPORTING REQUIREMENTS FOR CLASS II UIC WELLS

- Section  
240.700 Applicability and Definitions  
240.710 Surface and Production Casing Requirements for Newly Drilled Class II UIC Wells  
240.720 Surface and Production Casing Requirements for Conversion to Class II UIC Wells  
240.730 Surface and Production Casing Requirements for Existing Class II UIC Wells  
240.740 Other Construction Requirements for Class II UIC Wells  
240.750 Operating Requirements for Class II UIC Wells  
240.760 Establishment of Internal Mechanical Integrity for Class II UIC Wells  
240.770 Establishment of External Mechanical Integrity for Class II UIC Wells  
240.780 Reporting Requirements for Class II UIC Wells  
240.790 Confidentiality of Well Data  
240.795 Commercial Saltwater Disposal Well  
240.796 Operating and Reporting Requirements, Hydraulic Fracturing Operations, Seismicity

## SUBPART H: LEASE OPERATING REQUIREMENTS

- Section  
240.800 Definitions  
240.805 Lease and Well Identification  
240.810 Tanks, Tank Batteries and Containment Dikes  
240.815 Permanent Well Site Equipment Setback  
240.820 Flowlines  
240.830 Power Lines  
240.840 Equipment Storage  
240.850 Concrete Storage Structures  
240.860 Pits  
240.861 Existing Pit Exemption For Continued Production Use  
240.862 Existing Pit Exemption For Alternative Use  
240.870 Leaking Unpermitted Drill Hole

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

240.875	Leaking Previously Plugged Well
240.880	Initial Spill Notification
240.890	Crude Oil Spill Remediation Requirements
240.891	Crude Oil Spill Waste Disposal and Remediation
240.895	Produced Water Spill Remediation Requirements

## SUBPART I: LIQUID OILFIELD WASTE HANDLING AND DISPOSAL

Section	
240.900	Definitions
240.905	Application for Permit to Operate a Liquid Oilfield Waste Transportation System
240.906	Application for a Liquid Oilfield Waste Transportation Vehicle Permit
240.910	Inspection of Vehicles (Tanks)
240.920	Issuance of Liquid Oilfield Waste Transportation System and Vehicle Permits
240.925	Liquid Oilfield Waste Recordkeeping Requirements
240.926	Liquid Oilfield Waste Transportation System and Vehicle Operating Requirements
240.930	Produced Water
240.940	Crude Oil Bottom Sediments
240.945	Lease Road Oiling
240.950	Crude Oil Spill Waste Disposal (Repealed)
240.960	Oil Field Brine Hauling Permit Conditions (Repealed)
240.970	Inspection of Vehicles (Repealed)
240.980	Transfer of Permits (Repealed)
240.985	Revocation of Oil Field Brine Hauling Permit (Repealed)
240.990	Records and Reporting Requirements (Repealed)
240.995	Bonds – Blanket Surety Bond (Repealed)

## SUBPART J: VACUUM

Section	
240.1000	Definitions
240.1005	Applicability
240.1010	Application for Vacuum Permit
240.1020	Contents of Application
240.1030	Authority of Person Signing Application
240.1040	Notice and Hearing
240.1050	Issuance of Permit
240.1060	Permit Amendments

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART K: PLUGGING OF WELLS

## Section

240.1105	Plugging of Non-Productive Wells (Repealed)
240.1110	Definitions
240.1115	Plugging Responsibility
240.1120	Plugging of Uncased Wells
240.1130	Plugging and Temporary Abandonment of Inactive Production Wells
240.1131	Extension of Future Use Status for Production Wells (Repealed)
240.1132	Plugging and Temporary Abandonment of Inactive Class II UIC Wells
240.1140	General Plugging Procedures and Requirements
240.1150	Specific Plugging Procedures
240.1151	Procedures for Plugging Coal Seams
240.1160	Plugging Fluid Handling and Storage
240.1170	Plugging Fluid Waste Disposal and Well Site Restoration
240.1180	Lease Restoration
240.1181	Lease Restoration Requirements (Repealed)
240.1190	Filing Plugging Report

## SUBPART L: REQUIREMENTS FOR OTHER TYPES OF WELLS

## Section

240.1200	Applicability
240.1205	Application for Permit to Drill a Test Well or Drill Hole
240.1210	Contents of Application for Permit to Drill or Convert to an Observation, Gas Storage Well or Service Well (Repealed)
240.1220	Contents of Application for Coal Test Hole, Mineral Test Hole, Structure Test Hole, or Coal or Mineral Groundwater Monitoring Well
240.1230	Authority of Person Signing Application
240.1240	Issuance of Permit
240.1250	When Wells Shall Be Plugged and Department Notification
240.1260	Plugging and Restoration Requirements
240.1270	Confidentiality
240.1280	Converting to Water Well

## SUBPART M: PROTECTION OF WORKABLE COAL BEDS

## Section

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

240.1300	Introduction
240.1305	Permit Requirements in Mine Areas
240.1310	Workable Coal Beds Defined
240.1320	Mining Board may Determine Presence of Coal Seams
240.1330	Well Locations Prohibited
240.1340	Notice to Mining Board
240.1350	Casing and Protective Work
240.1360	Operational Requirements Over Active Mine
240.1370	Inspection of Vehicles (Recodified)
240.1380	Transfer of Permits (Recodified)
240.1385	Revocation of Oil Field Brine Hauling Permit (Recodified)
240.1390	Records and Reporting Requirements (Recodified)
240.1395	Bonds – Blanket Surety Bond (Recodified)

## SUBPART N: ISSUANCE OR TRANSFER OF PERMIT TO OPERATE

Section	
240.1400	Definitions
240.1405	Transfer of Management (Repealed)
240.1410	Applicability
240.1420	Notification of Transfer
240.1425	Authority of Person Signing Notification of Transfer
240.1430	Responsibilities of Current Permittee
240.1440	Responsibilities of New Permittee
240.1450	Authority of Person Signing Notification of Acceptance
240.1460	Conditions for and Effect of Issuance or Transfer of Permit to Operate
240.1465	Condition for and Effect of Transfer of PRF Wells
240.1470	Revocation of Permit to Operate
240.1480	Involuntary Transfer
240.1485	Administrative Record Correction
240.1490	Transfer Hearings

## SUBPART O: BONDS

Section	
240.1500	When Required, Amount and When Released
240.1510	Definitions
240.1520	Bond Requirements
240.1530	Forfeiture of Bonds

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

## SUBPART P: WELL PLUGGING AND RESTORATION PROGRAM

## Section

240.1600	Definitions
240.1610	Plugging Leaking or Abandoned Wells
240.1620	Plugging Orphaned Wells
240.1625	Plugging Abandoned Wells Through Landowner Grant
240.1630	Emergency Well Plugging, Emergency Repair Work, Emergency Projects
240.1635	Emergency Well Plugging and Emergency Project Reimbursement
240.1640	Repayment of Funds
240.1650	Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Abandonment
240.1660	Authorization for a Permittee to Operate Its Wells Placed into the Plugging and Restoration Fund Program for Non-Payment of Annual Well Fees

## SUBPART Q: ANNUAL WELL FEES

## Section

240.1700	Fee Liability
240.1705	Amount of Assessment
240.1710	Annual Permittee Reporting
240.1720	When Annual Well Fees are Due
240.1730	Opportunity to Contest Billing
240.1740	Delinquent Permittees

SUBPART R: REQUIREMENTS IN UNDERGROUND GAS STORAGE FIELDS  
AND FOR GAS STORAGE AND OBSERVATION WELLS

## Section

240.1800	Applicability
240.1805	Definitions
240.1810	Submission of Underground Gas Storage Field Map
240.1820	Permit Requests in a Underground Gas Storage Field
240.1830	Application for Permit to Drill or Convert Wells
240.1835	Contents of Application for Permit to Drill or Convert to an Observation or Gas Storage Well
240.1840	Authority of Person Signing Application
240.1850	Issuance of Permit



## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

240.1851	Gas Storage and Observation Well Safety, Construction, and Operating Requirements
240.1852	Inspection and Maintenance Plan
240.1853	Gas Storage and Observation Well Records and Reporting Requirements
240.1854	Notice of Probable Violation, Complaints, Hearings and Civil Penalties
240.1855	Civil Complaint
240.1856	Determination of Penalty
240.1857	Director's Approval of Penalty or Agreed Compromise
240.1858	Enforcement Hearings
240.1859	Emergency Abatement Orders
240.1860	Temporary Relief Hearings
240.1861	Subpoenas
240.1862	Well Drilling Completion and Workover Requirements
240.1865	Liquid Oilfield Waste Disposal
240.1870	Plugging of Gas Storage and Observation Wells
240.1880	Sole Source Aquifer: Natural Gas Incident Notice to Department
240.1890	Sole Source Aquifer: Inspection Fees for Underground Natural Gas Storage Fields
240.1892	Sole Source Aquifer: When Annual Inspection Fees Are Due
240.1894	Sole Source Aquifer: Opportunity to Contest Billing
240.1898	Waiver

## SUBPART S: REQUIREMENTS FOR SERVICE WELLS

Section	
240.1900	Applicability
240.1905	Application for Permit to Drill or Convert to Other Types of Wells or Drill Holes
240.1910	Contents of Application for Permit to Drill or Convert to a Service Well
240.1920	Authority of Person Signing Application
240.1930	Issuance of Permit
240.1940	When Wells Shall Be Plugged and Department Notification
240.1950	Plugging and Restoration Requirements
240.1960	Converting to Water Well

AUTHORITY: Implementing and authorized by the Illinois Oil and Gas Act [225 ILCS 725], the Illinois Underground Natural Gas Storage Safety Act [415 ILCS 160], and Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100].

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

SOURCE: Adopted November 7, 1951; emergency amendment at 6 Ill. Reg. 903, effective January 15, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5542, effective April 19, 1982; codified at 8 Ill. Reg. 2475; amended at 11 Ill. Reg. 2818, effective January 27, 1987; amended at 14 Ill. Reg. 2317, effective January 25, 1990; recodified at 14 Ill. Reg. 3053; amended at 14 Ill. Reg. 13620, effective August 8, 1990; amended at 14 Ill. Reg. 20427, effective January 1, 1991; amended at 15 Ill. Reg. 2706, effective January 31, 1991; recodified at 15 Ill. Reg. 8566; recodified at 15 Ill. Reg. 11641; emergency amendment at 15 Ill. Reg. 14679, effective September 30, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 15493, effective October 10, 1991; amended at 16 Ill. Reg. 2576, effective February 3, 1992; amended at 16 Ill. Reg. 15513, effective September 29, 1992; expedited correction at 16 Ill. Reg. 18859, effective September 29, 1992; emergency amendment at 17 Ill. Reg. 1195, effective January 12, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 2217, effective February 8, 1993; amended at 17 Ill. Reg. 14097, effective August 24, 1993; amended at 17 Ill. Reg. 19923, effective November 8, 1993; amended at 18 Ill. Reg. 8061, effective May 13, 1994; emergency amendment at 18 Ill. Reg. 10380, effective June 21, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 16361, effective November 18, 1994; amended at 19 Ill. Reg. 10981, effective July 14, 1995; amended at 21 Ill. Reg. 7164, effective June 3, 1997; emergency amendment at 22 Ill. Reg. 988, effective December 22, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 8422, effective April 28, 1998; amended at 22 Ill. Reg. 8845, effective April 28, 1998; amended at 22 Ill. Reg. 22314, effective December 14, 1998; amended at 25 Ill. Reg. 9045, effective July 9, 2001; amended at 35 Ill. Reg. 13281, effective July 26, 2011; amended at 38 Ill. Reg. 18717, effective August 29, 2014; amended at 38 Ill. Reg. 22052, effective November 14, 2014; amended at 40 Ill. Reg. 7051, effective April 22, 2016; expedited correction at 40 Ill. Reg. 11042, effective April 22, 2016; emergency amendment at 40 Ill. Reg. 13265, effective September 1, 2016, for a maximum of 150 days; emergency expired January 28, 2017; amended at 41 Ill. Reg. 2957, effective February 21, 2017; amended at 42 Ill. Reg. 5811, effective March 14, 2018; emergency amendment at 43 Ill. Reg. 4650, effective April 4, 2019, for a maximum of 150 days; emergency expired August 31, 2019; amended at 43 Ill. Reg. 10459, effective September 6, 2019; amended at 43 Ill. Reg. 11524, effective September 24, 2019; amended at 45 Ill. Reg. 13907, effective October 25, 2021; amended at 46 Ill. Reg. 20013, effective January 1, 2023; amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART D: SPACING OF WELLS

**Section 240.420 Well Location Exceptions within Drilling Unit**

- a) Whenever the conditions of a drilling unit render it impractical to drill an oil or gas well at a location conforming to the requirements of Section 240.410, an oil or gas well may be drilled at a nonconforming location as follows:

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 1) If the proposed location is less than 330 feet (or other applicable setback) from the nearest lease boundary line, the application shall be accompanied by a written agreement or agreements between the applicant and any leaseholders or mineral rights owners (if no leaseholder exist) whose leases or mineral rights are adjacent to and less than 330 feet (or other applicable setback) from the proposed location. In lieu of the submission of a written agreement or agreements, the applicant shall give notice by certified mail, return receipt requested, to any leaseholders or mineral rights owners (if no leaseholders exist) whose leases or mineral rights are adjacent to and less than 330 feet (or other applicable setback) from the proposed location. The notice shall include the proposed location of the well and the reason the location is requested, and shall inform the leaseholders or mineral rights owners that they may file written objections with the Department within 15 days after service of the notice. If a written objection is received, the matter shall be set for hearing, which shall be conducted in accordance with the provisions of Section 240.370(d) ~~of this Part.~~
  - 2) In determining whether to approve a proposed nonconforming location, the Department will consider the feasibility and expense of drilling on location, any hazard or damage to persons or property or to the environment, and whether the proposed location would adversely affect the correlative rights of any of the owners of the reservoir or result in waste or the drilling of unnecessary wells.
- b) If at the time of application, a lease immediately adjacent to a proposed drilling unit has producing wells located less than 330 feet from the common boundary line, then a well on the proposed drilling unit may be located at a distance closer than 330 feet but no closer than the distance to the common boundary line of the immediately offsetting well.
  - c) If a drilling unit is located over an active mine, the mined-out or inaccessible portion of an active mine, an abandoned mine, or the undeveloped limits of a mine, the proposed well can be located so that it will be drilled into an existing or proposed mine pillar subject to the conditions and limitations set forth in subsections (a) and (b) ~~above.~~

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- d) For an oil production well or a well converted to oil production drilled prior to October 25, 2021, which does not comply with the well location and spacing requirements of Section 240.410, the permittee of the previously drilled well may make an application to the Department to obtain a revision of the requirements to the drilling unit for the previously drilled well under the following circumstances:
- 1) If the previously drilled well is located on the boundary line of two or more drilling units, the permittee may select the drilling unit to which the previously drilled well shall be attributed.
  - 2) If the previously drilled well is located less than 10 feet from the drilling unit boundary line, the well location shall be deemed compliant and attributed to the drilling unit where physically located.
- e) An application for revision of the requirements set forth in subsection (d) shall include facts as to the circumstance involved and the reason for the requested revision. The application shall be submitted upon a form determined and made available by the Department. Any application shall be accompanied by a fee of \$400. If the revision has been granted by the Department, all future applications to drill an oil production well on the drilling units previously included with the original drilling unit of the oil production well drilled prior to October 25, 2021, shall be accompanied by the documentation by the Department granting the revision.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART M: PROTECTION OF WORKABLE COAL BEDS

**Section 240.1305 Permit Requirements in Mine Areas**

- a) Requirements for Areas of Mining Activity  
When the location of a well to be drilled for oil or gas, or any purpose in connection with that drilling, will penetrate an active mine or through the mined out and inaccessible or sealed off area of an active mine, or will penetrate those areas in a temporarily abandoned mine, or the undeveloped limits of any such mine property, as included in the shadow areas set forth in an approved mining permit, a drilling permit shall not be issued by the Mining Board until an agreement shall be reached between the owner of the proposed well and the mine owner, or in the event of failure to reach an agreement a permit will not be issued

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

until a hearing is held as provided in this Section.

1) Agreement with Mine Owner

A copy of the agreement, jointly signed by the applicant for a permit and the mine owner, agreeing to the drilling of the well and the proposed location shall be filed with the application and accompanied by a map or sketch showing the well location, its relation to shafts and mine buildings and to each coal seam and mine workings underlying applicant's lease. As an alternative, a statement from the mine owner that the location is over the undeveloped limits of the mine shall be filed.

2) Requirements in Absence of Agreement

A) In the absence of the agreement or statement outlined in subsection (a)(1), the applicant shall file with the application for permit a map or sketch showing the well location, its relation to shafts and mine buildings, if any, and its relation to the mine workings underlying applicant's lease, with a sworn statement that a true and exact copy of application and accompanying exhibits ~~were either~~was mailed postage prepaid by United States registered mail to the coal company or its authorized agent or sent to the company or its authorized agent by national courier service; or personally delivered to the company or its authorized agent~~in Illinois, by United States registered mail.~~

B) If, within 10 days from the receipt of the application for permit by the Mining Board, no written objections are filed, the Mining Board shall issue or deny the permit.

C) Upon the filing of objections to the issuance of the permit, the Mining Board shall promptly set the matter for hearing and decisions.

b) Requirements for Areas with Presence of Workable Coal

In inactive mining areas where the existence of workable coal is known and the coal rights are owned by someone other than the lessor under an oil and gas lease, the applicant for a permit to drill a well for oil and gas or to drill any well in connection with the production of oil and gas shall notify the owner of the workable coal either United States Post Office~~by~~ registered mail, return receipt

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

requested ~~or national courier service; or personal delivery~~. The notice shall show the exact location of the proposed test and the approximate depth of the formation to be tested. The Mining Board shall be furnished with a copy of the notice attached to the application for permit, with the ~~evidence of delivery to~~ ~~return receipt from~~ the owner of the workable coal or a sworn statement that the applicant has the ~~evidence of delivery~~ ~~return receipt~~ in his or her possession, giving the names and addresses of the owners of the coal rights and date of delivery of the notice.

- 1) Notice to Owner of the Workable Coal  
No permit shall be issued to the applicant until 10 days have elapsed following the receipt of the registered notice by the owner of the workable coal.
- 2) Maps Available at Well Site  
During the drilling of a well, the permittee shall keep at the well site for use of the Mining Board and its representatives an exact copy of the maps and sketches that accompanied his or her application for the permit.

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART Q: ANNUAL WELL FEES

**Section 240.1710 Annual Permittee Reporting**

- a) Permittees are required to submit, on a form prescribed by the Department, an annual verification of address and status. The address submitted under this Section will be used by the Department to provide notice of any hearings or other proceedings under the Act or this Part.
- b) The form shall contain the permittee's:
  - 1) current address;
  - 2) verification of well ownership;
  - 3) type of business entity and supporting documentation;
  - 4) FEIN, or Social Security Number if an individual; and

## DEPARTMENT OF NATURAL RESOURCES

## NOTICE OF PROPOSED AMENDMENTS

- 5) names and addresses of principals, officers or owners;
  - 6) [current electronic mail address.](#)
- c) Forms shall accompany the Annual Well Fee payment and shall be submitted by September 1 of each year.
  - d) Authority of Person Signing Forms
    - 1) If the permittee is a sole proprietor, the form shall be signed by the individual. If the permittee is a partnership, the form shall be signed by a general partner. If the permittee is a corporation, the form shall be signed by an officer of the corporation.
    - 2) In lieu of the signature of the permittee, the form may be signed by a person having a power of attorney to sign for the permittee, provided a certified copy of the power of attorney is on file with the Department or accompanies the form.
  - e) If a permittee did not submit an annual verification of address and status form during the most recent annual fee payment period, a reporting form is required at the time of all well permit and transfer requests.
  - f) Permittees shall submit to the Department any address changes within 30 days after the effective date of the change in address, on a form prescribed by the Department. Permittee shall ensure that any mail sent to the previous address, [either physical or electronic](#), is forwarded to the new address between the effective date of the change of address and the Department's notification of the change.

(Source: Amended at 48 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) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
955.110	Amendment
955.160	Amendment
955.285	Amendment
- 4) Statutory Authority: Implementing and authorized by the Health Care Worker Background Check Act [225 ILCS 46].
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking seeks to implement Public Act 103-0303, which amends the definition of "health care employer" in the Health Care Worker Background Check Act (the Act) and Public Act 103-0428, which amends Section 25 of the Act related to disqualifying offenses. These updates require an FBI background check in addition to the current ISP background check requirements for disqualifying offenses. The rulemaking also makes clarifications to provisions in Section 955.285 to align with current Department practice.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this proposed rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking 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 written comments concerning this rulemaking within 45 days after this issue of the *Illinois Register*. Written comments suggesting amendments to the rulemaking must provide the reason for the suggested



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

amendment. An edited version of the rulemaking is acceptable if submitted with the written comments and supporting reasons. Send written comments to:

Department of Public Health  
Attention: Tracey Trigillo, Rules Coordinator  
Lincoln Plaza  
524 South 2<sup>nd</sup> Street, 6<sup>th</sup> Floor  
Springfield, IL 62701

dph.rules@illinois.gov

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not for profit corporations affected: Health care employers, as defined in the Health Care Worker Background Check Act and Livescan vendors.
- B) Reporting, bookkeeping or other procedures required for compliance: No changes from existing requirements. This rulemaking clarifies existing provisions and does not add new reporting, bookkeeping or other requirements for compliance.
- C) Types of professional skills necessary for compliance: Administrative

14) Small Business Impact Analysis: None

15) Regulatory Agenda on which this rulemaking was summarized: July 2023; Amendments regarding recent legislation were not anticipated at the time of filing the last two Regulatory Agendas.

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 expired August 21, 2020; emergency amendment at 44 Ill. Reg. 6597, effective April 10, 2020, for a maximum of 150 days; emergency expired September 6, 2020; emergency amendment at 44 Ill. Reg. 14355, effective August 24, 2020, for a maximum of 150 days; emergency expired January 20, 2021; amended at 44 Ill. Reg. 18422, effective October 29, 2020; emergency amendment at 45 Ill. Reg. 1738, effective January 21, 2021, for a maximum of 150 days; emergency expired June 19, 2021; emergency amendment at 45 Ill. Reg. 8109, effective June 20, 2021 through June 26, 2021; emergency amendment at 46 Ill. Reg. 2763, effective January 28, 2022, for a maximum of 150 days; emergency expired June 26, 2022; amended at 46 Ill. Reg. 6104, effective April 4, 2022; amended at 47 Ill. Reg. 6567, effective April 27, 2023; amended at 48 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, 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*

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

*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

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

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;*

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

*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;*

*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); ~~or~~*

*the Department of Corrections or a third-party vendor employing certified nursing assistants working with the Department of Corrections; ~~or~~*

*a financial management services entity contracted with the Department of Human Services, Division of Developmental Disabilities, which is not the employer of personal support workers but supports individuals receiving participant directed services, to administer the individuals' employer authority. A financial management services entity assists participants in*

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

*completing background check requirements, collecting and processing time sheet for support workers, and processing payroll withholding, filing, and payment for applicable federal, State, and local employment-related taxes and insurance. (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)*

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

"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.



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

"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 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 955.160 Disqualifying Offenses**

The following offenses, or offenses that are substantially equivalent to the following offenses under the laws of any other state or of the laws of the United States, as verified by court records, records from a state agency, or a Federal Bureau of Investigation criminal history records check, are disqualifying under the Act and this Part. Offenses are not considered disqualifying until the effective date of the legislation adding the offenses to the Act, regardless of the date an individual is convicted of the offense (see Appendix A through Appendix C). ([Section 25 of the Act](#))

- a) Violations under the Criminal Code of 1961 or 2012:
  - 1) Solicitation of murder, solicitation of murder for hire [720 ILCS 5/8-1(b), 8-1.1, and 8-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 8-1.1 and 8-1.2);
  - 2) First degree murder, intentional homicide of an unborn child, second degree murder, voluntary manslaughter of an unborn child, involuntary manslaughter and reckless homicide, concealment of homicidal death, involuntary manslaughter and reckless homicide of an unborn child, and drug-induced homicide [720 ILCS 5/9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, 9-3.3, and 9-3.4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 9-1, 9-1.2, 9-2, 9-2.1, 9-3, 9-3.1, 9-3.2, and 9-3.3; Ill. Rev. Stat. 1985, ch. 38, par.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 3, 236, 358, 360, 361, 362, 363, 364, 364a, 365, 370, 373, 373a, 417, and 474);

- 3) Kidnapping, aggravated kidnapping, child abduction, and aiding and abetting child abduction [720 ILCS 5/10-1, 10-2, 10-5, and 10-7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-1, 10-2, 10-5, and 10-7; Ill. Rev. Stat. 1985, ch. 38, par. 10-6; Ill. Rev. Stat. 1961, ch. 38, pars. 384 to 386);
- 4) Unlawful restraint, aggravated unlawful restraint, and forcible detention [720 ILCS 5/10-3, 10-3.1, and 10-4] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 10-3, 10-3.1, and 10-4; Ill. Rev. Stat. 1961, ch. 38, pars. 252, 252.1, and 252.4);
- 5) Indecent solicitation of a child, sexual exploitation of a child, sexual misconduct with a person with a disability, exploitation of a child, and child pornography, promoting juvenile prostitution, custodial sexual misconduct, presence of a sex offender in a school zone, and presence of a sexual predator or sex offender near a public park [720 ILCS 5/11-6, 11-9.1, 11-9.2, 11-9.3, 11-9.4-1, 11-9.5, 11-14.4(a), 11-19.2, 11-20.1, 11-20.1B, and 11-20.3] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-6, 11-19.2, and 11-20.1; Ill. Rev. Stat. 1983, ch. 38, par. 11-20a; Ill. Rev. Stat. 1961, ch. 38, pars. 103 and 104);
- 6) Assault; aggravated assault; battery; battery of an unborn child; domestic battery; aggravated domestic battery; aggravated battery; heinous battery; aggravated battery with a firearm; 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; aggravated battery of a child; aggravated battery of an unborn child; aggravated battery of a senior citizen; or drug-induced infliction of great bodily harm [720 ILCS 5/12-1, 12-2, 12-3, 12-3.05, 12-3.1, 12-3.2, 12-3.3, 12-4, 12-4.1, 12-4.2, 12-4.2-5, 12-4.3, 12-4.4, 12-4.6, and 12-4.7] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-1, 12-2, 12-3, 12-3.1, 12-3.2, 12-4, 12-4.1, 12-4.2, 12-4.3, 12-4.4, 12-4.6, and 12-4.7; Ill. Rev. Stat. 1985, ch. 38, par. 9-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 55, 56, and 56a to 60b);
- 7) Tampering with food, drugs, or cosmetics [720 ILCS 5/12-4.5]; (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-4.5).

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 8) Aggravated stalking [720 ILCS 5/12-7.4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-7.4);
- 9) Home invasion [720 ILCS 5/12-11] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-11);
- 10) Criminal sexual assault; aggravated criminal sexual assault; predatory criminal sexual assault of a child; criminal sexual abuse; aggravated criminal sexual abuse [720 ILCS 5/11-1.20, 11-1.30, 11-1.40, 11-1.50, 11-1.60, 12-13, 12-14, 12-14.1, 12-15, and 12-16] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 11-1, 11-2, 11-3, 11-4, 11-5, 12-13, 12-14, 12-15, and 12-16; Ill. Rev. Stat. 1985, ch. 38, pars. 11-1, 11-4, and 11-4.1; Ill. Rev. Stat. 1961, ch. 38, pars. 109, 141, 142, 490, and 491);
- 11) Abuse and criminal neglect of a long-term care facility resident [720 ILCS 5/12-4.4a(a) and 12-19] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-19);
- 12) Criminal abuse or neglect of an elderly person or person with a disability [720 ILCS 5/12-4.4a(b) and 12-21] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 12-21);
- 13) Endangering the life or health of a child; child abandonment [720 ILCS 5/12C-5, 12C-10, 21.5, and 12-21.6] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354; Ill. Rev. Stat. 1961, ch. 38, par. 95);
- 14) Ritual mutilation, ritualized abuse of a child [720 ILCS 5/12-32 and 12-33] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 12-32 and 12-33);
- 15) Theft; theft of lost or mislaid property; retail theft; identity theft; aggravated identity theft; and credit and debit card fraud [720 ILCS 5/16-1, 16-2, 16-30, 16A-3, 16G-15, 16G-20, 17-32(b), 17-33, 17-34, 17-36, and 17-44] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 16-1, 16-2, and 16A-3; Ill. Rev. Stat. 1961, ch. 38, pars. 62, 207 to 218, 240 to 244, 246, 253, 254.1, 258, 262, 262a, 273, 290, 291, 301a, 354, 387 to 388b, 389, 393 to 400, 404a to 404c, 438, 492 to 496);

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 16) Financial exploitation of an elderly person or a person with a disability [720 ILCS 5/16-1.3 and 17-56] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 16-1.3);
- 17) Forgery [720 ILCS 5/17-3] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 17-3; Ill. Rev. Stat. 1961, ch. 38, pars. 151 and 277 to 286);
- 18) Robbery, armed robbery, aggravated robbery [720 ILCS 5/18-1, 18-2, and 18-5] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 18-1 and 18-2);
- 19) Vehicular hijacking, aggravated vehicular hijacking [720 ILCS 5/18-3 and 18-4];
- 20) Burglary, residential burglary, home invasion [720 ILCS 5/19-1, 19-3, and 19-6] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 19-1 and 19-3; Ill. Rev. Stat. 1961, ch. 38, pars. 84 to 86, 88, and 501);
- 21) Criminal trespass to a residence [720 ILCS 5/19-4] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 19-4);
- 22) Arson, aggravated arson, residential arson [720 ILCS 5/20-1, 20-1.1, and 20-1.2] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 20-1 and 20-1.1; Ill. Rev. Stat. 1961, ch. 38, pars. 48 to 53 and 236 to 238);
- 23) Unlawful use of weapons, unlawful use or possession of weapons by felons or persons in the custody of Department of Corrections facilities; aggravated discharge of a firearm; aggravated discharge of a machine gun or a firearm equipped with a device designed or used for silencing the report of a firearm; reckless discharge of a firearm; aggravated unlawful use of a weapon; unlawful discharge of firearm projectiles; unlawful sale or delivery of firearms on the premises of any school; unlawful possession of firearm by street gang member; possession of a stolen firearm [720 ILCS 5/24-1, 24-1.1, 24-1.2, 24-1.2-5, 24-1.5, 24-1.6, 24-3.2, 24-3.3, and 24-3.8] (formerly Ill. Rev. Stat. 1991, ch. 38, pars. 24-1, 24-1.1, 24-1.2, 24-1.2-5, 24-1.5, 24-1.6, 24-1.8, 24-3.2, and 24-3.3; Ill. Rev. Stat. 1961, ch. 38, pars. 152, 152a, 155, 155a to 158b, 414a to 414c, 414e, and 414g);
- 24) Armed violence [720 ILCS 5/33A-2] (formerly Ill. Rev. Stat. 1991, ch. 38, par. 33A-2);

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 25) Dismembering a human body [720 ILCS 5/20.5].
- b) Violations under the Wrongs to Children Act:
  - 1) Endangering life or health of a child [720 ILCS 150/4] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2354);
  - 2) Permitting sexual abuse of a child [720 ILCS 5/11-9.1A and 720 ILCS 150/5.1] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2355.1).
- c) Violations under the Illinois Credit Card and Debit Card Act:
  - 1) Receiving a stolen credit or debit card [720 ILCS 250/4] (formerly Ill. Rev. Stat. 1991, ch. 17, par. 5917);
  - 2) Receiving a lost or mislaid card with intent to use, sell, or transfer [720 ILCS 250/5] (formerly Ill. Rev. Stat. 1991, ch. 17, par. 5918);
  - 3) Selling a credit card or debit card, without the consent of the issuer [720 ILCS 250/6] (formerly Ill. Rev. Stat. 1991, ch. 17, par. 5919);
  - 4) Using a credit or debit card with the intent to defraud [720 ILCS 250/8] (formerly Ill. Rev. Stat. 1991, ch. 17, par. 5921);
  - 5) Fraudulent use of electronic transmission [720 ILCS 250/17.02] (formerly Ill. Rev. Stat. 1991, ch. 17, par. 5930.2).
- d) Violation of Section 53 of the Criminal Jurisprudence Act: Cruelty to children [720 ILCS 115/53] (formerly Ill. Rev. Stat. 1991, ch. 23, par. 2368).
- e) Violations under the Cannabis Control Act: Manufacture, delivery, or possession with intent to deliver or manufacture cannabis; cannabis trafficking; delivery of cannabis on school grounds; delivering cannabis to a person under 18; calculated criminal cannabis conspiracy [720 ILCS 550/5(c), (d), (e), (f), (g), 5.1, 5.2, 7, and 9] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 705, 705.1, 705.2, 707, and 709).
- f) Violations under the Illinois Controlled Substances Act: manufacture or delivery, or possession with intent to manufacture or deliver, a controlled substance other

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

than methamphetamine, a counterfeit substance, or a controlled substance analog; controlled substance trafficking; manufacture, distribution, advertisement, or possession with intent to manufacture or distribute a look-alike substance; calculated criminal drug conspiracy; criminal drug conspiracy; delivering a controlled, counterfeit or look-alike substance to a person under 18; and engaging or employing a person under 18 to deliver a controlled, counterfeit or look-alike substance [720 ILCS 570/401, 401.1, 404, 405, 405.1, 407, and 407.1] (formerly Ill. Rev. Stat. 1991, ch. 56½, pars. 1401, 1401.1, 1404, 1405, 1405.1, 1407, and 1407.1).

- g) Violation under the Nurse Practice Act: practice of nursing without a license [225 ILCS 65/10-5 and 50-50] (formerly Ill. Rev. Stat. 1991, ch. 111, par. 3506).
- h) Violations under the Methamphetamine Control and Community Protection Act [720 ILCS 646].
- i) Violations under the Humane Care for Animals Act: cruel treatment, aggravated cruelty, and animal torture [510 ILCS 70/3.01(a), 3.02, and 3.03].

(Source: Amended at 48 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 or more years of experience transmitting fingerprints electronically to the Illinois 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 to collect inkless fingerprints* and software that is up to date and meets

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

the requirements of ISP 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 to whom the vendor agrees to provide service, no individual 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 to whom the livescan vendor agrees to provide service, the livescan vendor shall provide fingerprinting within 10 working days after a request. Fingerprinting shall be performed at a location within the county of the individual's residence for counties with a population more than 100,000 and for small counties either within the county of the individual'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* 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 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 and *electronically transmit a daily* file of required data successfully to the Department 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 in the prescribed format.

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 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.
  - 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 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. If requested by the Department ~~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 upon expiration or termination of the contract.
- 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, *that the* livescan vendor's business entity *has 2 or more years of successful experience transmitting fingerprints electronically to ISP*. (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.



## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 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 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 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 if the user's account does not have funds to pay for the prints being submitted. The livescan vendor shall notify ISP, the Department, and the user 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.
- E) All costs associated with the fingerprint-based criminal history records check, including fees charged by ISP, shall be paid by the user.
- 10) The livescan vendor shall require the individual to present current, valid government-issued photo identification or other valid identification. The

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

livescan vendor shall screen all individuals at the time of fingerprinting to ensure that the individual 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 to confirm that the individual 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 hand, consisting of 10 rolled impressions and 10 slap impressions in a format consistent with the requirements of ISP 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 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 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 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 to schedule fingerprinting (such as a toll free number, website, etc.).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 48 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## CAPITAL DEVELOPMENT BOARD

## NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Board Action
- 2) Code Citation: 71 Ill. Adm. Code 10
- 3) Section Number: 10.230      Adopted Action: New Section
- 4) Statutory Authority: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and authorized by Sections 2.05 and 2.06 of the Open Meetings Act [5 ILCS 120].
- 5) Effective Date of Rule: November 15, 2023
- 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 Capital Development Board's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 47 Ill. Reg. 11856; August 11, 2023
- 10) Has JCAR issued a Statement of Objection to these rules? No
- 11) Differences between proposal and final version: No changes were made.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rules: Section 7 of the Open Meetings Act allows for a member of a public body to attend an open meeting by video or audio conference under certain circumstances when the public body has adopted administrative rules for this process. This rulemaking outlines this process for the Capital Development Board.
- 16) Information and questions regarding these adopted amendments shall be directed to:

CAPITAL DEVELOPMENT BOARD

NOTICE OF ADOPTED AMENDMENT

Lauren Noll  
Capital Development Board  
401 South Spring Street  
3rd Floor Stratton Building  
Springfield, Illinois 62706

(217) 782-0700 office  
(217) 524-0565 fax  
[Lauren.Noll@illinois.gov](mailto:Lauren.Noll@illinois.gov)

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

## CAPITAL DEVELOPMENT BOARD

## NOTICE OF ADOPTED AMENDMENT

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY  
CHAPTER I: CAPITAL DEVELOPMENT BOARD  
SUBCHAPTER a: RULES

PART 10  
BOARD ACTION

## Section

10.105	Definitions
10.110	General Policy
10.120	Schedule and Notice
10.130	Quorum
10.140	Vice-Chairperson & Secretary
10.150	Agenda
10.160	Rules for Meeting
10.170	Board Action
10.180	Minutes
10.190	Revision of Rules (Repealed)
10.200	Litigation
10.210	Public Comment
10.220	Informal Recordings of Board Meetings
<u>10.230</u>	<u>Board Member Attendance by Means Other Than Physical Presence</u>

AUTHORITY: Implementing and authorized by the Capital Development Board Act [20 ILCS 3105] and authorized by Sections 2.05, 2.06, and 7 of the Open Meetings Act [5 ILCS 120].

SOURCE: Adopted at 2 Ill. Reg. 30, p. 140, effective July 27, 1978; amended at 4 Ill. Reg. 9, p. 233, effective February 14, 1980; amended at 5 Ill. Reg. 1980, effective February 17, 1981; amended and codified at 8 Ill. Reg. 20240, effective October 1, 1984; amended at 20 Ill. Reg. 15226, effective November 15, 1996; amended at 21 Ill. Reg. 7114, effective May 20, 1997; amended at 43 Ill. Reg. 14084, effective November 20, 2019; amended at 47 Ill. Reg. 17823, effective November 15, 2023.

**Section 10.230 Board Member Attendance by Means Other Than Physical Presence**

- a) If a quorum of the members of the Board or any committee of the Board is physically present for a meeting, as required by Section 2.01 of the Illinois Open Meetings Act ("Act"), a majority of the Board or committee of the Board, as the case may be, may allow a physically absent member to attend the meeting by

## CAPITAL DEVELOPMENT BOARD

## NOTICE OF ADOPTED AMENDMENT

video or audio conference if the member is prevented from physically attending due to any of the reasons listed in Section 7(a) of the Act.

- b) A Board member approved for audio or video attendance under this Section may participate in any discussion, vote, or other action of the Board.
- c) Any Board member wishing to attend a meeting by means other than physical presence shall notify the Executive Assistant to the Director before the meeting unless advance notice is impractical.

(Source: Added at 47 Ill. Reg. 17823, effective November 15, 2023)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

- 1) Heading of the Part: Collection Agency Act
- 2) Code Citation: 38 Ill. Adm. Code 150
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
150.10	New Section
150.15	New Section
150.20	New Section
150.25	New Section
150.30	New Section
150.40	New Section
150.50	New Section
150.60	New Section
150.70	New Section
150.80	New Section
150.90	New Section
150.100	New Section
150.110	New Section
150.120	New Section
150.130	New Section
150.135	New Section
150.140	New Section
150.150	New Section
150.160	New Section
- 4) Statutory Authority: Implementing the Collection Agency Act [205 ILCS 740].
- 5) Effective Date of Rule: November 20, 2023
- 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*: 47 Ill. Reg. 11949; August 11, 2023
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

- 11) Differences between proposal and final version: The adopted rules have some differences from the proposed version. The changes were not substantive but grammatical and/or technical. The changes below were made by JCAR for clarification purposes.

In Section 150.25 a) 2) B), "location" was changed to "branch office".

In Section 150.25 b), "or location" was stricken from the proposed version.

In Section 150.30 a), the last sentence excerpt, "except for skiptracing and envelopes as prohibited by 15 U.S.C. 1692b.(5)", was replaced with the following:

"Notwithstanding the foregoing, a different name may be used for skiptracing and envelopes if use of the agency name or tradestyle as it appears on the agency's license would violate other law (see 15 U.S.C. 1692b.(5))".

In Section 150.50, "one share" was stricken from the proposed version.

In Section 150.60 b) "when" was changed to "after".

In Section 150.60 d), after "licensees", "and posted on the Department's website" was added.

In Section 150.70 a) "location" was changed to "office".

In Section 150.135 c) 3), after "hearing.", the following was added:

"Factors used by the Division to determine whether to automatically terminate the license or deny the application include, but are not limited to, whether the licensee has presented good cause justifying the delay and whether the licensee has previously failed to submit necessary remittances."

Also, Section 150.135 c) 4) was rewritten to read, "Terminated or denied licenses may be restored or issued after the applicant pays all fees due to the Department. The Director may waive the fees due under this Section in individual cases when the Director finds the fees would be unreasonable or unnecessarily burdensome."

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

Section 150.140 a) was rewritten to read, "The Director may grant variances from this Part in individual cases when the Director finds that:".

Section 150.150 was rewritten to read, "When determined necessary by the Department, the Department may provide a licensee a 45-day notice, except in extraordinary circumstances determined by the Director which requires a response within a shorter time period, requiring a licensee to submit written reports specified within that notice.".

- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an Emergency Rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and purpose of rulemaking: Public Act 102-975 transferred the authority for regulation of collection agencies from the Division of Professional Regulation to the Division of Financial Institutions, effective January 1, 2023. These new rules, proposed alongside the repeal of the previous rules regulating collection agencies (68 Ill. Adm. Code 1210), bring collection agencies into alignment with other industries regulated by the Division of Financial Institutions. These adopted rules adjusted Sections from the previous collection agency rules regarding definitions, officers, applications for or changes to licensure, communications, pseudonyms, changes in ownership, recordkeeping, fees, payments, and the granting of variances to better reflect the standards of the Division of Financial Institutions. There are also three additional Sections: one titled, Administration and Enforcement of the Act; another titled, Reports, which requires licensees to file written reports as the Department determines it to be necessary; and finally, Investigations and Examinations, which states that licensees may be investigated or examined by the Department in order to ensure compliance.

These new rules are intended to help the Division of Financial Institutions fulfill its newly-granted statutory responsibility and align these rules with regulatory requirements of the Act – as well as other Acts regulated by the Division –so that the Division is able to more efficiently administer the Act. Compliance with these new rules may result in de minimis increased costs for collection agencies, including some small businesses. These increased costs may be offset, completely or partially, by a move to online application renewal processing and significant decrease in paperwork and mailing requirements. No less intrusive or less costly alternatives to the methods described within these adopted rules were identified.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

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

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 2<sup>nd</sup> Floor  
Springfield, Illinois 62786

(217) 785-0810  
Fax: (217) 557-4451  
Craig.cellini@illinois.gov

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 150

## COLLECTION AGENCY ACT

## Section

150.10	Definitions
150.15	Administration and Enforcement of the Act
150.20	Officer
150.25	Application for License
150.30	Communication by Collection Agency
150.40	Use of Pseudonyms
150.50	Change of Ownership
150.60	Expiration or Change in Licensure
150.70	Records and Documents to be Kept by Collection Agency
150.80	Recording of Payments
150.90	Multiple Creditors
150.100	Availability of Books, Records, Forms and Stationery
150.110	Accounting and Remitting Collected Funds
150.120	Creditor Accounts
150.130	Renewals
150.135	Fees
150.140	Granting Variances
150.150	Reports
150.160	Investigations and Examinations

AUTHORITY: Implementing the Collection Agency Act [205 ILCS 740] and authorized by Section 6 and 6a of the Financial Institutions Code [20 ILCS 1205].

SOURCE: Adopted at 47 Ill. Reg. 17827, effective November 20, 2023.

**Section 150.10 Definitions**

The following definitions shall apply to this Part:

"Act" means the Collection Agency Act [205 ILCS 740].

"Agency means a collection agency as defined in Section 2 of the Act.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

*"Board" means the Collection Agency Licensing and Disciplinary Board.*  
(Section 2 of the Act)

"Branch Office" means another location with the same name and ownership as the main collection agency license.

"Creditor" means individual, sole proprietorship, partnership, limited liability company, or corporation that engages or retains the agency to collect debts due the individual, sole proprietorship, partnership, limited liability company, or corporation.

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

"Director" means Director of the Division of Financial Institutions and any authorized representative of the Director.

"Division" means the Department of Financial and Professional Regulation – Division of Financial Institutions.

"License" means any authorization issued to any licensee.

"Licensee" means any person or entity who is or comes to be licensed pursuant to the Act.

"Managerial or Administrative Control" means having authority to conduct the affairs of the agency and direct others in the conduct of the affairs or business of the agency.

*"Secretary" means the Secretary of the Department of Financial and Professional Regulation and any authorized representative of the Secretary.* (Section 2 of the Act)

"Trust Account" means the special account that all licensees shall maintain in accordance with Section 8c of the Act.

**Section 150.15 Administration and Enforcement of the Act**

The Director and Division shall administer and enforce the Act on behalf of the Secretary. The

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

provisions of the Financial Institutions Code [20 ILCS 1205] shall apply to licensees, applicants, and any person or entity engaged in an activity covered by the Act.

**Section 150.20 Officer**

- a) If the collection agency is an association or a sole proprietorship, the owner of the agency or any person exercising managerial control shall be considered an officer.
- b) If the collection agency is a partnership, any partner who has at least 10% ownership interest or any partner who exercises managerial control shall be considered an officer.
- c) If the collection agency is a corporation, any officer of the corporation or director or any person who has at least 10% direct or indirect ownership interest in such corporation or who exercises managerial control shall be considered an officer.
- d) If the collection agency is a limited liability company, any manager of the limited liability company or any person who has at least 10% direct or indirect ownership interest in such limited liability company shall be considered an officer.

**Section 150.25 Application for License**

- a) All applications for license as a collection agency shall be submitted to the Division, on forms provided by the Division electronically or physically, and include:
  - 1) Collection Agency Application
    - A) The name and address of all officers of the collection agency (as defined in Section 150.20). The address shall be an actual street address and shall include the city, state, and zip code. A post office box number is not acceptable as an address;
    - B) A copy of the Articles of Incorporation bearing the seal of the office, in the jurisdiction in which the corporation is organized, whose duty it is to register corporations under the laws of that jurisdiction. If it is a foreign corporation, a copy of the certificate of authority to transact business in this State issued by the Secretary of State is also required;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

- C) A copy of the authority to transact business under the Assumed Business Name Act [805 ILCS 405], issued by the Secretary of State or county clerk's office, if required by law;
  - D) Proof of a \$25,000 surety bond;
  - E) The name of the bank, savings and loan association or other required depository in which the trust account shall be maintained;
  - F) The required fee set forth in Section 150.130; and
  - G) Any additional information required by the Director to evaluate the application.
- 2) Branch Office Application
- A) The name and license number of the main collection agency office;
  - B) Name of the manager at that branch office;
  - C) The required fee set forth in Section 150.130; and
  - D) Any additional information required by the Director to evaluate the application.
- b) If a collection agency intends to conduct business as a collection agency as defined in the Act at more than one office, the applicant shall also file an application for a branch office as referenced in subsection (a)(2).
- c) A licensed collection agency shall notify the Division in the form required by the Division of a change in location of an existing office within 10 days after the change.

**Section 150.30 Communication by Collection Agency**

- a) A collection agency shall use only the agency name or tradestyle exactly as it appears on the agency's license issued by the Division in all communication (e.g., ABC Collection Agency cannot use a name such as ABC Acceptance Company).

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

Notwithstanding the foregoing, a different name may be used for skiptracing and envelopes if use of the agency name or tradestyle as it appears on the agency's license would violate other law (see 15 U.S.C. 1692b.(5)).

- b) When a collection agency communicates with a debtor, the collection agency must state in a written or telephone communication the specific reason for the communication, the name of the current creditor, the name of the original creditor (if applicable), the registered name of the collection agency, the date of written communication, and, in oral communication, the identity of the individual making the contact.

**Section 150.40 Use of Pseudonyms**

The collection agency shall maintain a listing of all pseudonyms used by an office, employee, or agent of the collection agency in relation to collection agency activities. A listing of pseudonyms shall be maintained by the collection agency one year after termination of employment.

**Section 150.50 Change of Ownership**

When more than 50% of the assets, stock or equity of a collection agency are transferred, a new collection agency application shall be filed with the Division in accordance with Section 150.25.

**Section 150.60 Expiration or Change in Licensure**

- a) The license shall expire:
  - 1) When the collection agency ceases operation;
  - 2) When the bond is nonrenewed or cancelled;
  - 3) When the license is nonrenewed or surrendered; or
  - 4) When the license is revoked.
- b) The collection agency shall notify the Division in writing by certified mail or email within 10 days after the collection agency ceases to operate or ceases to operate under the name on the license. Notice of bond termination is set forth in Section 8 of the Act.



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

- c) In the event of a change of the collection agency name, the licensee shall notify the Division, submit proof of the name change, and pay the fee required in Section 150.135.
- d) All notices required by this Section shall be sent to the address designated by the Director on the notice. Any change of Department address shall be emailed to all licensees and posted on the Department's website.

**Section 150.70 Records and Documents to be Kept by Collection Agency**

- a) The current license shall be prominently displayed at each office where the collection agency conducts business.
- b) At each office of a licensed collection agency, for each individual debtor's account, the collection agency shall keep the following:
  - 1) Account records for each account in excess of \$100 being processed.
    - A) These records shall contain:
      - i) Name, address, email address, and phone number, if available, of debtor and all individuals contacted at any time concerning the collection account, including debtor, debtor's employer and relatives;
      - ii) Dates and record of contents of all communications sent regarding debtor's account;
      - iii) Dates and accurate summary of each telephone contact with all individuals regarding debtor's account, including identification of individual who made the contact and to whom that individual spoke;
      - iv) Name of the original creditor, current creditor, date account was opened with the collection agency, the original amount of the account referred to the collection agency, and the current outstanding amount of the account. The address of the current creditor shall be maintained in the collection

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

agency's records;

- v) Docket information pertaining to all court suits concerning account;
- vi) The date and amount of each payment received on each account; and
- vii) Any additional charges assessed on the account, which are fees authorized by contract or by court of law. These charges shall be documented by court records or other records available for inspection by the Division.

B) This subsection does not apply to the report status of the accounts.

2) Correspondence files for each collection account, which shall contain:

- A) Copies of all correspondence between the collection agency and creditor concerning accounts;
  - B) Copies of all correspondence between the collection agency and debtor, debtor's employer, debtor's family and debtor's attorney;
  - C) Instructions from debtor on disbursement of funds among multiple accounts; and
  - D) Copies of all correspondence concerning account between collection agency and collection agency's attorney.
- c) When an account is closed by the collection agency, the account record shall be clearly and boldly marked that the account is closed, and all records shall be kept for a period of 36 months after the collection agency's last activity on the debt.
  - d) A collection agency may utilize an electronic data processing system that includes the information set forth in this Section in a format reviewable by the Department.

**Section 150.80 Recording of Payments**

All payments of any amount on any account processed by a collection agency shall be promptly

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

entered on the debtor's account record.

**Section 150.90 Multiple Creditors**

- a) When a debtor has multiple creditors, the collection agency shall maintain a separate account record for each creditor.
- b) Checks, money orders, or drafts received by a collection agency from a debtor or on behalf of a debtor made payable to a specified creditor shall be applied to the specified creditor's account record.
- c) When a collection agency is collecting two or more accounts from one debtor, the collection agency shall apply any payments received from the debtor according to the debtor's directions.
- d) When the debtor overpays the total amount outstanding to a specific creditor, money due to the debtor for an overpayment to the specific creditor may not be applied by the collection agency against any other obligation owed by the debtor and must be refunded to the debtor unless the debtor has authorized the collection agency, in writing or by lawfully recorded verbal statement, to apply the money to another obligation owed by the debtor.

**Section 150.100 Availability of Books, Records, Forms and Stationery**

All books, records, forms, and stationery, whether kept physically or electronically, kept or used by a collection agency at each office of the collection agency shall be made available to agents of the Division upon request. Failure or refusal to make these records available by the collection agency shall be grounds for denial, suspension, fine, or revocation of the collection agency's license under Section 9 of the Act in accordance with 38 Ill. Adm. Code 100.

**Section 150.110 Accounting and Remitting Collected Funds**

- a) Accounting and Remitting to Creditors
  - 1) Unless otherwise authorized in writing by a creditor, a collection agency shall, within 60 days after any payment is received on any account, render an itemized statement of account to the creditor and remit all money then due to the creditor. After court costs, if any, are recovered on any claim or group of claims by a creditor against a debtor, payments shall be applied

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

first to the reduction of principal, unless another priority has been authorized by the creditor.

- 2) If any creditor fails to advise the collection agency, in writing or orally, of all payments or credits paid directly to the creditor on any claim or account, within 30 days after receipt thereof, the collection agency may make written demand for a statement of the payments or credits, by certified mail with return receipt requested. The collection agency shall not be obliged to make any further remittance to the creditor until the creditor has rendered the statement. The failure or refusal of a creditor to render a statement of payments or credits shall not relieve the collection agency of the obligation to render and itemized statement of account.
- b) Account and Remitting to Debtors. Within 45 days after an overpayment of one dollar or more on any claim is received from a debtor or it is determined that a refund of one dollar or more is due to a debtor on any claim that has been paid, the collection agency shall remit to the debtor any money due the debtor.

**Section 150.120 Creditor Accounts**

- a) Each licensed collection agency office which collects funds for creditors shall maintain a current accounting system which shall show the monies due and owing to creditors as well as the funds in the trust account from which appropriate remittance may be made by the collection agency to creditors.
- b) Accounts and records of each agency shall include:
  - 1) A cash receipts journal, showing each payment made, the allocation of the payment and the monthly total.
  - 2) A check register or record showing each check written on the trust account, as defined in Section 8c of the Act.
  - 3) A general journal reflecting all adjustments to the check register and cash receipts records.
  - 4) A general ledger or record to which all payments handled by a collection agency are recorded.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

- 5) A creditor's record setting forth the details of the contractual arrangement in writing, of the collection agency with each creditor, and shall reflect full details of all collections made on behalf of the creditor, whether paid to the collection agency or directly to creditor, and full details on remittance made by the collection agency to the creditor.
- c) The trust account shall be reconciled each month.
- d) All accounts and records of each account referred to in this Section shall be kept for a period of four years after the account is closed.
- e) A collection agency may employ an accounting system based on sound accounting principles which utilizes electronic data processing equipment and that includes the information set forth in Section 150.110(b).

**Section 150.130 Renewals**

- a) Any license issued on or before October 31, 2024 shall expire on December 31, 2024. Thereafter, all licenses shall expire annually on December 31, except that any license issued on or after November 1 shall expire on December 31 of the next calendar year. A licensee may renew its license by submitting a license renewal application for the next calendar year and paying the required fee between November 1 and December 31 of the current year. A license shall be deemed not to have expired if its license renewal application is received by the Department before December 31. Licensees shall maintain sufficient proof to demonstrate receipt of the renewal application by the Department.
- b) It is the responsibility of each licensee to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee or to renew one's license.
- c) Practicing or offering to practice on a license that has expired shall be considered unlicensed activity and shall be grounds for discipline pursuant to Section 9 of the Act.

**Section 150.135 Fees**

- a) The following fees shall be paid to the Division and are not refundable:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

- 1) Application Fees
  - A) The fee for application for a license as a collection agency is \$750.
  - B) The fee for application for a license to operate as a branch office is \$250.
- 2) Renewal Fees
  - A) The fee for the annual renewal of a license as a collection agency is \$250.
  - B) The fee for the annual renewal of a license for a branch office is \$50.
- 3) General Fees
  - A) The fee for the restoration of a license is \$50 plus payment of all unpaid renewal fees that were payable in the period between expiration of the license and restoration of the license.
  - B) The fee for a certification of a licensee's record for any purpose is \$20.
  - C) The fee for a roster of licensees shall be the actual cost of producing the roster.
- b) All fees collected under the Act and this Part shall be deposited into the Financial Institution Fund. All monies in the fund shall be used by the Division, as appropriated, for the ordinary and contingent expenses of the Division. (See Section 8a of the Act.)
- c) Returned Checks
  - 1) Any person who delivers a check or other payment to the Division that is returned to the Division unpaid by the financial institution upon which it is drawn shall pay to the Division, in addition to the amount already owed to the Division, a fee of \$50.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

- 2) The fees imposed by this Section are in addition to any other discipline provided under the Act. The Division shall notify the person that fees shall be paid to the Department by certified check, money order, or any other method acceptable to the Division within 30 calendar days after that notification.
- 3) If, after the expiration of 30 days from the date of notification the person has failed to submit the necessary remittance, the Division may automatically terminate the license or deny the application, without hearing. Factors used by the Division to determine whether to automatically terminate the license or deny the application include, but are not limited to, whether the licensee has presented good cause justifying the delay and whether the licensee has previously failed to submit necessary remittances.
- 4) Terminated or denied licenses may be restored or issued after the applicant pays all fees due to the Department. The Director may waive the fees due under this Section in individual cases when the Director finds the fees would be unreasonable or unnecessarily burdensome.

**Section 150.140 Granting Variances**

- a) The Director may grant variances from this Part in individual cases when the Director finds that:
  - 1) The provision from which the variance is granted is not statutorily mandated;
  - 2) No party will be injured by granting the variance; and
  - 3) The rule from which the variance is granted would, in the particular case, be unreasonable or unnecessarily burdensome.
- b) The Director shall notify the Board in writing of the granting of a variance, and the reasons for granting the variance, at the next meeting of the Board.

**Section 150.150 Reports**

When determined necessary by the Department, the Department may provide a licensee a 45-day

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED RULES

notice, except in extraordinary circumstances determined by the Director which requires a response within a shorter time period, requiring a licensee to submit written reports specified within that notice.

**Section 150.160 Investigations and Examinations**

Licensees may be investigated or examined from time to time to ensure compliance with the Act.  
(See Section 16 of the Act.)



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED REPEALER

- 1) Heading of the Part: Collection Agency Act
- 2) Code Citation: 68 Ill. Adm. Code 1210
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1210.10	Repealed
1210.20	Repealed
1210.25	Repealed
1210.60	Repealed
1210.70	Repealed
1210.105	Repealed
1210.110	Repealed
1210.140	Repealed
1210.150	Repealed
1210.160	Repealed
1210.170	Repealed
1210.180	Repealed
1210.190	Repealed
1210.235	Repealed
1210.237	Repealed
1210.240	Repealed
- 4) Statutory Authority: Implementing the Collection Agency Act [225 ILCS 425] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].
- 5) Effective Date of Repealer: November 20, 2023
- 6) Does this repealer contain an automatic repeal date? No
- 7) Does this repealer contain incorporations by reference? No
- 8) A copy of the Adopted Repealer, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 47 Ill. Reg. 11964; August 11, 2023
- 10) Has JCAR issued a Statement of Objections to this repealer? No

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED REPEALER

- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this repealer replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Repealer: Public Act 102-975 effectively transferred the authority for regulation of collection agencies from the Division of Professional Regulation to the Division of Financial Institutions. As the Division of Financial Institutions intends to propose new rules that update and build upon these current rules for collection agencies (38 Ill. Adm. Code 150 – Collection Agency Act) in order to bring industry regulation into alignment with Division standards, these rules will be rendered unnecessary; therefore, the Division proposes their repeal entirely.
- 16) Information and questions regarding this adopted repealer shall be directed to:

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 2nd Floor  
Springfield, Illinois 62786

(217) 785-0810  
Fax: (217) 557-4451  
Craig.cellini@illinois.gov

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Rules for Administration of the Compassionate Use of Medical Cannabis Program
- 2) Code Citation: 68 Ill. Adm. Code 1290
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1290.410	Amendment
1290.430	Amendment
- 4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Program [410 ILCS 130/215].
- 5) Effective Date of Rule: November 20, 2023
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the Adopted Rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in *Illinois Register*: 47 Ill. Reg. 11980; August 11, 2023
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Differences between proposal and final version: There were no substantive differences between the proposed version and this adopted version of the rule. JCAR made a few technical and/or grammatical changes for the final adopted version.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace an Emergency Rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and purpose of rulemaking: These adopted amendments create a limited change to the existing medical cannabis rules in order to allow for curbside access for

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

medical patients (68 IAC 1290.410). Throughout COVID-19, the Department issued variances from this rule requirement and now this is a permanent policy.

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

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 2<sup>nd</sup> Floor  
Springfield, Illinois 62786

(217) 785-0810  
Fax: (217) 557-4451

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 68: PROFESSIONS AND OCCUPATIONS

## CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

## PART 1290

RULES FOR ADMINISTRATION OF THE COMPASSIONATE  
USE OF MEDICAL CANNABIS ~~PILOT~~ PROGRAM

## SUBPART A: GENERAL PROVISIONS

Section  
1290.10 Definitions

## SUBPART B: DISPENSING ORGANIZATION DISTRICTS

Section  
1290.20 Dispensing Organization Districts

SUBPART C: APPLICATION REQUIREMENTS FOR A  
MEDICAL CANNABIS DISPENSARY REGISTRATION AUTHORIZATION

Section  
1290.30 Dispensing Organization Principal Officers  
1290.40 Dispensing Organization Authorization Process  
1290.50 Dispensing Organization – Application Requirements for Authorization  
1290.60 Selection Process  
1290.70 Selection Criteria  
1290.80 Fees

## SUBPART D: DISPENSARY REGISTRATION

Section  
1290.100 Dispensing Organization – Registration Process  
1290.110 Dispensing Organization – Registration Requirements  
1290.120 Dispensing Organization – Financial Responsibility  
1290.130 Changes to a Dispensing Organization Registration  
1290.140 Request to Relocate a Dispensary  
1290.150 Dispensing Organization Renewals

## SUBPART E: REGISTRATION OF DISPENSING ORGANIZATION AGENTS

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

## Section

- 1290.200 Dispensing Organization Agent-in-Charge
- 1290.210 Dispensing Organization Agents
- 1290.220 Persons with Significant Influence or Control; Disassociation
- 1290.230 State and Federal Criminal History Records Check

## SUBPART F: DISPENSARY OPERATION

## Section

- 1290.300 Operational Requirements
- 1290.320 Dispensary Access Overnight

## SUBPART G: SECURITY AND RECORDKEEPING

## Section

- 1290.400 Inventory Control System
- 1290.405 Storage Requirements
- 1290.410 Security Requirements
- 1290.415 Recordkeeping
- 1290.420 Cleaning and Sanitation
- 1290.425 Administration
- 1290.430 Dispensing Medical Cannabis to Patients and Provisional Patients
- 1290.431 Dispensing Medical Cannabis to OAPP Participants
- 1290.435 Signage
- 1290.440 Recall of Medical Cannabis
- 1290.445 Report of Loss or Theft of Cannabis
- 1290.450 Destruction and Disposal
- 1290.455 Dispensary Advertisements
- 1290.460 Closure of a Dispensary
- 1290.465 Zoning Rules Related to Dispensary

## SUBPART H: DISCIPLINE

## Section

- 1290.500 Investigations
- 1290.510 Grounds for Discipline
- 1290.520 Temporary Suspension
- 1290.530 Consent to Administrative Supervision Order
- 1290.540 Subpoenas; Oaths; Attendance of Witnesses (Repealed)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

1290.550	Request for Hearing (Repealed)
1290.560	Findings and Recommendations
1290.570	Restoration of Registration from Discipline
1290.575	Appointment of a Hearing Officer
1290.580	Transcript; Record of Proceedings
1290.590	Certification of Record; Receipt

## SUBPART I: GENERAL

## Section

1290.600	Intergovernmental Cooperation
1290.610	Variances
1290.620	Administrative Decisions

AUTHORITY: Implementing and authorized by the Compassionate Use of Medical Cannabis Program Act [410 ILCS 130].

SOURCE: Repealed at 13 Ill. Reg. 10923, effective June 21, 1989; adopted at 38 Ill. Reg. 16875, effective July 24, 2014; emergency amendment at 38 Ill. Reg. 17798, effective August 8, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 695, effective December 29, 2014; emergency amendment at 42 Ill. Reg. 23202, effective December 3, 2018, for a maximum of 150 days; emergency expired May 1, 2019; amended at 43 Ill. Reg. 6593, effective May 20, 2019; amended at 47 Ill. Reg. 17846, effective November 20, 2023.

## SUBPART G: SECURITY AND RECORDKEEPING

**Section 1290.410 Security Requirements**

- a) A dispensing organization shall implement security measures to deter and prevent entry into and theft of cannabis or currency.
- b) A dispensing organization shall submit changes to the floor plan or security plan to the Division for pre-approval. All cannabis shall be maintained and stored in a restricted access area during construction.
- c) The dispensing organization shall implement security measures to protect the premises, registered qualifying patients, provisional patients, designated caregivers, OAPP participants and dispensing organization agents including, but not limited to the following:

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 1) Establish a locked door or barrier between the facility's entrance and the limited access area;
- 2) Prevent individuals from remaining on the premises if they are not engaging in activity permitted by the Act or this Part;
- 3) Develop a policy that addresses the maximum capacity and patient flow in the waiting rooms and patient care areas;
- 4) Dispose of cannabis in accordance with this Part;
- 5) During hours of operation, store and dispense all cannabis from the restricted access area or a pickup-location in close proximity to the dispensary. For purposes of this subsection (c)(5), "pickup-location in close proximity to the dispensing organization" means an area contiguous to the real property of the dispensary, such as a sidewalk or parking lot; additionally, during~~During~~ operational hours, cannabis shall be stored in an enclosed locked room or cabinet and shall be accessible only to specifically authorized agents;
- 6) When the dispensary is closed, store all cannabis and currency in a reinforced vault room in the restricted access area and in a manner as to prevent diversion, theft or loss;
- 7) Keep the reinforced vault room and any other equipment or cannabis storage areas securely locked and protected from unauthorized entry;
- 8) Keep an electronic daily log of dispensary agents with access to the reinforced vault room and knowledge of the access code or combination;
- 9) Keep all locks and security equipment in good working order;
- 10) The security and alarm system shall be operational at all times.
- 11) Prohibit keys, if applicable, from being left in the locks, or stored or placed in a location accessible to persons other than specifically authorized personnel;



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 12) Prohibit accessibility of security measures, including combination numbers, passwords or electronic or biometric security systems to persons other than specifically authorized agents;
  - 13) Ensure the dispensary interior and exterior premises are sufficiently lit to facilitate surveillance;
  - 14) Ensure that trees, bushes and other foliage outside of the dispensary premises do not allow for a person or persons to conceal themselves from sight;
  - 15) Develop emergency policies and procedures for securing all product and currency following any instance of diversion, theft or loss of cannabis, and conduct an assessment to determine whether additional safeguards are necessary; and
  - 16) Develop sufficient additional safeguards in response to any special security concerns, or as required by the Division.
- d) The Division may request or approve alternative security provisions that it determines are an adequate substitute for a security requirement specified in this Part. Any additional protections may be considered by the Division in evaluating overall security measures.
  - e) A dispensing organization shall provide additional security as needed and in a manner appropriate for the community where it operates.
  - f) Restricted Access Areas
    - 1) All restricted access areas must be identified by the posting of a sign that shall be a minimum of 12" x 12" and that states "Do Not Enter – Restricted Access Area – Authorized Personnel Only" in lettering no smaller than one inch in height.
    - 2) All restricted access areas shall be clearly described in the floor plan of the registered premises, in the form and manner determined by the Division, reflecting walls, partitions, counters and all areas of entry and exit. The floor plan shall show all storage, disposal and retail sales areas.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 3) All restricted access areas must be secure, with locking devices that prevent access from the limited access areas.
- g) Security and Alarm
  - 1) A dispensing organization shall have an adequate security plan and security system to prevent and detect diversion, theft or loss of cannabis, currency or unauthorized intrusion using commercial grade equipment installed by an Illinois licensed private alarm contractor or private alarm contractor agency that shall, at a minimum, include:
    - A) A perimeter alarm on all entry points to the premises and glass break protection on perimeter windows;
    - B) Security shatterproof tinted film on exterior of perimeter windows;
    - C) A failure notification system that provides an audible, text or visual notification of any failure in the surveillance system, including, but not limited to, panic buttons, alarms and video monitoring system. The failure notification system shall provide an alert to designated dispensing organization agents within five minutes after the failure, either by telephone or text message;
    - D) A duress alarm, panic button and alarm, or holdup alarm and after-hours intrusion detection alarm that by design and purpose will directly or indirectly notify, by the most efficient means, the Public Safety Answering Point (PSAP) for the law enforcement agency having primary jurisdiction;
    - E) Security equipment to deter and prevent unauthorized entrance into the dispensary, including electronic door locks on the limited and restricted access areas that include devices or a series of devices to detect unauthorized intrusion that may include a signal system interconnected with a radio frequency method, cellular, private radio signals or other mechanical or electronic device.
  - 2) All security system equipment and recordings shall be maintained in good working order, in a secure location so as to prevent theft, loss, destruction or alterations.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 3) Access to surveillance monitoring recording equipment resides shall be limited to persons that are essential to surveillance operations, law enforcement authorities acting within their jurisdiction, security system service personnel and the Division. A current list of authorized dispensary agents and service personnel that have access to the surveillance equipment must be available to the Division upon request.
  - 4) All security equipment shall be inspected and tested at regular intervals, not to exceed one month from the previous inspection and test to ensure the systems remain functional.
  - 5) The security system shall provide protection against theft and diversion that is facilitated or hidden by tampering with computers or electronic records.
  - 6) The dispensary shall ensure all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage.
- h) To monitor the dispensary, the dispensing organization shall incorporate continuous electronic video monitoring, including the following:
- 1) Monitors of 19-inches or greater;
  - 2) Unobstructed video surveillance of all enclosed dispensary areas, unless prohibited by law, including all points of entry and exit that shall be appropriate for the normal lighting conditions of the area under surveillance. The cameras shall be directed so all areas are captured, including, but not limited to, safes, vaults, sales areas and areas where cannabis is stored, handled, dispensed or destroyed. Cameras shall be:
    - A) angled to allow for facial recognition, the capture of clear and certain identification of any person entering or exiting the dispensary area; and
    - B) in lighting sufficient during all times of night or day;
  - 3) Unobstructed video surveillance of outside areas, the storefront and the

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

parking lot, that shall be appropriate for the normal lighting conditions of the area under surveillance. Cameras shall be angled so as to allow for the capture of facial recognition, clear and certain identification of any person entering or exiting the dispensary, the immediate surrounding area, and license plates of vehicles in the parking lot;

- 4) Twenty-four-hour recordings from all video cameras available for immediate viewing by the Division upon request. Recordings shall not be destroyed or altered and shall be retained for at least 90 days. Recordings shall be retained as long as necessary if the dispensing organization is aware of the loss or theft of cannabis; a pending criminal, civil or administrative investigation; or a legal proceeding for which the recording may contain relevant information;
- 5) The ability to immediately produce a clear, color still photo from the surveillance video, either live or recorded;
- 6) A date and time stamp embedded on all video surveillance recordings. The date and time shall be synchronized and set correctly and shall not significantly obscure the picture;
- 7) The ability to remain operational during a power outage and ensure all access doors are not solely controlled by an electronic access panel to ensure that locks are not released during a power outage;
- 8) Exporting of still images in an industry standard image format, including JPG, BMP and GIF. Exported video shall have the ability to be archived in a proprietary format that ensures authentication of the video and guarantees that no alteration of the recorded image has taken place. Exported video shall also have the ability to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal;
- 9) A video surveillance system that is operational during a power outage with a four-hour minimum battery backup;
- 10) A video printer capable of immediately producing a clear still photo from any video camera image;

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- 11) A video camera or cameras recording at each point of sale terminal allowing for the identification of the dispensary agent distributing the cannabis and any qualifying patient or designated caregiver purchasing medical cannabis. The camera or cameras shall capture the sale, the individuals and the computer monitors used for the sale;
  - 12) Storage of video recordings from the video cameras for at least 90 calendar days; and
  - 13) A failure notification system that provides an audible and visual notification of any failure in the electronic video monitoring system.
- i) All electronic video surveillance monitoring must record at least the equivalent of eight frames per second and be available to the Division and ISP 24 hours a day in real-time via a secure web-based portal with reverse functionality.
  - j) The dispensing organization shall maintain policies and procedures that include:
    - 1) Security plan with protocols for patient, provisional patient, OAPP participant, caregiver and agent safety, and management and security of cannabis and currency, as outlined in the Act and this Part;
    - 2) Restricted access to the areas in the dispensary that contain cannabis to authorized agents;
    - 3) Identification of authorized agents;
    - 4) Controlled access and prevention of loitering both inside and outside the dispensary;
    - 5) Conducting electronic monitoring; and
    - 6) Use of a panic button.

(Source: Amended at 47 Ill. Reg. 17846, effective November 20, 2023)

**Section 1290.430 Dispensing Medical Cannabis to Patients and Provisional Patients**

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

- a) *A person provided a written certification for a debilitating medical condition who has submitted a valid completed online application to the Department and his or her designated caregiver shall receive a provisional registration and shall be entitled to purchase medical cannabis from a specified licensed dispensing organization for a period of 90 days or until his or her application has been denied or he or she receives a registry identification card, whichever is earlier. (Section 55(b) of the Act)*
- b) Before a dispensing organization allows a qualifying patient or designated caregiver into the limited access area or prior to dispensing medical cannabis or medical cannabis infused products through a pickup-location, it must verify the person's identity by comparing the DPH issued patient identification card or designated caregiver card with an Illinois driver's license or State identification card or federally issued identification.
- c) Before a dispensing organization allows a provisional patient into the limited access area or prior to dispensing through a pickup-location, it must verify the person's identity by comparing the provisional patient's provisional registration along with State or federally issued identification.
- d) Before a dispensing organization agent dispenses medical cannabis to a qualifying patient, provisional patient or a designated caregiver, the agent shall:
- 1) Verify the validity of the qualifying patient or designated caregiver's DPH patient registry identification card or verify the validity of the provisional patient's provisional registration;
  - 2) Confirm the qualifying patient, provisional patient or designated caregiver's registry identification number in the State verification system;
  - 3) Verify that the qualifying patient or designated caregiver has a current authorization by DPH to purchase medical cannabis;
  - 4) Verify that the provisional patient's provisional registration has not expired and is authorized by DPH to purchase medical cannabis;
  - 5) Verify that the amount of medical cannabis the qualifying patient, provisional patient or designated caregiver is requesting would not cause the qualifying patient or provisional patient to exceed the limit on

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF ADOPTED AMENDMENTS

obtaining no more than two and one-half ounces of medical cannabis during any 14-calendar-day period, unless approved by DPH; and

- 6) Enter the following information into the State verification system for the qualifying patient, provisional patient or designated caregiver:
  - A) The dispensing organization agent's registry identification number;
  - B) The dispensing organization's identification number;
  - C) The amount, type and strain of medical cannabis dispensed;
  - D) Identity of the individual to whom the medical cannabis was dispensed, whether the qualifying patient, provisional patient or qualifying patient's designated caregiver; and
  - E) The date and time the medical cannabis was dispensed.
- e) A dispensary may not dispense more than the DPH approved amount of usable cannabis to a qualifying patient, provisional patient or designated caregiver during a period of 14 days.
- f) In the event a dispensing organization dispenses in excess of a patient's usable amount, it shall notify the Division in writing within 48 hours. The notification shall include the date and time of the transaction that caused the overage, the name of the agent in charge on duty, the amount of the overage, the patient or provisional patient's registry identification number and a detailed narrative of the circumstances surrounding the overage. The notification report shall outline the methods the dispensary will use to self-correct and prevent this type of over-dispensing from reoccurring.
- g) A dispensing organization shall notify DPH if it determines a person is attempting to submit or did submit a fraudulent written certification in the patient application.
- h) A dispensary that sells edible cannabis-infused products must do so in compliance with the Act, [77 Ill. Adm. Code 946](#), ~~DPH's administrative rules~~ and this Part.
- i) [Dispensing organizations licensed under Section 15-15 of the Cannabis Regulation and Tax Act may dispense medical cannabis or medical cannabis](#)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF ADOPTED AMENDMENTS

infused products through a pickup-location only to qualifying patients and designated caregivers registered under the Compassionate Use of Medical Cannabis Program Act.

(Source: Amended at 47 Ill. Reg. 17846, effective November 20, 2023)



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Child Care
- 2) Code Citation: 89 Ill. Adm. Code 50
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
50.210	Amendment
50.230	Amendment
50.320	Amendment
- 4) Statutory Authority: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5].
- 5) Effective Date of Rule: November 20, 2023
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the Adopted Rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of proposal published in the *Illinois Register*: 47 Ill. Reg. 9555; July 14, 2023
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: Section 320's section title was changed in the table of contents. Grammatical and minor corrections were also made to this rulemaking.
- 12) Have all changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rule replace an emergency rulemaking currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? Yes

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u><i>Illinois Register</i> Citations:</u>
50.235	Amendment	47 Ill. Reg. 8806; June 23, 2023
50.1100	Amendment	47 Ill. Reg. 10679; July 21, 2023

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

50.1110	Amendment	47 Ill. Reg. 10679; July 21, 2023
50.1120	Amendment	47 Ill. Reg. 10679; July 21, 2023
50.1130	Amendment	47 Ill. Reg. 10679; July 21, 2023
50.1140	Amendment	47 Ill. Reg. 10679; July 21, 2023

- 15) Summary and Purpose of Rulemaking: The rule is proposed as an emergency because it impacts the public interest, including the safety and welfare of children. This rulemaking is necessary to comply with the provisions of 305 ILCS 5/9A-11, which require the Department to index income eligibility guidelines to the most current federal poverty level guidelines. As a result of the increased guidelines, low income families will remain eligible to receive child care assistance.
- 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, 3<sup>rd</sup> Floor  
Springfield, Illinois 62762

(217) 785-9772  
DHS.AdministrativeRules@illinois.gov

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

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

TITLE 89: SOCIAL SERVICES  
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES  
SUBCHAPTER a: GENERAL PROGRAM PROVISIONSPART 50  
CHILD CARE

## SUBPART A: GENERAL PROVISIONS

Section	
50.101	Incorporation by Reference
50.105	Definitions
50.110	Participant Rights and Responsibilities
50.120	Notification of Available Services
50.130	Child Care Overpayments and Recoveries

## SUBPART B: APPLICABILITY

Section	
50.210	Child Care
50.220	Method of Providing Child Care
50.230	Child Care Eligibility
50.235	Income Eligibility Criteria
50.240	Qualified Provider (Repealed)
50.250	Additional Service to Secure or Maintain Child Care
50.260	Job Search (Repealed)

## SUBPART C: PAYMENT FEES

Section	
50.310	Fees for Child Care Services
50.320	Maximum Monthly Income and Parent Fee by Family Size <u>and</u> Income Level <del>and</del> <del>Number of Children Receiving Full-time Care</del>

## SUBPART D: PROVIDER REQUIREMENTS

Section	
50.400	Purpose
50.410	Qualified Provider

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 50.420 Provider Registration and Certification Requirements
- 50.430 Provider Background Checks
- 50.440 Payment for Child Care Services

## SUBPART E: GREAT START PROGRAM

## Section

- 50.510 Great START Program
- 50.520 Method of Providing the Wage Supplement
- 50.530 Eligibility
- 50.540 Employer Responsibility
- 50.550 Notification of Eligibility
- 50.560 Phase-in of Wage Supplement Scale
- 50.570 Wage Supplement Scale
- 50.580 Evaluation

## SUBPART F: CHILD CARE COLLABORATION PROGRAM

## Section

- 50.610 Child Care Collaboration Program
- 50.620 Approvable Models of Collaboration
- 50.630 Requirements for Approval in the Child Care Collaboration Program
- 50.640 Notification of Eligibility
- 50.650 Rules and Reporting for the Child Care Collaboration Program

## SUBPART G: GATEWAYS TO OPPORTUNITY CREDENTIALS

## Section

- 50.710 Gateways to Opportunity, the Illinois Professional Development System
- 50.720 Gateways to Opportunity Credentials
- 50.730 Application for Credentials
- 50.740 Framework for Gateways to Opportunity Credentials
- 50.750 Professional Knowledge
- 50.760 Gateways to Opportunity Registry

## SUBPART H: STAFF QUALIFICATIONS AND TRAINING STANDARDS

## Section

- 50.800 Purpose

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

50.810	Applicability
50.820	Staff Qualifications for License Exempt School-Age Providers
50.830	Training Standards for License Exempt School-Age Providers

## SUBPART I: CHILD CARE RESTORATION GRANT PROGRAM 2021

Section	
50.900	Purpose
50.910	Eligible Child Care Provider
50.920	Calculation of Child Care Restoration Grant Award Amounts
50.930	Eligible Expenses
50.940	Reporting Requirements
50.950	Monitoring
50.960	Qualified Partners
50.970	Identifying Disproportionately Impacted Areas

## SUBPART J: CHILD CARE WORKFORCE BONUS PROGRAM

Section	
50.1000	Purpose
50.1010	Eligible Child Care Provider
50.1020	Calculation of Child Care Eligible Child Care Provider
50.1030	Eligible Expenses
50.1040	Reporting Requirements
50.1050	Monitoring
50.1060	Qualified Partners

## SUBPART K: STRENGTHEN AND GROW CHILD CARE GRANTS PROGRAM

Section	
50.1100	Purpose
50.1110	Eligible Child Care Provider
50.1120	Calculation of Strengthen and Grow Child Care Grant Award Amounts
50.1130	Eligible Expenses
50.1140	Application Requirements
50.1150	Reporting Requirements
50.1160	Monitoring
50.1170	Qualified Partners
50.1180	Identifying Social Vulnerability Index Priority Areas

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

## SUBPART L: INTENTIONAL PROGRAM VIOLATIONS

## Section

50.1210	Intentional Program Violations and Fraud
50.1220	Improper Payments and Sanctions
50.1230	Hearing Process for Parents or Other Relatives
50.1240	Hearing Process for Child Care Providers

AUTHORITY: Implementing Articles I through IXA and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5].

SOURCE: Emergency rules adopted at 21 Ill. Reg. 9502, effective July 1, 1997, for a maximum of 150 days; adopted at 21 Ill. Reg. 14961, effective November 10, 1997; emergency amendment at 22 Ill. Reg. 12816, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 21037, effective November 27, 1998; emergency amendment at 23 Ill. Reg. 10875, effective August 20, 1999, for maximum of 150 days; amended at 24 Ill. Reg. 1058, effective January 10, 2000; emergency amendment at 24 Ill. Reg. 6604, effective April 5, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 13987, effective September 1, 2000; amended at 24 Ill. Reg. 15423, effective October 10, 2000; emergency amendment at 25 Ill. Reg. 2735, effective February 5, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 8176, effective June 23, 2001; emergency amendment at 25 Ill. Reg. 8443, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14854, effective October 31, 2001; emergency amendment at 25 Ill. Reg. 16116, effective December 1, 2001, for a maximum of 150 days; amended at 26 Ill. Reg. 7113, effective April 25, 2002; amended at 27 Ill. Reg. 12090, effective July 14, 2003; amended at 27 Ill. Reg. 18411, effective November 24, 2003; amended at 28 Ill. Reg. 6895, effective April 23, 2004; emergency amendment at 28 Ill. Reg. 10121, effective July 1, 2004, for a maximum of 150 days; emergency expired November 27, 2004; amended at 29 Ill. Reg. 2687, effective February 4, 2005; emergency amendment at 29 Ill. Reg. 13253, effective August 11, 2005, for a maximum of 150 days; emergency expired January 7, 2006; amended at 30 Ill. Reg. 11190, effective June 6, 2006; amended at 31 Ill. Reg. 12584, effective August 20, 2007; emergency amendment at 31 Ill. Reg. 13350, effective September 10, 2007, for a maximum of 150 days; emergency expired February 6, 2008; amended at 32 Ill. Reg. 6048, effective March 31, 2008; emergency amendment at 32 Ill. Reg. 6652, effective April 1, 2008, for a maximum of 150 days; amended at 32 Ill. Reg. 9604, effective June 20, 2008; amended at 32 Ill. Reg. 14742, effective August 28, 2008; amended at 33 Ill. Reg. 8195, effective June 8, 2009; emergency amendment at 33 Ill. Reg. 15889, effective November 1, 2009, for a maximum of 150 days; emergency amendment at 33 Ill. Reg. 16517, effective November 1, 2009, for a maximum of 150 days; emergency expired March 30, 2010; amended at 34 Ill. Reg. 5275, effective March 29,

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

2010; emergency amendment at 34 Ill. Reg. 8619, effective June 16, 2010, for a maximum of 150 days; emergency expired on November 12, 2010; amended at 34 Ill. Reg. 10512, effective July 8, 2010; amended at 34 Ill. Reg. 19539, effective December 6, 2010; amendment at 35 Ill. Reg. 1397, effective January 6, 2011; amended at 35 Ill. Reg. 3993, effective February 25, 2011; emergency amendment at 35 Ill. Reg. 6583, effective April 1, 2011, for a maximum of 150 days; emergency expired August 28, 2011; amended at 35 Ill. Reg. 8878, effective May 25, 2011; amended at 36 Ill. Reg. 1564, effective January 17, 2012; amended at 36 Ill. Reg. 12104, effective July 10, 2012; amended at 36 Ill. Reg. 14513, effective September 12, 2012; amended at 36 Ill. Reg. 16085, effective October 29, 2012; amended at 38 Ill. Reg. 18490, effective August 22, 2014; amended at 38 Ill. Reg. 19513, effective September 17, 2014; emergency amendment at 39 Ill. Reg. 10072, effective July 1, 2015, for a maximum of 150 days; emergency rule modified in response to JCAR objection at 39 Ill. Reg. 15158, effective November 9, 2015, for the remainder of the 150 days; amended at 39 Ill. Reg. 15540, effective November 23, 2015; emergency amendment at 41 Ill. Reg. 12890, effective October 1, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 3745, effective February 7, 2018; amended at 42 Ill. Reg. 8491, effective May 8, 2018; emergency amendment at 42 Ill. Reg. 13898, effective July 1, 2018, for a maximum of 150 days; amended at 42 Ill. Reg. 22555, effective November 27, 2018; emergency amendment at 43 Ill. Reg. 7632, effective July 1, 2019, for a maximum of 150 days; amended at 43 Ill. Reg. 11338, effective October 1, 2019; emergency amendment at 43 Ill. Reg. 14416, effective November 26, 2019, for a maximum of 150 days; amended at 44 Ill. Reg. 6951, effective April 16, 2020; emergency amendment at 44 Ill. Reg. 6442, effective April 13, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 11187, effective June 18, 2020, for the remainder of the 150 days; emergency rule effective April 13, 2020, as amended June 18, 2020, expired September 9, 2020; emergency amendment at 44 Ill. Reg. 13789, effective August 7, 2020, for a maximum of 150 days; amended at 44 Ill. Reg. 19874, effective December 14, 2020; emergency amendment at 45 Ill. Reg. 980, effective January 1, 2021, for a maximum of 150 days; emergency expired May 30, 2021; emergency amendment at 45 Ill. Reg. 4946, effective April 1, 2021, for a maximum of 150 days; amended at 45 Ill. Reg. 11057, effective August 26, 2021; emergency amendment at 45 Ill. Reg. 9153, effective July 1, 2021, for a maximum of 150 days; emergency amendment at 45 Ill. Reg. 12872, effective October 1, 2021, for a maximum of 150 days; emergency amendment at 45 Ill. Reg. 13098, effective October 1, 2021, for a maximum of 150 days; amended at 45 Ill. Reg. 15467, effective November 24, 2021; emergency amendment at 46 Ill. Reg. 1335, effective January 1, 2022, for a maximum of 150 days; amended at 46 Ill. Reg. 4066, effective February 24, 2022; amended at 46 Ill. Reg. 4928, effective February 24, 2022; amended at 46 Ill. Reg. 7732, effective April 26, 2022; emergency amendment at 46 Ill. Reg. 12177, effective July 1, 2022, for a maximum of 150 days; emergency expired November 27, 2022; amended at 46 Ill. Reg. 15555, effective September 1, 2022; amended at 46 Ill. Reg. 20819, effective December 15, 2022; amended at 47 Ill. Reg. 110, effective December 20, 2022; emergency amendment at 47 Ill. Reg.

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

10648, effective July 1, 2023, for a maximum of 150 days; amended at 47 Ill. Reg. 11466, effective July 13, 2023; amended at 47 Ill. Reg. 17860, effective November 20, 2023.

## SUBPART B: APPLICABILITY

**Section 50.210 Child Care**

- a) To the extent resources permit, the Department shall provide child care services:
  - 1) to parents or other relatives who are working and are unable to supervise their children;
  - 2) to parents or other relatives who are participating in employment, training or education programs that are approved by the Department;
  - 3) to teen parents to enable them to obtain a high school degree or its equivalent, to provide time to find employment after graduation, and to provide a stable learning environment for their children; and
  - 4) to parents or other relatives who request a 3-month period to establish an eligible employment or education activity (allowed once every 12 months ~~through 6/30/2023~~).
- b) In a two-parent household, both parents must be working, in an approved education and training activity, or taking steps to establish an eligible activity (see subsection (a)(4)) and unavailable to care for the children unless one of the parents is unable to care for the children for one of the following reasons:
  - 1) A physical or mental disability that limits the ability of the parent to provide adequate child care;
  - 2) Participation in an alcohol or drug abuse rehabilitation program;
  - 3) Military service away from home; or
  - 4) Participation in a Department approved program such as a Temporary Assistance for Needy Families (TANF) Employment and WorkActivity (see 89 Ill. Adm. Code 112.78) or Teen Parent Services (TPS).



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- c) The applicant must furnish written documentation to verify the reason why the other parent, if living in the home, is unable to work and unable to provide care for the children that live in the home.
  - 1) To document the other parent's physical or mental health problem or participation in a rehabilitation program, the applicant shall submit written verification from the treating physician, psychiatrist, or other appropriate licensed health care practitioner that includes details of the nature and degree of the person's disability or impairment, the reason the condition prevents the individual from providing care, and the projected length of disability.
  - 2) To document military service away from home, the applicant must furnish a copy of the orders from the appropriate branch of the military that details the length and location of the assignment, as well as any money allowances for clothing and housing.
  - 3) To document participation in a Department approved program (see subsection (b)(4)), child care staff shall use Department computerized case information systems. If participation in a Department approved program cannot be verified via the Department computerized case information systems, the applicant may be required to submit a copy of the Responsibility and Services Plan (RSP) (FORM 4003) or other relevant Department forms signed by the caseworker.

(Source: Amended at 47 Ill. Reg. 17860, effective November 20, 2023)

**Section 50.230 Child Care Eligibility**

- a) To the extent resources permit, it is the intent of the Department to provide child care services to all applicants that meet the eligibility requirements set forth in this Section. If it is necessary to limit participation to stay within the amounts appropriated or resources available to the Department for child care services, participation will be limited to the priority service groups specified in subsection (c)(6) and that limitation in participation shall remain until such time as sufficient resources are available to serve all eligible applicants.
- b) To be eligible for child care services, a child shall at the time of eligibility determination or redetermination:

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 1) be under 13 years of age (if a child turns 13 years old during the eligibility period, that child shall remain eligible for CCAP for the remainder of the eligibility period); or
  - 2) be under age 19 and under court supervision or have physical, developmental, or intellectual disabilities as documented by a statement from a local health provider or other health professional.
- c) Parents and other relatives eligible to receive child care services include:
- 1) Clients who receive Temporary Assistance for Needy Families (TANF) under Article IV of the Public Aid Code participating in work and/or training-related activities as specified in their Responsibility and Service Plan (RSP) (see 89 Ill. Adm. Code 112.74) as approved by the Department's TANF case worker.
  - 2) Parents or other relatives who request a 3-month period to establish an eligible employment or education activity (allowed once every 12 months ~~through 6/30/2023~~).
  - 3) Parenting youth in care, as defined in Section 4d of the Children and Family Services Act [20 ILCS 505], who are parents, regardless of income or whether they are working or participating in Department-approved employment or education or training programs. Any family that receives child care assistance in accordance with this subsection (c)(3) shall receive one additional 12-month child care eligibility period after the parenting youth in care's case with the Department of Children and Family Services is closed, regardless of income or whether the parenting youth in care is working or participating in Department-approved employment or education or training programs.
  - 4) Families receiving Extended Family Support Program services from the Department of Children and Family Services, regardless of income or whether they are working or participating in Department-approved employment or education or training programs.
  - 5) Working families, including teen parents enrolled full-time in elementary or high school or high school equivalency classes to obtain a high school

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

diploma or its equivalent, whose monthly incomes do not exceed the following amounts by family size at the time of initial program application:

Family Size	Gross Monthly Base Income
2	<del>\$3,698</del> <u>3,433</u>
3	<del>\$4,661</del> <u>4,318</u>
4	<del>\$5,625</del> <u>5,203</u>
5	<del>\$6,589</del> <u>6,088</u>
6	<del>\$7,553</del> <u>6,973</u>
7	<del>\$8,516</del> <u>7,858</u>
8	<del>\$9,480</del> <u>8,743</u>
9	<del>\$10,444</del> <u>9,628</u>
10	<del>\$10,827</del> <u>10,421</u>

The above income guidelines will be indexed annually so that the thresholds are no less than 185% of the most current Federal Poverty Level (FPL) for each family size.

- 6) At the end of each eligibility period, families must fall into the following income guidelines to remain eligible for another 12-month eligibility period:

Family Size	Gross Monthly Base Income
2	<del>\$4,519</del> <u>4,196</u>
3	<del>\$5,697</del> <u>5,278</u>
4	<del>\$6,875</del> <u>6,359</u>
5	<del>\$8,053</del> <u>7,441</u>
6	<del>\$9,231</del> <u>8,523</u>
7	<del>\$10,151</del> <u>9,604</u>
8	<del>\$10,376</del> <u>9,987</u>
9	<del>\$10,602</del> <u>10,204</u>
10	<del>\$10,827</del> <u>10,421</u>

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

These income guidelines will be indexed annually so that the thresholds are no less than 185% of the most current FPL for each family size.

- 7) Any time a family's countable income exceeds 85% of the State Median Income (SMI), the case will be canceled 10 calendar days after the date the termination notice was sent to the family and providers.

Family Size	Gross Monthly Base Income
2	<del>\$5,113</del> <u>4,921</u>
3	<del>\$6,316</del> <u>6,079</u>
4	<del>\$7,519</del> <u>7,237</u>
5	<del>\$8,722</del> <u>8,395</u>
6	<del>\$9,925</del> <u>9,553</u>
7	<del>\$10,151</del> <u>9,770</u>
8	<del>\$10,376</del> <u>9,987</u>
9	<del>\$10,602</del> <u>10,204</u>
10	<del>\$10,827</del> <u>10,421</u>

These income guidelines will be indexed annually so that the thresholds are no less and no more than 85% of the most current SMI level for each family size.

- 8) If the countable income for a family is between 275% FPL and 85% SMI at the end of an eligibility period, and all other eligibility factors are met, the family will be eligible for a 90-day graduated phase-out period that begins the first day of the new eligibility period. If the family requests child care assistance at any time after the graduated phase-out period, the request must be treated as a new application and the family must have family income below 225% of FPL to qualify.
- 9) Families who do not receive TANF and need child care services in order to attend school or training (up to and including the acquisition of the first Bachelor's Degree), including web-based courses or correspondence learning from an accredited university, whose monthly income does not exceed the monthly income ceilings in subsection (c)(2). Clients can be approved for education/training activities that will lead to multiple certificates within a designated career path (e.g., from Certified Nursing

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

Assistant to Licensed Practical Nurse) or Associate Degrees, but only the first Bachelor's Degree. Clients may also be approved for additional vocational certificate programs if they are beginning a new career path in a new field or if classes are required to remain certified in their current employment. Child care services approved under this Part must be reasonably related to the education or training activity, including class hours and research, study, laboratory, library and transportation time, and unpaid educationally required work activities such as student teaching, an internship, a clinical, a practicum or an apprenticeship. Teen parents enrolled full-time in elementary or high school or high school equivalency classes will be eligible for full-time, full-year child care, including summers, when using a licensed child care provider, up to and including a three-month period after graduation, in order to secure employment or to prepare for higher education. If a parent is claimed as a dependent by another person for federal income tax purposes, that parent is only eligible if his or her income, when added to the income of the other person, does not exceed the monthly income ceiling in subsection (c)(2) for that family size. All education programs under this Part must be administered by an educational institution accredited under requirements of State law, including, but not limited to, the Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 [225 ILCS 410], the Real Estate Act of 2000 [225 ILCS 454], the Public Community College Act [110 ILCS 805], the University of Illinois Act [110 ILCS 305], the Chicago State University Law [110 ILCS 660], the Eastern Illinois University Law [110 ILCS 665], the Governors State University Law [110 ILCS 670], the Illinois State University Law [110 ILCS 675], the Northeastern Illinois University Law [110 ILCS 680], the Northern Illinois University Law [110 ILCS 685], the Western Illinois University Law [110 ILCS 690], or the Department of Financial and Professional Regulation. Social service agencies that provide recognized English as a Second Language (ESL) and other adult education courses and programs are not required to hold or maintain any separate type of accreditation, as long as the program they offer is supported by an accredited institution.

A) Below Post-Secondary Education Eligibility and Participation Requirements

This category of education includes literacy and other adult basic education, English as a Second Language, and high school equivalency examination preparation programs. Clients/applicants

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

who have already earned a vocational certificate are still eligible for below post-secondary education activities if they have not already earned a high school diploma or high school equivalency certificate.

- i) There is no work requirement for the first 24 non-consecutive months the client participates. Families eligible to receive child care services while they attend an education or training program under this Section must not already possess a Bachelor's, Master's or Doctorate Degree.
- ii) From the 25<sup>th</sup> month on, the client must work at least 20 hours per week. Child care provided to a teen parent to obtain a high school diploma or its equivalent does not count against this 24-month limit. Individuals enrolled in below post-secondary education must maintain a "C" average if this measurement is used by the institution to determine satisfactory progress. The client will be allowed one eligibility period below a "C" average to bring the grades up to a "C" average. When grades are not used, progress will be determined by the written policy of the institution to establish a comparable grade level upon completion of the academic term. The determination of satisfactory progress must be reported upon completion of each eligibility period.

B) Vocational Education Eligibility and Participation Requirements  
Programs in this category of education may be offered by a public community college, public or private university, or private business/technical school.

- i) The program usually results in the receipt of a Certificate of Achievement or Completion and/or prepares the client for a specific job or to obtain a license required by some occupations. Families eligible to receive child care services while they attend an education or training program under this Section must not already possess a Bachelor's, Master's or Doctorate Degree. Clients/applicants may be approved for multiple vocational certificate programs if

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

they are within a designated career path (e.g., from Certified Nursing Assistant to Licensed Practical Nurse) or are beginning a new career path in a new field, or if classes are required to remain certified in their current employment.

- ii) There is no work requirement for the first 24 non-consecutive months the client participates. From the 25<sup>th</sup> month on, the client must work at least 20 hours per week. Individuals enrolled in vocational education must maintain a "C" average if this measurement is used by the institution to determine satisfactory progress. The client will be allowed one eligibility period below a "C" average to bring the grades up to a "C" average. When grades are not used, progress will be determined by the written policy of the institution to establish a comparable grade level upon completion of the academic term. The determination of satisfactory progress must be reported upon completion of each eligibility period.

## C) Post-Secondary Education

- i) This category of education includes all undergraduate college level courses that could result in an Associate or the client's first Bachelor's Degree. Families eligible to receive child care services while they attend an education or training program under this Section must:
  - be enrolled in a program accredited under requirements of State law as stated in subsection (c)(3).
  - not already have a Bachelor's, Master's or Doctorate Degree, if requesting child care to earn an Associate Degree. Child care will not be approved for attainment of a second Associate Degree.
  - not be in an, or have completed an, advanced degree program (beyond a Bachelor's Degree). Child care

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

will not be approved for education beyond the attainment of a Bachelor's Degree.

- ii) There is no work requirement for the first 48 non-consecutive months the client participates. From the 49<sup>th</sup> month on, the client must work at least 20 hours per week. Clients who do not work and who need child care to attend college must maintain a 2.5 grade point average (GPA) (on a 4.0 scale) if this measurement is used by the institution to determine satisfactory progress. Clients who work 20 hours or more per week in paid employment while they attend college must maintain a 2.0 GPA (on a 4.0 scale). In the absence of a GPA, satisfactory progress will be determined by the written policy of the institution. The determination of satisfactory progress, including test/retest results or GPA, must be reported upon completion of each eligibility period. If the client's GPA falls below 2.5 or 2.0 for those students who work or at any time the client does not maintain satisfactory progress, the client may continue to go to school for another eligibility period. If the GPA is below 2.5 or 2.0 two eligibility periods in a row, the client will be ineligible for child care until his or her GPA is at or above 2.5 or 2.0.

- D) Study Time  
Child care services may be granted for up to one hour of study time per week for each classroom hour or course credit. When possible, study periods should be arranged around regularly scheduled classes in order to provide a consistent and uninterrupted routine for children in care. Study time granted to add an extra day of care must be approved first by the Department's Bureau of Child Care and Development Policy Unit.

- 10) Relatives (other than parents) who receive child-only TANF benefits as a Representative Payee for children in need of care while they work.
- 11) Families with active CCAP cases in which a parent in the household is called into active military duty.



## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

- 12) In the event the Department must limit participation due to insufficient appropriations or available resources, applicants included in the priority service groups are:
  - A) Recipients of Temporary Assistance for Needy Families as described in subsection (c)(1);
  - B) Teen parents enrolled full-time in elementary school, high school or high school equivalency classes to obtain a high school degree or its equivalent;
  - C) Families engaged in an eligible employment and/or educational activity with a special needs child and family income that does not exceed 185% of FPL for their family size;
  - D) Working families whose monthly incomes do not exceed 185% of the most current FPL for their family size;
  - E) Families that are not recipients of TANF whose monthly incomes do not exceed 185% of the most current FPL for their family size that need child care assistance to participate in education and training.
- d) All families must reside in Illinois.
- e) Payment for child care services to eligible parents may begin:
  - 1) if care was provided at the time and all eligibility factors are met, on either:
    - A) the date of the parent's signature on the Child Care Assistance Program (CCAP) application (Form 444-3455); or
    - B) one week (seven calendar days) prior to the stamped date of receipt of the CCAP application (Form 444-3455) by the Department or its agents, whichever is later; or
  - 2) on the date the child care provider actually begins providing child care services, if the application is received in advance of services being

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

provided and all eligibility factors are met.

- f) Approval of payments will cease no less than 10 calendar days after the date of the termination notice sent to the parent by the Department or its agents following a determination of ineligibility. Care will be terminated immediately if it is determined the child is no longer enrolled with the approved provider or the family requests that its case be terminated.

(Source: Amended at 47 Ill. Reg. 17860, effective November 20, 2023)

## SUBPART C: PAYMENT FEES

**Section 50.320 Maximum Monthly Income and Parent Fee by Family Size and Income Level**

Family Size 2		Family Size 3	
Monthly Income	Monthly Co-Pay	Monthly Income	Monthly Co-Pay
\$0- <del>1,643</del> <del>1,526</del>	\$1.00	\$0- <del>2,072</del> <del>1,919</del>	\$1.00
<del>1,644 – 1,808</del> <del>1,527 – 1,678</del>	<del>17.00</del> <del>16.00</del>	<del>2,073 – 2,279</del> <del>1,920 – 2,111</del>	<del>22.00</del> <del>20.00</del>
<del>1,809 – 1,972</del> <del>1,679 – 1,831</del>	<del>38.00</del> <del>35.00</del>	<del>2,280 – 2,486</del> <del>2,112 – 2,303</del>	<del>48.00</del> <del>44.00</del>
<del>1,973 – 2,136</del> <del>1,832 – 1,984</del>	<del>62.00</del> <del>57.00</del>	<del>2,487 – 2,693</del> <del>2,304 – 2,495</del>	<del>78.00</del> <del>72.00</del>
<del>2,137 – 2,301</del> <del>1,985 – 2,136</del>	<del>89.00</del> <del>82.00</del>	<del>2,694 – 2,900</del> <del>2,496 – 2,687</del>	<del>112.00</del> <del>104.00</del>
<del>2,302 – 2,465</del> <del>2,137 – 2,289</del>	<del>119.00</del> <del>111.00</del>	<del>2,901 – 3,108</del> <del>2,688 – 2,879</del>	<del>150.00</del> <del>139.00</del>
<del>2,466 – 2,629</del> <del>2,290 – 2,441</del>	<del>153.00</del> <del>142.00</del>	<del>3,109 – 3,315</del> <del>2,880 – 3,071</del>	<del>193.00</del> <del>179.00</del>
<del>2,630 – 2,794</del> <del>2,442 – 2,594</del>	<del>190.00</del> <del>176.00</del>	<del>3,316 – 3,522</del> <del>3,072 – 3,263</del>	<del>239.00</del> <del>222.00</del>
<del>2,795 – 2,958</del> <del>2,595 – 2,747</del>	<del>201.00</del> <del>187.00</del>	<del>3,523 – 3,729</del> <del>3,264 – 3,455</del>	<del>254.00</del> <del>235.00</del>
<del>2,959 – 3,122</del> <del>2,748 – 2,899</del>	<del>213.00</del> <del>198.00</del>	<del>3,730 – 3,936</del> <del>3,456 – 3,646</del>	<del>268.00</del> <del>249.00</del>
<del>3,123 – 3,287</del> <del>2,900 – 3,052</del>	<del>224.00</del> <del>208.00</del>	<del>3,937 – 4,143</del> <del>3,647 – 3,838</del>	<del>283.00</del> <del>262.00</del>
<del>3,288 – 3,451</del> <del>3,053 – 3,204</del>	<del>236.00</del> <del>219.00</del>	<del>4,144 – 4,351</del> <del>3,839 – 4,030</del>	<del>297.00</del> <del>275.00</del>
<del>3,452 – 3,615</del> <del>3,205 – 3,357</del>	<del>247.00</del> <del>230.00</del>	<del>4,352 – 4,558</del> <del>4,031 – 4,222</del>	<del>312.00</del> <del>289.00</del>
<del>3,616 – 3,698</del> <del>3,358 – 3,433</del>	<del>256.00</del> <del>238.00</del>	<del>4,559 – 4,661</del> <del>4,223 – 4,318</del>	<del>323.00</del> <del>299.00</del>
<del>3,699 – 3,780</del> <del>3,434 – 3,509</del>	<del>262.00</del> <del>243.00</del>	<del>4,662 – 4,765</del> <del>4,319 – 4,414</del>	<del>330.00</del> <del>306.00</del>
<del>3,781 – 3,944</del> <del>3,510 – 3,662</del>	<del>270.00</del> <del>251.00</del>	<del>4,766 – 4,972</del> <del>4,415 – 4,606</del>	<del>341.00</del> <del>316.00</del>
<del>3,945 – 4,108</del> <del>3,663 – 3,815</del>	<del>282.00</del> <del>262.00</del>	<del>4,973 – 5,179</del> <del>4,607 – 4,798</del>	<del>355.00</del> <del>329.00</del>
<del>4,109 – 4,273</del> <del>3,816 – 3,967</del>	<del>293.00</del> <del>272.00</del>	<del>5,180 – 5,386</del> <del>4,799 – 4,990</del>	<del>370.00</del> <del>343.00</del>
<del>4,274 – 4,437</del> <del>3,968 – 4,120</del>	<del>305.00</del> <del>283.00</del>	<del>5,387 – 5,594</del> <del>4,991 – 5,182</del>	<del>384.00</del> <del>356.00</del>
<del>4,438 – 5,113</del> <del>4,121 – 4,196</del>	<del>314.00</del> <del>291.00</del>	<del>5,595 – 6,316</del> <del>5,183 – 5,278</del>	<del>395.00</del> <del>366.00</del>

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

Family Size 4	
Monthly Income	Monthly Co-Pay
\$0- <del>2,500</del> <del>2,313</del>	\$1.00
<del>2,501 – 2,750</del> <del>2,314 – 2,544</del>	<del>26.00</del> <del>24.00</del>
<del>2,751 – 3,000</del> <del>2,545 – 2,775</del>	<del>58.00</del> <del>53.00</del>
<del>3,001 – 3,250</del> <del>2,776 – 3,006</del>	<del>94.00</del> <del>87.00</del>
<del>3,251 – 3,500</del> <del>3,007 – 3,238</del>	<del>135.00</del> <del>125.00</del>
<del>3,501 – 3,750</del> <del>3,239 – 3,469</del>	<del>181.00</del> <del>168.00</del>
<del>3,751 – 4,000</del> <del>3,470 – 3,700</del>	<del>233.00</del> <del>215.00</del>
<del>4,001 – 4,250</del> <del>3,701 – 3,931</del>	<del>289.00</del> <del>267.00</del>
<del>4,251 – 4,500</del> <del>3,932 – 4,163</del>	<del>306.00</del> <del>283.00</del>
<del>4,501 – 4,750</del> <del>4,164 – 4,394</del>	<del>324.00</del> <del>300.00</del>
<del>4,751 – 5,000</del> <del>4,395 – 4,625</del>	<del>341.00</del> <del>316.00</del>
<del>5,001 – 5,250</del> <del>4,626 – 4,856</del>	<del>359.00</del> <del>332.00</del>
<del>5,251 – 5,500</del> <del>4,857 – 5,088</del>	<del>376.00</del> <del>348.00</del>
<del>5,501 – 5,625</del> <del>5,089 – 5,203</del>	<del>389.00</del> <del>360.00</del>
<del>5,626 – 5,750</del> <del>5,204 – 5,319</del>	<del>398.00</del> <del>368.00</del>
<del>5,751 – 6,000</del> <del>5,320 – 5,550</del>	<del>411.00</del> <del>380.00</del>
<del>6,001 – 6,250</del> <del>5,551 – 5,781</del>	<del>429.00</del> <del>397.00</del>
<del>6,251 – 6,500</del> <del>5,782 – 6,013</del>	<del>446.00</del> <del>413.00</del>
<del>6,501 – 6,750</del> <del>6,014 – 6,244</del>	<del>464.00</del> <del>429.00</del>
<del>6,751 – 7,519</del> <del>6,245 – 6,359</del>	<del>477.00</del> <del>441.00</del>

Family Size 5	
Monthly Income	Monthly Co-Pay
\$0- <del>2,928</del> <del>2,706</del>	\$1.00
<del>2,929 – 3,221</del> <del>2,707 – 2,976</del>	<del>31.00</del> <del>28.00</del>
<del>3,222 – 3,514</del> <del>2,977 – 3,247</del>	<del>67.00</del> <del>62.00</del>
<del>3,515 – 3,807</del> <del>3,248 – 3,518</del>	<del>110.00</del> <del>101.00</del>
<del>3,808 – 4,100</del> <del>3,519 – 3,788</del>	<del>158.00</del> <del>146.00</del>
<del>4,101 – 4,393</del> <del>3,789 – 4,059</del>	<del>212.00</del> <del>196.00</del>
<del>4,394 – 4,685</del> <del>4,060 – 4,329</del>	<del>272.00</del> <del>252.00</del>
<del>4,686 – 4,978</del> <del>4,330 – 4,600</del>	<del>338.00</del> <del>313.00</del>
<del>4,979 – 5,271</del> <del>4,601 – 4,871</del>	<del>359.00</del> <del>332.00</del>
<del>5,272 – 5,564</del> <del>4,872 – 5,141</del>	<del>379.00</del> <del>350.00</del>
<del>5,565 – 5,857</del> <del>5,142 – 5,412</del>	<del>400.00</del> <del>369.00</del>
<del>5,858 – 6,150</del> <del>5,413 – 5,682</del>	<del>420.00</del> <del>388.00</del>
<del>6,151 – 6,442</del> <del>5,683 – 5,953</del>	<del>441.00</del> <del>407.00</del>
<del>6,443 – 6,589</del> <del>5,954 – 6,088</del>	<del>456.00</del> <del>421.00</del>
<del>6,590 – 6,735</del> <del>6,089 – 6,223</del>	<del>466.00</del> <del>431.00</del>
<del>6,736 – 7,028</del> <del>6,224 – 6,494</del>	<del>482.00</del> <del>445.00</del>
<del>7,029 – 7,321</del> <del>6,495 – 6,765</del>	<del>502.00</del> <del>464.00</del>
<del>7,322 – 7,614</del> <del>6,766 – 7,035</del>	<del>523.00</del> <del>483.00</del>
<del>7,615 – 7,907</del> <del>7,036 – 7,306</del>	<del>543.00</del> <del>502.00</del>
<del>7,908 – 8,722</del> <del>7,307 – 7,441</del>	<del>559.00</del> <del>516.00</del>

Family Size 6	
Monthly Income	Monthly Co-Pay
\$0- <del>3,357</del> <del>3,099</del>	\$1.00
<del>3,358 – 3,692</del> <del>3,100 – 3,409</del>	<del>35.00</del> <del>33.00</del>
<del>3,693 – 4,028</del> <del>3,410 – 3,719</del>	<del>77.00</del> <del>71.00</del>
<del>4,029 – 4,364</del> <del>3,720 – 4,029</del>	<del>126.00</del> <del>116.00</del>
<del>4,365 – 4,699</del> <del>4,030 – 4,339</del>	<del>181.00</del> <del>167.00</del>
<del>4,700 – 5,035</del> <del>4,340 – 4,649</del>	<del>243.00</del> <del>225.00</del>
<del>5,036 – 5,371</del> <del>4,650 – 4,959</del>	<del>312.00</del> <del>288.00</del>
<del>5,372 – 5,706</del> <del>4,960 – 5,269</del>	<del>388.00</del> <del>358.00</del>
<del>5,707 – 6,042</del> <del>5,270 – 5,579</del>	<del>411.00</del> <del>380.00</del>

Family Size 7	
Monthly Income	Monthly Co-Pay
\$0- <del>3,785</del> <del>3,493</del>	\$1.00
<del>3,786 – 4,164</del> <del>3,494 – 3,842</del>	<del>40.00</del> <del>37.00</del>
<del>4,165 – 4,542</del> <del>3,843 – 4,191</del>	<del>87.00</del> <del>80.00</del>
<del>4,543 – 4,921</del> <del>4,192 – 4,540</del>	<del>142.00</del> <del>131.00</del>
<del>4,922 – 5,299</del> <del>4,541 – 4,890</del>	<del>204.00</del> <del>189.00</del>
<del>5,300 – 5,678</del> <del>4,891 – 5,239</del>	<del>274.00</del> <del>253.00</del>
<del>5,679 – 6,056</del> <del>5,240 – 5,588</del>	<del>352.00</del> <del>325.00</del>
<del>6,057 – 6,435</del> <del>5,589 – 5,937</del>	<del>437.00</del> <del>403.00</del>
<del>6,436 – 6,813</del> <del>5,938 – 6,287</del>	<del>464.00</del> <del>428.00</del>

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

<u>6,043 – 6,378</u> <del>5,580 – 5,888</del>	<u>435.00</u> <del>401.00</del>	<u>6,814 – 7,192</u> <del>6,288 – 6,636</del>	<u>490.00</u> <del>452.00</del>
<u>6,379 – 6,713</u> <del>5,889 – 6,198</del>	<u>458.00</u> <del>423.00</del>	<u>7,193 – 7,570</u> <del>6,637 – 6,985</del>	<u>517.00</u> <del>477.00</del>
<u>6,714 – 7,049</u> <del>6,199 – 6,508</del>	<u>482.00</u> <del>445.00</del>	<u>7,571 – 7,949</u> <del>6,986 – 7,334</del>	<u>543.00</u> <del>501.00</del>
<u>7,050 – 7,385</u> <del>6,509 – 6,818</del>	<u>505.00</u> <del>466.00</del>	<u>7,950 – 8,327</u> <del>7,335 – 7,684</del>	<u>570.00</u> <del>526.00</del>
<u>7,386 – 7,553</u> <del>6,819 – 6,973</del>	<u>523.00</u> <del>483.00</del>	<u>8,328 – 8,516</u> <del>7,685 – 7,858</del>	<u>590.00</u> <del>544.00</del>
<u>7,554 – 7,720</u> <del>6,974 – 7,128</del>	<u>535.00</u> <del>494.00</del>	<u>8,517 – 8,706</u> <del>7,859 – 8,033</del>	<u>603.00</u> <del>556.00</del>
<u>7,721 – 8,056</u> <del>7,129 – 7,438</del>	<u>552.00</u> <del>510.00</del>	<u>8,707 – 9,084</u> <del>8,034 – 8,382</del>	<u>623.00</u> <del>575.00</del>
<u>8,057 – 8,392</u> <del>7,439 – 7,748</del>	<u>576.00</u> <del>532.00</del>	<u>9,085 – 9,463</u> <del>8,383 – 8,731</del>	<u>649.00</u> <del>599.00</del>
<u>8,393 – 8,727</u> <del>7,749 – 8,058</del>	<u>599.00</u> <del>553.00</del>	<u>9,464 – 9,841</u> <del>8,732 – 9,081</del>	<u>676.00</u> <del>623.00</del>
<u>8,728 – 9,063</u> <del>8,059 – 8,368</del>	<u>623.00</u> <del>575.00</del>	<u>9,842 – 10,151</u> <del>9,082 – 9,430</del>	<u>702.00</u> <del>648.00</del>
<u>9,064 – 9,925</u> <del>8,369 – 8,523</del>	<u>640.00</u> <del>591.00</del>	<u>9,431 – 9,604</u>	<u>666.00</u>

Family Size 8		Family Size 9	
Monthly Income	Monthly Co-Pay	Monthly Income	Monthly Co-Pay
<u>\$0-4,213</u> <del>3,886</del>	<u>\$1.00</u>	<u>\$0-4,642</u> <del>4,279</del>	<u>\$1.00</u>
<u>4,214 – 4,635</u> <del>3,887 – 4,274</del>	<u>44.00</u> <del>41.00</del>	<u>4,643 – 5,106</u> <del>4,280 – 4,707</del>	<u>49.00</u> <del>45.00</del>
<u>4,636 – 5,056</u> <del>4,275 – 4,663</del>	<u>97.00</u> <del>89.00</del>	<u>5,107 – 5,570</u> <del>4,708 – 5,135</del>	<u>107.00</u> <del>98.00</del>
<u>5,057 – 5,477</u> <del>4,664 – 5,052</del>	<u>158.00</u> <del>146.00</del>	<u>5,571 – 6,034</u> <del>5,136 – 5,563</del>	<u>174.00</u> <del>161.00</del>
<u>5,478 – 5,899</u> <del>5,053 – 5,440</del>	<u>228.00</u> <del>210.00</del>	<u>6,035 – 6,498</u> <del>5,564 – 5,991</del>	<u>251.00</u> <del>231.00</del>
<u>5,900 – 6,320</u> <del>5,441 – 5,829</del>	<u>306.00</u> <del>282.00</del>	<u>6,499 – 6,963</u> <del>5,992 – 6,419</del>	<u>337.00</u> <del>310.00</del>
<u>6,321 – 6,741</u> <del>5,830 – 6,217</del>	<u>392.00</u> <del>361.00</del>	<u>6,964 – 7,427</u> <del>6,420 – 6,847</del>	<u>432.00</u> <del>398.00</del>
<u>6,742 – 7,163</u> <del>6,218 – 6,606</del>	<u>487.00</u> <del>449.00</del>	<u>7,428 – 7,891</u> <del>6,848 – 7,275</del>	<u>536.00</u> <del>494.00</del>
<u>7,164 – 7,584</u> <del>6,607 – 6,995</del>	<u>516.00</u> <del>476.00</del>	<u>7,892 – 8,355</u> <del>7,276 – 7,703</del>	<u>569.00</u> <del>524.00</del>
<u>7,585 – 8,005</u> <del>6,996 – 7,383</del>	<u>546.00</u> <del>503.00</del>	<u>8,356 – 8,819</u> <del>7,704 – 8,130</del>	<u>601.00</u> <del>554.00</del>
<u>8,006 – 8,427</u> <del>7,384 – 7,772</del>	<u>575.00</u> <del>530.00</del>	<u>8,820 – 9,283</u> <del>8,131 – 8,558</del>	<u>634.00</u> <del>584.00</del>
<u>8,428 – 8,848</u> <del>7,773 – 8,160</del>	<u>605.00</u> <del>558.00</del>	<u>9,284 – 9,748</u> <del>8,559 – 8,986</del>	<u>666.00</u> <del>614.00</del>
<u>8,849 – 9,269</u> <del>8,161 – 8,549</del>	<u>634.00</u> <del>585.00</del>	<u>9,749 – 10,212</u> <del>8,987 – 9,414</del>	<u>699.00</u> <del>644.00</del>
<u>9,270 – 9,480</u> <del>8,550 – 8,743</del>	<u>656.00</u> <del>605.00</del>	<u>10,213 – 10,444</u> <del>9,415 – 9,628</del>	<u>723.00</u> <del>667.00</del>
<u>9,481 – 9,691</u> <del>8,744 – 8,937</del>	<u>671.00</u> <del>619.00</del>	<u>10,445 – 10,602</u> <del>9,629 – 9,842</del>	<u>739.00</u> <del>682.00</del>
<u>9,692 – 10,112</u> <del>8,938 – 9,326</del>	<u>693.00</u> <del>639.00</del>	<u>9,843 – 10,204</u>	<u>702.00</u>
<u>10,113 – 10,376</u> <del>9,327 – 9,715</del>	<u>723.00</u> <del>666.00</del>		
<u>9,716 – 9,987</u>	<u>694.00</u>		

Family Size 10	
Monthly Income	Monthly Co-Pay

## DEPARTMENT OF HUMAN SERVICES

## NOTICE OF ADOPTED AMENDMENTS

<del>\$0-5,070</del> <u>4,673</u>	\$1.00
<del>5,071 – 5,577</del> <u>4,674-5,140</u>	<del>53.00</del> <u>49.00</u>
<del>5,578 – 6,084</del> <u>5,141-5,607</u>	<del>117.00</del> <u>107.00</u>
<del>6,085 – 6,591</del> <u>5,608-6,074</u>	<del>190.00</del> <u>175.00</u>
<del>6,592 – 7,098</del> <u>6,075-6,542</u>	<del>274.00</del> <u>252.00</u>
<del>7,099 – 7,605</del> <u>6,543-7,009</u>	<del>368.00</del> <u>339.00</u>
<del>7,606 – 8,112</del> <u>7,010-7,476</u>	<del>472.00</del> <u>435.00</u>
<del>8,113 – 8,619</del> <u>7,477-7,943</u>	<del>586.00</del> <u>540.00</u>
<del>8,620 – 9,126</del> <u>7,944-8,411</u>	<del>621.00</del> <u>572.00</u>
<del>9,127 – 9,633</del> <u>8,412-8,878</u>	<del>657.00</del> <u>605.00</u>
<del>9,634 – 10,140</del> <u>8,879-9,345</u>	<del>692.00</del> <u>638.00</u>
<del>10,141-10,647</del> <u>9,346-9,812</u>	<del>728.00</del> <u>671.00</u>
<del>10,648-10,827</del> <u>9,813-10,280</u>	<del>763.00</del> <u>703.00</u>
<del>10,281-10,421</del>	<del>728.00</del>

(Source: Amended at 47 Ill. Reg. 17860, effective November 20, 2023)

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Public Use of the Capitol Complex and Springfield Facilities
- 2) Code Citation: 71 Ill. Adm. Code 2005
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
2005.10	Amendment
2005.30	Amendment
2005.40	Amendment
2005.50	Amendment
2005.60	Amendment
2005.65	New Section
2005.80	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 5 of the Secretary of State Act [15 ILCS 305].
- 5) Effective Date of Rule: November 16, 2023
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the Adopted Rule, including any material incorporated, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 47 Ill. Reg. 6415; May 12, 2023
- 10) Has JCAR issued a Statement of Objections to this Rulemaking? No
- 11) Differences between proposal and final version: Basic grammatical and punctuation corrections made.

In Section 2005.10, "and their grounds" was deleted" and the following was added at the end: "Nothing in this Part gives the Director authority over the use of the rooms governed by the General Assembly including the Chambers, meeting rooms, committee rooms, or offices of the General Assembly.". In same, "the Securities Department at" was reinstated" and the address of "421 East Capitol, #2" was added.

In Section 2005.30(a), the touring hours on holidays stops at 3pm. Section 2005.30(b)

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

was changed to the following: "The following are observed holidays for the Capitol Complex: New Year's Day, Martin Luther King, Jr. Birthday, Lincoln's Birthday, Washington's Birthday (Presidents' Day), Easter Sunday, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, General Election Day, Veterans' Day, Thanksgiving and the following day, Christmas Eve, and Christmas Day."

In Section 2005.30(c), "identified in Section 2005.10" was added in the first line. In (c)(5), "or the Office of the Architect of the Capitol (OAC) is added at the end. Section 200.530(d) was restructured, and language was changed so that all persons will be required to wear their government photo identification.

In 2005.30(d), the formatting was changed to include subsections (A)(B)( and (C).

In Section 2005.30(f), after "employees of", add "and members identified as working within" and added after the last sentence is "Parking for the public is authorized in the visitor's lot located on Edwards Street between College Street and Pasfield Street."

In Section 2005.40(a), "an animal" was changed to "animals".

In Section 200.540(b), "affixed or not" was changed to "or not affixed". After "Secretary of State" we added "or General assembly". "2005.40" was deleted.

In Section 2005.40(c), "vent" was changed to "ventilation".

In Section 2005.40(d), the original language was restored and after "voice", we added "in such a manner".

In Section 2005.40(e), the original language was restored.

In Section 200.540(h), after "displayed", we added "within the Capitol Complex buildings or grounds".

All references to the buildings or grounds were corrected to identify the buildings or grounds of the Capitol Complex.

In Section 200.540(i), "in the Capitol Rotunda, pursuant to Section 2005.60(j)" was added as a location authorized for structures or displays.

In Section 2005.40(j), "the State Government" was changed to "a unit of State

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

government".

In Section 2005.40(o), number 2 was changed to "Religious head or face coverings when worn in accordance with sincerely held religious beliefs;"

In Section 2005.40(o), #3 was changed to:

"3) Masks required to protect a worker while completing a construction task; or

4) Hazmat or other masks worn by first responders.".

In Section 2005.40(p), "The Director of the Department of Police may permit exemptions to these prohibitions." was replaced by ", except as permitted under Section 2005.65(d)."

In Section 2005.40(q), the following was added to the end: "Parking for the public is authorized in the visitor's lot located on the Capitol Complex.".

In Section 2005.50(a), "The electronic submission of the form constitutes the applicant's authorization for the Secretary of State to accept the form electronically" was deleted.

In Section 2005.50(d), after "unless", add "the Director determines".

In Section 2005.50(d)(4), the added language was changed to "or a fundraiser for an entity that is not a not-for-profit registered with the Secretary of State under 14 Ill. Adm. Code 160".

In Section 2005.50(h), the 2nd to last sentence is changed to "The Secretary of State's decision will be in writing visa reply email and be made 48 hours of the appeal is received and at least 2 hours prior to the requested demonstration's time of starting."

In Section 2005.50(i). reference to a determination made by the Illinois Department of Public Health was added. In Section 2005.50(j), "or business within the Capitol Complex" was added.

In Section 2005.60(f), all text was deleted, and the remaining subsections were renumbered.

In new Section 2005.60(g), ", except as permitted under subsection (j)." was added to the end.



## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

In Section 2005.65(b)(4), after "all" insert "State -owned or State-occupied".

In 2005.65(b)(5), "further" was deleted.

In 2005.65(d)(3), after "national" we added "United States" and we added #5:

"5) flights required to document construction sites when those flights have been authorized by the Office of the Architect of the Capitol and advanced notification has been provided to the Director".

In 2005.65(e)(2), we deleted "the criteria for the exception and". In 2005.65(e)(2)(A), we changed "health and safety" to "safety or the Department of Public Health determines that the activity will present a clear and present danger to public health". In 2005.65(e)(3), we changed "appropriate" to "reasonable".

In Section 2005.80(c), we deleted "have the authority to" and we changed "the parking lots on the Capitol Complex, but must obtain prior approval from the Office of the Architect of the Capitol (OAC) before issuing citations in OAC managed lots. Unauthorized parking in any permit-required parking spot on the" to ""the parking lots on the Capitol Complex. The Office of the Architect of the Capitol (OAC) shall have the discretion to notify the Secretary of State when a parking matter requires Secretary of State Department of Police enforcement in OAC controlled lots. In all other parking lots on the Capitol Complex, the Secretary of State shall have the discretion to enforce parking regulations without limitation. Unauthorized parking in any permit-required parking spot on the".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? Yes
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: SOS Department of Police will begin issuing parking citations for those persons and visitors to the Capitol Complex who park in lots containing assigned spots for employees of the Capitol Complex. In addition, the process for requesting a permit for a demonstration, fund-raising, etc. is changing to an electronic transaction. Holidays have been codified. The rules and responsibilities for wearing a

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

mask has been codified. While the operation of unmanned aircrafts is prohibited on Capitol Complex grounds, there are exceptions included in a new section (2005.65).

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

Secretary of State  
Pamela Wright  
298 Howlett Building  
Springfield, IL 62756

217-785-3094  
pwright@ilsos.gov

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

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 71: PUBLIC BUILDINGS, FACILITIES AND REAL PROPERTY  
CHAPTER IV: SECRETARY OF STATE

## PART 2005

## PUBLIC USE OF THE CAPITOL COMPLEX AND SPRINGFIELD FACILITIES

## Section

2005.10	Applicability
2005.20	Definitions
2005.30	Business Hours, <a href="#">Holidays</a> , and Public Access
2005.40	Prohibited Activities
2005.50	Demonstrations
2005.60	Use of Building for Non-Demonstration Activity or <a href="#">Fund-Raising</a> <del>Fund-Raising</del> Events
<a href="#">2005.65</a>	<a href="#">Operating Unmanned Aircraft on the Capitol Complex</a>
2005.70	Distribution of Leaflets and Solicitation of Funds
2005.80	Secretary of State <del>Police</del> -Department <a href="#">of Police</a>
2005.90	Severability

AUTHORITY: Implementing and authorized by Section 5 of the Secretary of State Act [15 ILCS 305].

SOURCE: Adopted at 14 Ill. Reg. 7282, effective May 1, 1990; emergency amendment at 21 Ill. Reg. 6927, effective May 21, 1997, for a maximum of 150 days; emergency expired October 17, 1997; amended at 21 Ill. Reg. 14563, effective October 23, 1997; emergency amendment at 25 Ill. Reg. 15259, effective November 7, 2001, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 25 Ill. Reg. 15656, effective November 27, 2001; emergency amendment at 25 Ill. Reg. 15658, effective November 27, 2001, for a maximum of 150 days; emergency expired April 25, 2002; amended at 26 Ill. Reg. 9948, effective June 24, 2002; amended at 36 Ill. Reg. 7662, effective May 2, 2012; amended at 39 Ill. Reg. 2710, effective February 5, 2015; amended at 42 Ill. Reg. 188, effective December 19, 2017; amended at 47 Ill. Reg. 17881, effective November 16, 2023.

**Section 2005.10 Applicability**

This Part is applicable to the use of the Stratton Building, the Visitors' Center, the Supreme Court Building, the Capitol Building, the Willard Ice ~~Revenue~~-Building, the Department of Driver Services Building, the Howlett Building, the State Library~~-and their grounds~~, the Archives Building, Driver's License Facility Mechanical Services Building at 316 North Klein, Klein and

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

Mason Warehouse, Power Plant at 315 North Klein, Court of Claims, Appellate Court at 201 West Monroe, the Warehouses at 3701, 3710 and 3765 Winchester Road, the Index ~~Department~~~~Division~~ at 111 East Monroe, the Emergency Services at 110 East ~~Adams~~~~Adam~~, the Securities Department at ~~421 East Capitol, #2-300 West Jefferson, Suite 300~~, the Secretary of State Police at 110 East Adams, ~~Internal Audits at 222 South College~~, the Herndon Building at 421 East Capitol, ~~and~~ Property Control at 319 North Klein, and the grounds of those buildings, pursuant to Section 5 of the Secretary of State Act [15 ILCS 305/5]. Nothing in this Part gives the Director authority over the use of the rooms governed by the General Assembly including the Chambers, meeting rooms, committee rooms, or offices of the General Assembly.

(Source: Amended at 47 Ill. Reg. 17881, effective November 16, 2023)

**Section 2005.30 Business Hours, Holidays, and Public Access**

- a) The public business hours of the Capitol Complex ~~buildings~~~~Buildings~~ are 8 a.m. to 5 p.m.; unless otherwise posted, Monday through Friday, except holidays declared by the Governor pursuant to Section 5-635 of the Civil Administrative Code of Illinois [20 ILCS 5/~~5-635~~], and on weekends and holidays between 9 a.m. and ~~3~~4 p.m. for purposes of public Capitol ~~building~~~~Building~~ tours only. When the General Assembly is in session, ~~or when~~~~and~~ the start of a committee meeting or session ~~for either chamber is scheduled to commence before or adjourns after public business hours is sooner or later than the limits listed in this subsection~~, the public ~~business~~ hours ~~will begin~~~~shall be~~ one hour before the earliest committee meeting or session ~~of either house for the opening time~~, and ~~will end~~ one hour after the adjournment of the last committee meeting or session ~~of either house for the closing time in the Capitol Building or~~ in whatever building the legislative function is held.
- b) The following are observed holidays for the Capitol Complex: New Year's Day, Martin Luther King, Jr. Birthday, Lincoln's Birthday, Washington's Birthday (President's Day), Easter Sunday, Memorial Day, Juneteenth, Independence Day, Labor Day, Columbus Day, General Election Day, Veterans' Day, Thanksgiving and the following day, Christmas Eve, and Christmas Day.
- ~~c~~b) Entrance to any building identified in Section 2005.10 during times other than stated in subsection (a) is prohibited, except for the following persons who shall be admitted to office areas assigned to them for their use in carrying out their official duties:

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

- 1) members of the General Assembly;
  - 2) employees of the General Assembly;
  - 3) employees of the executive departments whose offices are in the building;
  - 4) representatives of news media who have offices in the Capitol Building;
  - 5) any authorized maintenance, repairer, contractor, or other service employee, while performing duties that have been arranged for by the Department of Physical Services or the Office of the Architect of the Capitol (OAC); and
  - 6) any person who is specifically requested to enter ~~into~~ any building or office by an authorized individual listed in subsections (c**b**)(1) to (4).
- de) Proper identification of all persons, such as a press pass, government photo identification card, a driver's license, or other document that shows the identity of the person, may be demanded by security personnel, and employees may be required to sign in and out of a building after 5 p.m. and before 7 a.m. Only one entrance shall be open after ~~the~~ public business hours.
- 1) Factors to be considered in determining that~~which~~ identification will~~may~~ be requested include, but are not limited to:
    - A) the security guard or investigator does not recognize the individual;
    - B) the behavior of the individual; and
    - C) accessibility to office areas, work areas, and restricted-~~access~~~~restricted access~~ areas.
  - 2) All persons entering ~~into~~ the buildings of the Capitol Complex will~~may~~ be required to wear their government photo identification card where it can be easily seen~~outside their clothing~~ at all times when it has been determined by the Director of the Department of Police that security concerns warrant that display. All visitors to the Capitol Complex who do not possess a government photo identification card will be required to

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

submit themselves to security screening measures prior to entry. Lobbyists, vendors and their employees, and employees of State agencies that do not issue photo identification cards may be issued photo identification cards by the Secretary of State Department of Police.

- ~~ed~~) All persons and vehicles entering ~~into~~ the Capitol Complex and its buildings may be subject to search, including, but not limited to, inspection of vehicles, trunks, parcels and packages, metal detector screening, X-Ray scans, and inspection of bulky personal items brought into the Capitol Complex.
- ~~f~~) Parking for the public is not available on the Capitol Complex. Parking in the parking lots of the Capitol Complex is by parking permit only. All persons are prohibited from parking in assigned parking spaces without the appropriate permit. Employees and members identified as working within the Capitol Complex must park only in the parking spot assigned by their employer, with the parking placard visible in the vehicle. Parking in a spot without the appropriate parking placard clearly visible shall result in a parking citation issued by the Office of the Secretary of State Department of Police prescribed in Section 2005.80(c). Parking for the public is authorized in the visitor's lot located on Edwards Street between College Street and Pasfield Street.
- ~~ge~~) Firearms, firearm ammunition, knives, razors or other blade instruments, stun guns or tasers, explosive devices, flammable, corrosive or explosive compounds, incendiary devices, irritants or noxious compounds (~~e.g.i.e.~~, tear gas or pepper spray), ~~and~~ toy or dummy weapons, all contraband, and any other items ~~considered~~~~deemed to be~~ inappropriate or that could be used as a weapon ~~are~~~~shall be~~ prohibited. The Director of the Department of Police may permit exemptions to these prohibitions for law enforcement, military, and ceremonial personnel who are performing their official duties.
- ~~hf~~) Emergency ~~personnel~~~~responders~~ who are responding to a ~~genuine~~~~bonafide~~ emergency situation within the Capitol Complex are not subject to screening or searches.
- ~~ig~~) Public access to any building or area of the grounds may be restricted if it is determined by the Director of the Department of Police that a situation has arisen that threatens the security of persons and buildings within the Capitol Complex.

(Source: Amended at 47 Ill. Reg. 17881, effective November 16, 2023)



## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

**Section 2005.40 Prohibited Activities**

- a) No animals, except service animals~~guide dogs~~ to assist persons with disabilities, or animals~~dogs~~ utilized by police officers and firefighters in the performance of their official duties, shall be permitted in the buildings in the Capitol Complex.
- b) No person or organization shall camp, erect a tent, fixture, whether or not affixed to the grounds~~monument~~ (except as authorized by the Secretary of State or General Assembly to commemorate a deceased public official or a historical event), structure, portable toilet, platform, sign, or similar device on the grounds of or within the State Capitol, Visitors' Center, the State Library, the Howlett Building, or the Stratton Building, except as provided in subsection (i). No person shall sleep or shelter on the Capitol Grounds in a manner or place that may create a fire hazard or threaten the property or safety of any person on the Capitol Complex.
- c) No person or organization shall block, obstruct, or impede any doorway, stairway, corridor, ventilation duct, or elevator in or on the Capitol Complex.
- d) No demonstrations are allowed above the first floor of the Capitol Building; this includes singing, chanting, or shouting in a loud voice in such a manner~~of the type~~ that could interfere with the business conducted in the building.
- e) No banners, posters, placards, signs, or symbols may be carried above the first floor of the Capitol Building. No sticks, poles, or laths may be used to carry any sign or placard into the buildings. No chains or ropes may be carried into the buildings, except by authorized workers and State employees, with the permission of the Director.
- f) No person or group of persons may~~shall~~ use any electronic loudspeaker, bullhorn, or other amplifying device within the Capitol Complex buildings or grounds, unless prior permission of the Director is obtained pursuant to Section 2005.50(d). Permission will be granted for demonstrations only.
- g) No banners, posters, placards, signs, or symbols may be affixed in any way by any person to the railing of the second, third, or fourth floor of the State Capitol Building. No banners, posters, placards, signs, or symbols for demonstration purposes may be affixed in any way to the walls, railings, floors, or ceilings of

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

any of the buildings in the Capitol Complex.

- h) No banners, posters, placards, signs, or symbols may be displayed within the Capitol Complex buildings or grounds for more than two weeks within a six-month~~six-month~~ period.
- i) No displays or structures (including tents) in Capitol Complex~~the~~ buildings or ~~on the~~ grounds may be erected without the permission of the Director pursuant to Section 2005.50(d). Permission shall be granted only if the display structure is part of symbolic expression in the exercise of free speech guaranteed by the First Amendment to the United States Constitution and Article I, Sections 4 and 5 of the 1970 Illinois Constitution. No more than 2 tents or small structures may be erected at the location designated by the Director. The location shall not impede pedestrian or vehicular traffic or substantially damage ~~the~~ Capitol Complex grounds (e.g., i.e., damage to grass or grounds that would require replacement). The only locations that are authorized for structures and displays shall be the paved areas between the Howlett Building and the Capitol Building, in the north front of the Howlett Building, ~~and~~ between the Stratton Building and the Archives Building, and in the Capitol Rotunda pursuant to Section 2005.60(i). No structures or displays will be placed on grass areas that have an underground watering system on them.
- j) The display of commercial signs, placards, or other forms of advertisement, or the sale, display, or vending of commercial products or articles in Capitol Complex~~the~~ buildings or ~~on the~~ grounds is prohibited, except pursuant to a contract with a unit of State government~~the State Government~~.
- k) The noise level from demonstrators, picketers, and protesters of any group or groups, or as individuals, within the Capitol Building rotunda must~~shall~~ not exceed 75dB(A). If the noise level from these persons exceeds this limit, the Director or the Director of the Department of Police, or ~~a~~his or her designee, shall direct all persons to decrease the noise, or to reduce the number~~numbers~~ of people, within the Capitol Building to lower the noise level to the specified level, which must~~shall~~ not exceed 75dB(A).
- l) No person or organization shall damage, destroy, remove, deface, defile, tarnish, or injure in any way State property within Capitol Complex~~the~~ buildings or ~~on the~~ grounds ~~thereof~~. All persons and organizations engaging in this type of prohibited activity will be responsible for all costs, expenses, damages, and



## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

liability resulting from their own actions or the actions of persons or organizations controlled or directed by them at the time of the damage to State property.

- m) No smoking, vaping, or use of electronic cigarettes is permitted in any building or structure in the Capitol Complex.
- n) No skateboard riding, rollerblading, recreational ~~scooter riding~~, or skating is allowed on the Capitol Complex. The riding of bicycles is permitted only in parking lots of the Capitol Complex and not on any Capitol Complex sidewalks or pathways.
- o) No masks that cover a person's face may be worn on the Capitol Complex grounds or within any of the Capitol Complex buildings with the exception of the following:
  - 1) Masks designed to cover the nose and mouth for the purposes of preventing the spread or contraction of a respiratory infection;
  - 2) Religious head or face coverings when worn in accordance with sincerely held religious beliefs;
  - 3) Masks required to protect a worker while completing a construction task;  
or
  - 4) Hazmat or other masks worn by first responders.
- p) No person may operate an unmanned aerial vehicle (UAV), unmanned aircraft system (UAS), or device more commonly referred to as a "drone" on or from the Capitol Complex grounds or within the Capitol Complex buildings, except as permitted under Section 2005.65(d).
- q) No parking is allowed in permit-only parking lots on the Capitol Complex without a personally assigned parking placard. A violation of this subsection will result in a parking citation as prescribed in 2005.80(c). Parking for the public is authorized in the visitor's lot located on the Capitol Complex.

(Source: Amended at 47 Ill. Reg. 17881, effective November 16, 2023)

**Section 2005.50 Demonstrations**

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

- a) The holding or conducting of any demonstration, public meeting, gathering, or parade on or in the buildings or their grounds is prohibited unless a permit for that activity is issued by the Director. To apply for a permit, a Special Events form ([https://www.ilsos.gov/publications/pdf\\_publications/bg56.pdf](https://www.ilsos.gov/publications/pdf_publications/bg56.pdf)) must be submitted electronically ~~addressed~~ to the Department of Physical Services, Special Events Division via email ([SpecialEventRequest@ilsos.gov](mailto:SpecialEventRequest@ilsos.gov)), ~~034 Howlett Building, Springfield Illinois 62756, phone 217-782-8495, must be submitted~~ at least 48 hours in advance of the event to be scheduled, unless the requestor can show by the preponderance of the evidence that the cause or reason for the requested demonstration, meeting, gathering or parade was not known, contemplated or reasonably foreseeable, resulted from changed circumstances, or was not in existence within those 48 hours, except that no such request shall take precedence over an activity that was previously scheduled by the Director.
- b) The Special Events form must ~~shall~~ state the name of the individual, organization, ~~corporation~~, association, society, fraternity, sorority, club, or other group seeking to use the building or the grounds. The request must ~~shall~~ list the event contact person, telephone numbers and address. Additionally, the building or ~~particular~~ facility desired to be used, the dates and times sought, equipment to be used or supplied, and the estimated number of ~~the~~ participants shall be provided by the applicant. The permit will ~~shall~~ only be valid for the date and time approved by the Director and does not allow the group to demonstrate at any date or time other than that which ~~what~~ has been approved.
- c) Any group seeking a permit under this Section must ~~shall~~ have a minimum of one usher per 25 participants. Ushers shall be identified by insignia and their identities disclosed to security ~~and~~ or police officials prior to the demonstration. The usher's duties shall include making certain, to the best of that person's ~~his/her~~ ability under the circumstances, that the conditions of the permit are met, that the group and participants comply with the rules ~~compliance with the rules occurs~~, that the demonstration remains peaceful and orderly, and that the participants remain within the physical boundaries of the permit.
- d) The Director will issue a permit to an applicant unless the Director determines ~~he or she finds that~~ the intended activity will:
- 1) Unreasonably interfere with the movement of vehicular traffic in the parking lots of the Capital Complex; or persons within the buildings or on

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

the grounds;

- 2) Not occur in the area designated and will create or cause a health ~~and/or~~ safety hazard and will impede substantially the performance of public business to be conducted in the area;
  - 3) Endanger the health ~~or~~ safety of the permit applicants or other persons;
  - 4) Be a commercial activity or a fundraiser for an entity that is not a not-for-profit registered with the Secretary of State under 14 Ill. Adm. Code 160;  
or
  - 5) Conflict in date, time, and place with a previously scheduled activity of another applicant or a government agency. All Special Events forms are considered received based on the date and time of the receipt of the email ~~stamped upon receipt~~ and permits are issued on a first-come, first-served basis.
- e) Applicants may also be denied a permit if past demonstrations involving their ~~particular~~ organization/individuals have resulted in removal, arrest, or other substantial violation of this Part.
- f) Applicants denied a permit may modify their request to meet the objection and concerns of the Director and may resubmit their application for consideration.
- g) A Special Events form electronically submitted ~~addressed~~ to the Special Events Division shall be considered an application. A written response, via email from the Director or a designee approving part or all of the application, is ~~shall be~~ considered the permit. The written response will ~~shall~~ state the reasons for denying, in whole or in part, the request. The Director or a designee is required to show by the preponderance of the evidence that an unreasonable interference will occur or is occurring if the request is denied ~~when he or she denies the request~~ in whole or in part.
- h) A person or organization denied a permit in whole or in part may appeal the denial to the Secretary of State. The appeal shall be in writing in an email to SpecialEventRequest@ilsos.gov, and must state ~~stating~~ the specific reasons why the decision of the Director or the Director of the Department of Police is ~~faulty~~ ~~was incorrect~~ and what relief is sought. The appeal must be submitted at

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

least 24 hours prior to the time of the requested demonstration; to allow the Secretary of State time within which to consider and decide the appeal. The Secretary of State's decision ~~will~~shall be in writing via reply email and ~~shall~~ be made 48 hours after the appeal is received and at least 2 hours prior to the requested demonstration's time of starting. The Secretary of State's decision shall be final for the purposes of the Administrative Review Law [735 ILCS 5/Art. III].

- i) Permitted demonstrations may be canceled without prior notice by the Director of the Department of Police; if security concerns warrant such an action or if the Illinois Department of Public Health determines that a public health concern exists.
- j) Groups may be subject to time changes or cancellation if it is determined that the scheduled activity will unreasonably interfere with the legislative process or business within the Capitol Complex.

(Source: Amended at 47 Ill. Reg. 17881, effective November 16, 2023)

**Section 2005.60 Use of Building for Non-Demonstration Activity or Fund-Raising~~Fund~~  
~~Raising~~ Events**

- a) Not-for-profit organizations that apply to sell baked goods or other items with a price not to exceed \$50.00 in the Capitol Complex buildings shall submit a Special Events form to the Department of Physical Services, Special Events Division at least 48 hours in advance of the desired start of their sale and in the same manner as outlined in Section 2005.50. The application ~~must~~shall state the name of the organization, the date requested for the sale or activity, the location requested, and any alternative dates and locations.
  - 1) Only one activity at a time will be approved by the Director for each location.
  - 2) The only locations allowed for the sales are the northwest lobby of the Howlett Building, the area on the south side of the Stratton Building Cafeteria, and the designated first-floor~~first floor~~ hallway area at the Department of Driver Services Building at 2701 South Dirksen Parkway.
  - 3) Sales may occur only during the public business hours.

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

- 4) The Director will only approve applications to sell submitted by not-for-profit organizations, who must submit a copy of the organization's tax-exempt~~tax-exempt~~ number form. No organization without a tax-exempt~~tax-exempt~~ number will be allowed to sell in the areas designated.
- 5) If a not-for-profit organization is not authorized to transact business in the State of Illinois, as determined by the Secretary of State Department of Business Services, the application will be denied.
- b) No commercial activity, including but not limited to selling real estate, automobiles, or insurance, is allowed in the Capitol Complex buildings.
- c) No alcohol or alcoholic beverages are allowed to be sold, consumed, delivered, or used in the buildings, except as permitted by Section 6-15 of the Liquor Control Act of 1934 [235 ILCS 5/~~6-15~~].
- d) All organizations that are permitted to use the Capitol Complex or the buildings shall indemnify the State and the Secretary of State from any injury or damage caused by their members' or participants' negligence or willful misconduct. The members who cause the damage or injury are primarily responsible. The organization ~~must~~shall also restore the used areas to their pre-use appearance and condition, less reasonable wear and tear, and the Director ~~is~~shall be the final decision-maker on the ~~cleanup~~clean-up of the used area. This subsection applies to those organizations listed in subsection (a) and any other organization receiving permission from the Director to use the specified buildings for meetings or parties.
- e) All Special Events forms requesting use of Capitol Complex~~the~~ buildings or grounds~~the Capitol Complex~~ shall be submitted to the Special Events Division at least 48 hours in advance of the proposed starting time of the activity.
- ~~f) Nothing in this Section shall give the Director authority over the use of the Chambers, meeting rooms, or committee rooms of the General Assembly. The use of each room shall be decided according to legislative rules.~~
- fg) Decorations cannot be applied by tape, glue, or any type of adhesive material to any part of the building, unless special arrangements have been made and approved by the Special Events Coordinator. No candles, confetti, or balloons are allowed. No smoke or fog~~smoke/fog~~ machines are permitted. Any other special



## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

effects equipment must have prior approval of the Special Events Division.

- ~~g~~h) No on-site cooking or warming of food with flames or burners, such as grilling or the use of Sterno or other canned heat, is permitted in the Capitol~~Capital~~ Complex or on the grounds, except as permitted under subsection (j).
- ~~h~~i) Permitted uses of the Capitol Complex may be canceled without prior notice by the Director of the Department of Police; if security concerns warrant that action.
- ~~i~~j) Any entity that contacts the Special Events Division to erect a display in the Capitol building rotunda~~Rotunda~~ between Thanksgiving and New Year's Day shall be granted a permit to do so on a first-come, first-served~~first come, first served~~ basis with a total limit of 5 displays permitted at a time. A request for a display in any calendar year may be made any time on or after January 2 of the same calendar year. The displays, if applicable, must meet the following requirements:
- 1) Any~~any~~ lights used in the displays must be LED lights;
  - 2) Decorations~~decorations~~ must be unbreakable or sufficiently secured to avoid damage;
  - 3) Any~~any~~ required equipment to set up or operate the display shall be provided by the entity;
  - 4) Displays must be assembled by the entity seeking to place the display; and
  - 5) Assembly~~assembly~~ and disassembly of the display must be coordinated with the Special Events Division for a business day.
- ~~j~~k) No more than two food trucks per calendar day may provide food and nonalcoholic beverages to individuals at the Department of Driver Services Building at 2701 South Dirksen Parkway, provided that the owner or operator of the food truck receives a permit from the Director of Physical Services to operate on a particular day. All food preparation shall be contained within the food truck and the food truck operator shall be responsible for removing all food waste and trash associated with the food truck operations. All water and other utility requirements shall be provided by the food truck operator. The designated food trucks may only be located in an area designated by the Director from 11 a.m.

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

through 2 p.m. on the permitted day. If the Director of Driver Services, Director of Physical Services, or Director of the Department of Police, or their designees, determine that a food truck is interfering with Secretary of State daily operations or is causing a disturbance, the food truck may be asked to leave the premises for the remainder of the day.

(Source: Amended at 47 Ill. Reg. 17881, effective November 16, 2023)

**Section 2005.65 Operating Unmanned Aircraft on the Capitol Complex**

- a) The purpose of these rules is to make sure the use of unmanned aircraft on the Capitol Complex is managed in a safe and secure manner and to protect the buildings and people on the Capitol Complex. For this reason, the Capitol Complex is closed to launching, landing, or operating unmanned aircraft, subject to the conditions and exceptions in subsection (d).
- b) Definitions That Apply to This Section
  - 1) "Department" means the Illinois Secretary of State Department of Police.
  - 2) "Director" means the Director of the Illinois Secretary of State Department of Police.
  - 3) "National airspace system" means the airspace, navigation facilities, and airports of the United States.
  - 4) "Capitol Complex" means all State-owned or State-occupied buildings, grounds, and parking lots identified in this Part with boundaries being Washington Street, Third Street, Cook Street, and Pasfield Street in the City of Springfield and includes the buildings and spaces listed in Section 2005.10. For the purposes of this specific Section, the definition also includes the airspace of the Capitol Complex.
  - 5) "Unmanned aircraft" means a system or device that is used or intended to be used for flight in the air without the possibility of direct human intervention from within or on the device, and the associated operational elements and components that are required for the pilot or system operator in command to operate or control the device (such as cameras, sensors, or communication links). This term includes all types of

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

systems or devices that meet this definition that are used for any purpose or activity, including but not limited to governmental, private, recreational, or commercial uses. Some examples of unmanned aircraft include, but are not limited to, model airplanes, quadcopters, and drones.

- c) Use of Unmanned Aircraft is Prohibited. Launching, landing, or operating an unmanned aircraft from, on, or within the boundaries of the Capitol Complex is prohibited but for the exceptions in subsection (d) below.
- d) Exceptions. The prohibition on launching, landing, or operating unmanned aircraft on the Capitol Complex does not apply to:
  - 1) emergency law enforcement and fire response operations;
  - 2) other operations designed to support responses to health and human safety emergencies, such as search and rescue, health and environmental incidents;
  - 3) United States national defense activities;
  - 4) activities necessary for the care and custody of the Capitol Complex when those activities have prior written approval by the Director; and
  - 5) flights required to document construction sites when those flights have been authorized by the Office of the Architect of the Capitol and advanced notification has been provided to the Director.
- e) Requirements for Obtaining Advance Approval from the Director
  - 1) Use of unmanned aircraft must be approved in advance and in writing by the Director.
  - 2) When considering approval or denial of requests, the Director must consider whether the activity will:
    - A) present a clear and present danger to public safety or the Department of Public Health determines that the activity will present a clear and present danger to public health;



## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

- B) cause risk of injury or damage to State property or State resources;
  - C) be contrary to the purposes for which the Capitol Complex was established or unacceptably interrupts the functions performed on the Capitol Complex;
  - D) unreasonably interfere with the ability of visitors to tour or assemble at the Capitol Complex, other scheduled programs or activities, or with the administrative activities performed on the Capitol Complex;
  - E) substantially impair the operations of vendors or contractors working on the Capitol Complex;
  - F) result in significant conflict with other existing uses or previously scheduled and permitted activities.
- 3) The Director may condition any approval with reasonable time, place, and manner restrictions that the requestor must follow.
  - 4) Operators given permission by the Director to operate an unmanned aircraft on the Capitol Complex must comply with all restrictions imposed by the Director and all applicable State and federal laws and regulations, including but not limited to, the regulations of the Federal Aviation Administration. This includes notifying and obtaining approval from all applicable State and federal entities, airports, air traffic control facilities, and helipads. The operator may be required to submit proof of such prior approval to the Director before operating the unmanned aircraft.
  - 5) Requirements put in place by the Federal Aviation Administration on the use or operation of unmanned aircraft in the national airspace system must be followed. Nothing in this rule is intended to modify any requirement put in place by the Federal Aviation Administration on the use or operation of unmanned aircraft in the national airspace system.

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

- 6) The Department will coordinate with the Federal Aviation Administration regarding the use of unmanned aircraft on the Capitol Complex as may be required.

(Source: Added at 47 Ill. Reg. 17881, effective November 16, 2023)

**Section 2005.80 Secretary of State ~~Police~~-Department of Police**

- a) The Secretary of State's ~~Police~~-Department of Police enforces~~shall enforce~~ all laws within the Capitol Complex and the buildings specified within Section 2005.10, except for the Willard Ice Building. The Illinois Department of Revenue provides security for the Willard Ice Building and its grounds~~of this Part.~~
- b) The Illinois statutes applicable to the presentation of order and peace within the specified buildings include, but are not limited to:
- 1) criminal damage to State supported property ~~[(see-720 ILCS 5/21-1.01)]~~4);
  - 2) trespass to State lands ~~[(see-720 ILCS 5/21-5)]~~;
  - 3) the unauthorized possession of explosives or explosive or incendiary devices ~~[(see-720 ILCS 5/20-2)]~~;
  - 4) mob action ~~[(see-720 ILCS 5/25-1)]~~;
  - 5) disorderly conduct ~~[(see-720 ILCS 5/26-1)]~~;
  - 6) interference with judicial procedure ~~[(see-720 ILCS 5/32]12-9); and~~
  - 7) threatening a public official ~~[(see-720 ILCS 5/12-9]; and)~~;
  - 8) unauthorized use of parking places reserved for persons with disabilities [625 ILCS 5/11-1301.3].
- c) The Secretary of State Department of Police shall enforce parking regulations in the parking lots on the Capitol Complex. The Office of the Architect of the Capitol (OAC) shall have the discretion to notify the Secretary of State when a parking matter requires Secretary of State Department of Police enforcement in OAC controlled lots. In all other parking lots on the Capitol Complex, the

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

Secretary of State shall have the discretion to enforce parking regulations without limitation. Unauthorized parking in any permit-required parking spot on the Complex will result in the issuance of a parking citation and a \$50 penalty per violation. Any party that receives a parking citation may either pay the penalty or contest the citation through the Secretary of State's administrative hearing process (see 92 Ill. Adm. Code 1001, Subpart A). If a party agrees to pay the citation, the party waives the ability to contest the administrative citation through the administrative hearing process. A party shall have 30 calendar days after receiving the citation to either pay the penalty or file a request for an administrative hearing. Failure to timely request an administrative hearing will result in the penalty being immediately due and owing. Failure to pay the citation may result in the Secretary initiating collection actions as prescribed in 92 Ill. Adm. Code 1003.30 until the penalty is paid in full.

(Source: Amended at 47 Ill. Reg. 17881, effective November 16, 2023)

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Secure Choice Savings Program
- 2) Code Citation: 74 Ill. Adm. Code 721
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
721.200	Amendment
721.340	Amendment
721.360	Amendment
721.395	Amendment
721.410	Amendment
721.415	Amendment
721.420	Amendment
721.430	Amendment
721.440	Amendment
721.510	Amendment
721.515	Amendment
721.520	Amendment
721.540	Amendment
721.610	Amendment
721.710	Amendment
721.720	Amendment
- 4) Statutory Authority: Implementing and authorized by Section 90 of the Illinois Secure Choice Savings Program Act [820 ILCS 80].
- 5) Effective Date of Rule: November 16, 2023
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the Adopted Rule is on file in the State Treasurer's office at 219 State House, Springfield, IL 62706 and is available for public inspection.
- 9) Notice of Proposal Published in *Illinois Register*: 47 Ill. Reg. 13071; September 8, 2023
- 10) Has JCAR issued a Statement of Objections to this rulemaking? No
- 11) Difference between proposal and final version:

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

In Section 200, added statutory citations.

In Section 360(a), changed "may" to "will"; changed "The" to "When selecting an investment manager, the"; and added a statutory citation.

In Section 360(b), changed "may" to "will" and added a statutory citation.

In Section 360(b)(1), capitalized "state" and changed "of total assets" to "of the participant's total account assets".

In Section 360(b)(2)(A), changed "total" to "the participant's total account assets".

In Section 360(c), changed "Potential Additional Fees" to "Activity-Based Fees".

In Section 360(c)(1)-(4), changed the subsection labels from "A)" through "D)" to "1)" through "4)".

In Section 360(c)(4), changed "ACH" to "Automated Clearing House (ACH)".

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking updates the existing rule to reflect statutory changes pursuant to PA 103-43, which took effect on June 9, 2023. PA 103-43 allows the Secure Choice Board to charge an administrative fee, that shall be consistent with industry standards, to employee participants to cover the administrative costs of the Program.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Erica Tremble  
Assistant General Counsel  
Illinois State Treasurer  
555 W. Monroe Street

OFFICE OF THE TREASURER

NOTICE OF ADOPTED AMENDMENTS

14<sup>th</sup> Floor  
Chicago, IL 60661

(217) 557-4298  
e-mail: [ETremble@illinoistreasurer.gov](mailto:ETremble@illinoistreasurer.gov)

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

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

## TITLE 74: PUBLIC FINANCE

## CHAPTER V: TREASURER

## PART 721

## SECURE CHOICE SAVINGS PROGRAM

## SUBPART A: INTRODUCTION AND PURPOSE OF PROGRAM

Section	
721.100	Establishment of Program
721.110	Purpose of Program

## SUBPART B: DEFINITIONS

Section	
721.200	Definitions

## SUBPART C: ADMINISTRATION

Section	
721.300	Responsibilities of the Board
721.310	Responsibilities of the Treasurer
721.320	Responsibilities of the Department
721.330	Investment Policy and Guidelines
721.340	Responsibilities of the <a href="#">Program</a> <del>Account</del> Administrator
721.350	Applicable Law
721.360	Program Fees
721.370	Administrative Fund
721.380	Reporting Requirements
721.390	Forms
721.395	Information Packets

## SUBPART D: PARTICIPATION IN THE PROGRAM

Section	
721.400	Eligibility
721.410	Registration and Enrollment
721.415	Client Employer Registration and Enrollment
721.420	Voluntary Participation

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

- 721.430 Opt Out Procedures  
721.440 Termination of Participation

## SUBPART E: ACCOUNTS, INVESTMENTS AND STATEMENTS

- Section  
721.500 Accounts  
721.510 Contributions  
721.515 Automatic-Escalation  
721.520 Participant Statements  
721.530 Limits on Investments and Direction  
721.540 Rollovers, Transfers and Conversions

## SUBPART F: WITHDRAWALS

- Section  
721.600 Withdrawals  
721.610 Withdrawal Method  
721.620 Closure

## SUBPART G: MISCELLANEOUS

- Section  
721.700 Abandoned Accounts  
721.710 Disclosure  
721.720 Website

AUTHORITY: Implementing and authorized by Section 90 of the Illinois Secure Choice Savings Program Act [820 ILCS 80].

SOURCE: Adopted at 42 Ill. Reg. 18457, effective September 25, 2018; amended at 44 Ill. Reg. 5444, effective March 12, 2020; amended at 46 Ill. Reg. 3194, effective February 8, 2022; amended at 47 Ill. Reg. 17903, effective November 16, 2023.

## SUBPART B: DEFINITIONS

**Section 721.200 Definitions**

The following definitions shall apply to this Part:



## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

"Act" means the Illinois Secure Choice Savings Program Act [820 ILCS 80].

"Account" means the IRA of a participant established and maintained under the Program.

~~"Account Administrator" means the person or firm selected by the Board to administer the daily operations of the Program and provide marketing, recordkeeping, investment management, custodial, and other services for the Program.~~

"Account Revocation Period" means the period of time starting from the date an employee's IRA is established and the employee receives the disclosure statement and ending on the earlier of:

90 days after the date of the employee's first Secure Choice Account contribution; or

the Close of Business on the Business Day that the employee makes an Alternate Contribution Election;

provided, however, the Account Revocation Period shall last a minimum of seven days from the date the IRA is established and the employee receives the disclosure statement.

"Administrative Expenses" means all expenses associated with the implementation and administration of the Program, including fees payable to third parties providing services related to the Program.

"Administrative Fund" means the Illinois Secure Choice Administrative Fund created in Section 5.867 of the State Finance Act [30 ILCS 105].

"Beneficiary" means any person or entity designated by the participant to receive the benefits of the account in the event that the participant dies.

*"Board" means the Illinois Secure Choice Savings Board or its designee or designees, which includes the Treasurer or one or more third party service providers. [820 ILCS 80/5]*

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

"Business Day" means any day on which the New York Stock Exchange is open for trading.

"Client Employer" means an individual or entity that has contracted with a Professional Employer Organization to supply it with, or assume responsibility for, personnel management of one or more workers who perform services on an ongoing basis, rather than under a temporary help arrangement as defined in Section 15 of the Employee Leasing Company Act [215 ILCS 113]. For purposes of this Part, an employee who is performing services for a client employer pursuant to a contract between the client employer and a PEO shall be treated as employed by the client employer.

"Close of Business" means the time of day that trading closes on the New York Stock Exchange, generally 4 p.m. Eastern Standard Time.

"Day" means any calendar day.

"Department" means the Illinois Department of Revenue. [\[820 ILCS 80/5\]](#)

"Employee" means any individual who is employed by an employer or client employer, and who has wages that are allocable to Illinois during a calendar year under the provisions of Section 304(a)(2)(B) of the Illinois Income Tax Act [35 ILCS 5]. "Employee" includes both part-time and full-time employees. [\[820 ILCS 80/5\]](#)

"Employer" means a person, entity or client employer engaged in a business, industry, profession, trade, or other enterprise in Illinois, whether for profit or not for profit, that:

*has employed at least 5 employees in the State during every quarter of the previous calendar year as indicated in employer-reported quarterly data submitted to the Department;*

*has been in business at least 2 years; and*

*is not offering or contributing to ~~has not offered~~ a qualified retirement plan in the preceding 2 years.*

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

*"Employer" does not include the federal government, the State, any county, any municipal corporation, or any of the State's units or instrumentalities. [820 ILCS 80/5]*

*"Fund" means the Illinois Secure Choice Savings Program Fund. [820 ILCS 80/5]*

*"Internal Revenue Code" means Internal Revenue Code of 1986 (26 ~~U.S.C.~~ ~~USE~~), or any successor law, in effect for the calendar year. [820 ILCS 80/5]*

*"Investment Policy" means the Investment Policy Statement adopted by the Board, pursuant to the Act, which includes a risk management and oversight program and sets forth the policies, objectives and guidelines that govern the investment of contributions to the Program.*

*"IRA" means a Roth or Traditional IRA (individual retirement account) under section 408 or 408A of the Internal Revenue Code. [820 ILCS 80/5]*

*"IRS" means the Internal Revenue Service.*

*"Online Portal" means the electronic platform utilized by the ~~program~~~~account~~ administrator to manage the daily operations of the Program.*

*"Participant" or "Enrollee" means any individual who has an account.*

*"Participating Employer" means an employer, small employer, or client employer that facilitates a payroll deposit retirement savings arrangement as provided for by the Act for its employees. [820 ILCS 80/5]*

*"Payroll Deposit Retirement Savings Arrangement" means an arrangement by which a participating employer facilitates payroll deduction contributions from enrollees to the Program. [820 ILCS 80/5]*

*"Professional Employer Organization" or "PEO" means an individual or entity that contracts with a client employer to supply or assume responsibility for personnel management of one or more workers who perform services for the client employer on an ongoing basis, rather than under a temporary help arrangement as defined in Section 15 of the Employee Leasing Company Act. For purposes of this Part, PEOs are not the employer of any employee who is*

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

performing services for a client employer pursuant to a contract between the client employer and a PEO.

*"Program" means the Illinois Secure Choice Savings Program. [820 ILCS 80/5]*

"Program Administrator" means the person or firm selected by the Board to administer the daily operations of the Program and provide marketing, recordkeeping, investment management, custodial, and other services for the Program.

"Qualified Retirement Plan" includes a plan qualified under section 401(a), 401(k), 403(a), 403(b), 408(k) or 408(p) of the Internal Revenue Code. The term also includes an eligible governmental plan under section 457(b) of the Internal Revenue Code, as well as Simplified Employee Pension (SEP) plans, Savings Incentive Match Plan for Employees (SIMPLE) plans, and Taft-Hartley plans. Payroll deduction IRA programs are not qualified retirement plans.

*"Small Employer" means a person or entity engaged in a business, industry, profession, trade, or other enterprise in Illinois, whether for profit or not for profit, that:*

*employed fewer than 5 employees during any quarter of the previous calendar year, as indicated in employer-reported quarterly data submitted to the Department;*

*has been in business less than 2 years; or*

*meets both of these criteria,*

*but notifies the Board that it is interested in being a participating employer.*  
[820 ILCS 80/5]

"Treasurer" means the duly elected Treasurer of the State of Illinois or their designee or designees.

"Wages" means W-2 wages, as defined in 26 CFR 1.415(c) through 2(d)(4), that are received by an enrollee from a participating employer during the calendar year. [820 ILCS 80/5] For purposes of this Part, wages paid to employees by

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

PEOs on behalf of a client employer shall be deemed wages paid by a client employer. [\[820 ILCS 80/5\]](#)

"Withdrawal" means a distribution of assets from an account.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

## SUBPART C: ADMINISTRATION

**Section 721.340 Responsibilities of the [Program](#)~~Account~~ Administrator**

- a) The [program](#)~~account~~ administrator is responsible for the day-to-day oversight, recordkeeping and management of the Program, including coordinating with any third party investment managers or other service providers to ensure the safekeeping of accounts. The [program](#)~~account~~ administrator shall abide by the Act, this Part, and the investment policy adopted by the Board.
- b) The Board shall contract with the [program](#)~~account~~ administrator to provide services needed for the effective operation of the Program in accordance with all applicable federal and State laws and regulations. These services shall include, but are not limited to:
  - 1) developing forms and any operating documents;
  - 2) facilitating employer registration and participant enrollment;
  - 3) maintaining participant and beneficiary accounts and information;
  - 4) receiving contributions;
  - 5) blocking receipt of annual contributions to a participant's account in excess of the maximum annual IRA contribution limit;
  - 6) disbursing funds;
  - 7) identifying abandoned accounts and addressing missing participants;
  - 8) providing account owners with account information, transaction confirmations and account statements;

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

- 9) developing and filing required reports and forms with State and federal agencies; and
- 10) providing fraud prevention in accordance with industry standards.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

**Section 721.360 Program Fees**

Total fees for the Program shall include the following categories:~~including administrative and investment fees, shall not exceed 0.75 percent (i.e., 75 basis points) of the total assets under management.~~

- a) Investment Fees  
An investment manager will charge fees and expenses that are included in the cost of the underlying investment fund. When selecting an investment manager, the Board shall keep investment fees as low as possible, but in no event shall they exceed 0.25% of the total trust balance. [820 ILCS 80/30(m)]
- b) Administrative Fees  
The Board will charge administrative fees to participants that shall be consistent with industry standards. [820 ILCS 80/30(m)] Administrative fees include:
  - 1) A State administration~~The Board may charge an administrative~~ fee, not to exceed 0.05 percent (i.e., 5 basis points) of the participant's total account assets under management. This fee may be charged to defray certain expenses (e.g., marketing, auditing, program oversight) incurred by the Board or Treasurer in administering the Program.
  - 2) A program administration fee to defray costs incurred by the program administrator for maintaining and administering the Program. This fee shall be made up of the following:
    - A) An asset-based fee not to exceed 0.25% (i.e., 25 basis points) of the participant's total account assets under management; and
    - B) A dollar-based fee not to exceed \$4 per quarter.



## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

3) Activity-Based Fees

The following additional fees will be charged based on each participant's elections or requests:

- A) A paper delivery fee of \$1.25 per quarter will be charged unless a participant elects to receive communications electronically.
- B) A paper check fee of \$5 per instance of a participant requesting a paper check for withdrawal of funds unless the participant elects to receive an electronic transfer of funds.
- C) A priority delivery fee of \$25 per instance of a participant requesting a priority delivery.
- D) A rejected payment fee of \$20 per instance of a participant Automated Clearing House (ACH) payment or a participant-provided check being rejected.

- ~~b) An investment manager may charge fees and expenses that are included in the cost of an underlying investment fund. The account administrator may also charge fees and expenses for maintaining and administering the Program.~~
- ~~e) The administrative fees charged by the Board, account administrator and investment manager are reflected in the price of each investment option.~~

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

**Section 721.395 Information Packets**

*Prior to the opening of the Program for enrollment, the Board shall design and disseminate to all employers an employer information packet and an employee information packet, which shall include background information on the Program. [820 ILCS 80/55(a)]* The Board should strive to use plain language, whenever and wherever possible. The employee information packet shall include a disclosure form, as well as a document with information on how to opt out of the Program or select a contribution rate other than the default contribution rate. Participating employers shall provide the employee information packets to employees upon launch of the Program and to new employees at the time of hiring. Alternatively, participating employers shall provide the ~~program~~ ~~account~~ administrator with the employee contact information necessary for the ~~program~~ ~~account~~ administrator to send employees the employee information packet.

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

Informational packets may be updated as necessary. Delivery of information packets may also be accomplished electronically in accordance with 26 CFR 1.401(a)-21 or in any other form permitted by the IRS.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

## SUBPART D: PARTICIPATION IN THE PROGRAM

**Section 721.410 Registration and Enrollment**

- a) The Board shall establish an implementation timeline under which employers shall register for the Program and facilitate enrollment of their employees into the Program. The Board shall approve the implementation timeline at a public meeting of the Board and make the timeline publicly available by posting it on the Board's or Treasurer's website (see Section 721.720).
- b) After implementation, the Board shall identify and notify employers not yet registered for the Program and facilitate enrollment of their employees into the Program on an annual basis.
- c) The ~~program~~ administrator shall notify employers of the dates on which registration and enrollment of employees may begin and the dates by which registration of employers and enrollment of employees must be complete. The ~~program~~ administrator shall also provide employers with access to an online portal to register for the Program and facilitate enrollment of their employees.
- d) Registration Information
  - 1) In order to register for the Program, employers shall verify the following information on the online portal:
    - A) Employer name and assumed business name, if any;
    - B) Federal Employer Identification Number;
    - C) Employer mailing address;



## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

- D) Name, title, telephone number and email address of an individual designated by the employer to serve as the point of contact;
  - E) Number of employees; and
  - F) Any additional information necessary for registration.
- 2) In the event that any of the information listed in this subsection (d) is not available on the online portal or inaccurate, employers shall provide the missing or correct information, as applicable.
- e) An employer who lacks access to the internet may register for the Program and facilitate enrollment of its employees through alternate means established by the Program, including by phone and paper forms.
- f) By a date specified by the Board, employers shall facilitate enrollment of their employees into the Program and provide the [program](#) ~~account~~ administrator with the following information for each employee:
- 1) Full legal name;
  - 2) Social security number or taxpayer ID number;
  - 3) Date of birth;
  - 4) Mailing address;
  - 5) Employee's designated email address, if available;
  - 6) Employee's phone number, if available; and
  - 7) Any additional information needed to complete the enrollment when the information submitted for enrollment is unclear or insufficient, or when further information is required for purposes of administering the Program.
- g) The Board shall establish an automatic enrollment process for employees, which shall include the establishment of an IRA by or on behalf of the State for [each](#) ~~an~~ employee ~~before the first payroll deduction is made for each employee~~ who has not opted out of the Program.

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

- h) After initially facilitating enrollment of existing employees into the Program, participating employers shall enroll newly hired employees in the Program as soon as administratively possible, not to exceed 60 days after first payment of employee wages.
- i) Participating employers shall not contribute to or endorse the Program, or execute any discretionary authority, control, or responsibility with respect to the Program.
- j) Any employer who is not required to participate in the Program but receives a registration notification from the ~~program~~ administrator shall indicate to the Program, through the online portal or by contacting the ~~program~~ administrator, that it is not required to participate.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

**Section 721.415 Client Employer Registration and Enrollment**

- a) PEOs shall provide the Treasurer with a list of all Illinois client employers with whom they have a contract. On an annual basis, PEOs shall provide the following information for each client employer:
  - 1) Full legal name;
  - 2) Doing Business As (DBA) Name, if applicable;
  - 3) FEIN, if available;
  - 4) Contact person's full name;
  - 5) Mailing address;
  - 6) Email address, if available;
  - 7) Client employer's phone number, if available;
  - 8) Number of employees; and

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

- 9) Any additional information needed to contact the client employer when the information submitted is unclear or insufficient, or when further information is required for purposes of administering the Program.
- b) The ~~program~~ administrator will contact each client employer to facilitate the registration and enrollment of its employees, as outlined in Section 721.410.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

**Section 721.420 Voluntary Participation**

- a) Small employers may choose to make the Program available to their employees.
- b) Small employers who choose to make the Program available to their employees shall notify the ~~program~~ administrator and shall register for the Program using the online portal.
- c) The ~~program~~ administrator will develop a process that allows for the enrollment of employees from small employers that choose to make the Program available to their employees.
- d) The Board may, but need not, choose to allow for the automatic enrollment of employees from small employers as described in Section 721.410.
- e) The Board may allow individuals who do not work for a participating employer to enroll in the Program. The ~~program~~ administrator will develop a process that allows those individuals to open accounts and make contributions separate from an employer payroll system.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

**Section 721.430 Opt Out Procedures**

- a) Employees who do not wish to participate in the Program will be given an opportunity to opt out before any payroll deduction contribution is made. The Board shall ensure that an employee has a minimum of 30 days to opt out of the Program from the time he or she is notified that the employer has facilitated the employee's enrollment before an IRA is established and the first payroll deduction is made.

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

- b) The ~~program~~~~account~~ administrator shall provide employees with a number of opt out methods, including electronically and by phone.
- c) Any employee who does not opt out of the Program within the ~~30-day~~~~30-day~~ period described in subsection (a) will be automatically enrolled in the Program, and an IRA will be established for that employee pursuant to Section 721.410(g) ~~before the first payroll deduction is made.~~
- d) Any employee who is enrolled in the Program can cease participation and revoke his or her Roth IRA during the account revocation period.
- e) Employees can opt out after the account revocation period at any time by giving notice to the ~~program~~~~account~~ administrator, and participants may cease making contributions to their accounts at any time by giving notice to the ~~program~~~~account~~ administrator. After receiving notice, the ~~program~~~~account~~ administrator shall notify the employer to cease payroll deductions for the participants. Employers shall cease payroll deductions as soon as administratively feasible, not to exceed 30 days following receipt of the notification from the administrator.
- f) Employees who opt out of the Program may enroll at any time by following the Program's enrollment procedures. Following notification of the employee's intent to enroll, employers shall enroll employees as soon as administratively feasible, not to exceed 30 days following receipt of the notification.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

**Section 721.440 Termination of Participation**

- a) An employer who begins offering a qualified retirement plan and becomes exempt from the Program may notify the ~~program~~~~account~~ administrator of its exemption and terminate its participation in the Program.
- b) Employers who choose to terminate participation in the Program must notify the ~~program~~~~account~~ administrator and participants at least 60 days before payroll contributions cease and provide them with information describing how to contact the ~~program~~~~account~~ administrator.

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

- c) Accounts will remain in the Program and participants may continue to make contributions pursuant to Section 721.420(e), unless they elect to transfer or close their accounts, in accordance with Section 721.540 and Subpart F.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

## SUBPART E: ACCOUNTS, INVESTMENTS AND STATEMENTS

**Section 721.510 Contributions**

- a) During the account revocation period, participant contributions will be directed into a capital preservation investment selected by the Board. As of the close of business on the business day coincident with or next following the expiration of the account revocation period, the existing balance in the account will be invested in the default investment option selected by the Board unless a participant has provided an alternate investment election.
- b) Participant contributions made subsequent to the end of the account revocation period will be directed into the default investment option at the default contribution rate selected by the Board, unless a participant has provided an alternate investment election.
- c) Participant contributions will be directed into the default investment option selected by the Board at the default contribution rate approved by the Board, unless a participant has provided alternate elections.
- d) Participants may select any contribution rate by notifying the ~~program~~account administrator.
- e) The ~~program~~account administrator shall notify employers of any changes to their participant employees' contribution rate, and the employer shall enter those changes into its payroll system as soon as administratively possible, not to exceed 30 days following receipt of the notification.
- f) Participants may direct their contributions to any of the available fund options offered by the Program by notifying the ~~program~~account administrator.

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

- g) The ~~program account~~ administrator shall develop a process for participants to select their investment options and shall notify participants on how to make those selections.
- h) On each payroll date following enrollment into the Program, and in accordance with their participant employees' contribution rate, employers shall make the necessary payroll deductions and remit the contributions to the ~~program account~~ administrator as soon as administratively possible, not to exceed seven business days from the date of deduction. Notwithstanding the foregoing, amounts deducted by employers shall not exceed the amount of the employees' wages remaining after any payroll deductions required by law to have a higher precedence than the participant's Program deduction.
- i) Failure by the employer to timely remit a participant employee's deducted wages to the ~~program account~~ administrator constitutes an unlawful deduction under the Illinois Wage Payment and Collection Act [820 ILCS 115/9].

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

**Section 721.515 Automatic-Escalation**

- a) Contributions for participants who have been enrolled in the program for at least six months will automatically increase by 1% of an enrollee's wages at the beginning of each subsequent calendar year, up to a maximum of 10% of an enrollee's wages.
- b) The ~~program account~~ administrator shall notify all eligible enrollees in advance of any automatic contribution increase to allow for enrollees to opt out of automatic escalation or make alternative changes to their contribution rate.
- c) The ~~program account~~ administrator shall notify employers in advance of any automatic contribution increase for their eligible participant employees, and the employer shall enter the contribution changes into its payroll system as soon as administratively possible, not to exceed 30 days following receipt of the notification.
- d) Participants may adjust the rate of their automatic increase, opt in to automatic escalation, or opt out of automatic escalation at any time by notifying the ~~program account~~ administrator.



## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

**Section 721.520 Participant Statements**

Account statements shall be provided to participants by the [program](#)~~account~~ administrator on a quarterly basis. The account statements may be sent by U.S. mail and/or provided electronically in accordance with 26 CFR 1.401(a)-21 or in any other form permitted by the IRS.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

**Section 721.540 Rollovers, Transfers and Conversions**

- a) At the direction of the Board, the [program](#)~~account~~ administrator shall develop processes through which a participant or beneficiary may roll over or transfer an account to a different retirement savings vehicle in accordance with the Internal Revenue Code. The Program may receive rollovers and transfers from other retirement savings vehicles in accordance with the Internal Revenue Code.
- b) During a conversion from one [program](#)~~account~~ administrator to another, the [program](#)~~account~~ administrator shall take all commercially reasonable steps necessary to effect an orderly transition of the relevant portions of its duties and responsibilities in a manner that provides for reasonable consideration for the best interests of the participants and beneficiaries, avoids the likelihood of an increase in economic loss, and avoids the likelihood of resulting liability to the Board, its members, or the State. The [program](#)~~account~~ administrator shall not impede or delay the orderly transfer of its duties and responsibilities.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

## SUBPART F: WITHDRAWALS

**Section 721.610 Withdrawal Method**

A participant may request a withdrawal of funds from his or her account by submitting a completed withdrawal request to the [program](#)~~account~~ administrator. This request may also be accomplished electronically or in any other form permitted by the IRS.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

## OFFICE OF THE TREASURER

## NOTICE OF ADOPTED AMENDMENTS

## SUBPART G: MISCELLANEOUS

**Section 721.710 Disclosure**

The Board may disclose aggregate data that does not include information that is identifiable by participant or employer for purposes of research or reporting associated with the Program. The Board may disclose information that it is required to disclose under the Freedom of Information Act [5 ILCS 140]. The Board may disclose account information to the ~~program~~~~account~~ administrator, the providers of investments for the Program, the Treasurer's Office, Illinois Department of Revenue, Illinois Department of Employment Security, regulatory agencies to the extent disclosure is required by law, and to other persons or entities to the extent the disclosure is necessary to administer the Program.

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)

**Section 721.720 Website**

Information regarding the Program is available on the Treasurer's website at [www.illinoistreasurer.gov](http://www.illinoistreasurer.gov) or the ~~Program's~~~~Board's~~ website at [www.ilsecurechoice.com](http://www.ilsecurechoice.com).

(Source: Amended at 47 Ill. Reg. 17903, effective November 16, 2023)



## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## DECEMBER MEETING AGENDA

BILANDIC BUILDING  
ROOM C-600  
CHICAGO, ILLINOIS  
11:00 A.M.  
DECEMBER 12, 2023

**NOTICE:** JCAR policy is 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 rulemaking, they should submit written comments to the JCAR Office at the following address:

Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706  
217/785-2254 jcar@ilga.gov

**AGENDA****I. Attendance Roll Call****II. Approval of November 7, 2023 Minutes****III. Consideration of Rulemakings/Issues**

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**Environmental Protection Agency

35-365-23-12155 EMS

1. Procedures for Issuing Loans from the Water Pollution Control Loan Program (35 Ill. Adm. Code 365)
  - First Notice Published: 47 Ill. Reg. 12155 – 8/18/23
  - Expiration of Second Notice: 1/10/24

35-662-23-12184 EMS

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## DECEMBER MEETING AGENDA

2. Procedures for Issuing Loans from the Public Water Supply Loan Program (35 Ill. Adm. Code 662)
  - First Notice Published: 47 Ill. Reg. 12184 – 8/18/23
  - Expiration of Second Notice: 1/10/24

## 35-663-23-11879 EMS

3. Procedures for Issuing Loans from the Public Water Supply Loan Program to Provide Funding for Lead Service Line Replacement (35 Ill. Adm. Code 663)
  - First Notice Published: 47 Ill. Reg. 11879 – 8/11/23
  - Expiration of Second Notice: 12/23/23

Financial and Professional Regulation

## 38-185-22-19726 KK

4. Credit Union Community Reinvestment (38 Ill. Adm. Code 185)
  - First Notice Published: 46 Ill. Reg. 19726 – 12/16/22
  - Expiration of Second Notice: 12/26/23

## 38-345-22-19794 KK

5. Bank Community Reinvestment (38 Ill. Adm. Code 345)
  - First Notice Published: 46 Ill. Reg. 19794 – 12/16/22
  - Expiration of Second Notice: 12/26/23

## 38-385-22-19856 KK

6. Rules Governing the Request for Reconsideration of Examination Findings (38 Ill. Adm. Code 385)
  - First Notice Published: 46 Ill. Reg. 19856 – 12/16/22
  - Expiration of Second Notice: 12/26/23

## 38-1055-22-19861 KK

7. Mortgage Community Reinvestment (38 Ill. Adm. Code 1055)
  - First Notice Published: 46 Ill. Reg. 19861 – 12/16/22
  - Expiration of Second Notice: 12/26/23

Healthcare and Family Services

## 89-140-23-00315 EMS

8. Medical Payment (89 Ill. Adm. Code 140)
  - First Notice Published: 47 Ill. Reg. 315 – 1/13/23

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## DECEMBER MEETING AGENDA

-Expiration of Second Notice: 1/22/23

## 89-146-23-11994 EMS

9. Specialized Health Care Delivery Systems (89 Ill. Adm. Code 146)

-First Notice Published: 47 Ill. Reg. 11994 – 8/11/23

-Expiration of Second Notice: 12/16/23

Human Services

## 59-130-23-13443 EMS

10. Recovery and Mental Health Tax Credit (59 Ill. Adm. Code 130)

-First Notice Published: 47 Ill. Reg. 13443 – 9/22/23

-Expiration of Second Notice: 1/4/24

## 59-132-23-12626 EMS

11. Medicaid Community Mental Health Services Program (59 Ill. Adm. Code 132)

-First Notice Published: 47 Ill. Reg. 12626 – 8/25/23

-Expiration of Second Notice: 12/31/23

## 77-2060-23-12628 EMS

12. Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060)

-First Notice Published: 47 Ill. Reg. 12628 – 8/25/23

-Expiration of Second Notice: 12/31/23

## 89-50-23-10679 EMS

13. Child Care (89 Ill. Adm. Code 50)

-First Notice Published: 47 Ill. Reg. 10679 – 7/21/23

-Expiration of Second Notice: 1/10/24

## 89-121-23-12298 EMS

14. Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)

-First Notice Published: 47 Ill. Reg. 12298 – 8/18/23

-Expiration of Second Notice: 1/3/24

## 89-730-23-12630 EMS

15. Illinois Center for Rehabilitation and Education/Community Services for the Blind, Visually Impaired and Deafblind (89 Ill. Adm. Code 730)

-First Notice Published: 47 Ill. Reg. 12630 – 8/25/23

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## DECEMBER MEETING AGENDA

-Expiration of Second Notice: 1/10/24

89-750-23-12638 EMS

16. Role of Residential Educational Facilities Operated by the Illinois Department of Human Services (89 Ill. Adm. Code 750)

-First Notice Published: 47 Ill. Reg. 12638 – 8/25/23

-Expiration of Second Notice: 1/10/24

Natural Resources

17-670-23-10849 BT

17. White-Tailed Deer Hunting By Use of Bow and Arrow (17 Ill. Adm. Code 670)

-First Notice Published: 47 Ill. Reg. 10849 – 7/21/23

-Expiration of Second Notice: 12/13/23

17-4170-23-13149 BT

18. Rules for the Protection, Treatment and Inventory of Unmarked Human Burial Sites and Unregistered Graves (17 Ill. Adm. Code 4170)

-First Notice Published: 47 Ill. Reg. 13149 – 9/15/23

-Expiration of Second Notice: 1/10/24

Public Health

77-250-23-09134 EMS

19. Hospital Licensing Requirements (77 Ill. Adm. Code 250)

-First Notice Published: 47 Ill. Reg. 9134 – 7/7/23

-Expiration of Second Notice: 1/4/24

77-250-23-11724 EMS

20. Hospital Licensing Requirements (77 Ill. Adm. Code 250)

-First Notice Published: 47 Ill. Reg. 11724 – 8/4/23

-Expiration of Second Notice: 1/4/24

Revenue

86-100-23-13167 BT

21. Income Tax (86 Ill. Adm. Code 100)

-First Notice Published: 47 Ill. Reg. 13167 – 9/15/23

-Expiration of Second Notice: 12/20/23

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## DECEMBER MEETING AGENDA

Secretary of State

23-3035-23-13038 KK

22. Illinois State Library Grant Programs (23 Ill. Adm. Code 3035)

-First Notice Published: 47 Ill. Reg. 13038 – 9/8/23

-Expiration of Second Notice: 12/17/23

**EMERGENCY RULEMAKINGS**Aging

89-240-23-15675E EMS

23. Community Care Program (89 Ill. Adm. Code 240)

-Eff.: 10/18/23; Exp.: 3/15/24

Healthcare and Family Services

89-118-23-17206E EMS

24. Special Eligibility Groups (89 Ill. Adm. Code 118)

-Eff.: 11/13/23; Exp.: 4/10/24

Revenue

86-100-23-17214E BT

25. Income Tax (86 Ill. Adm. Code 100)

-Eff.: 11/6/23; Exp.: 4/3/24

State Police

20-1230-23-14038E BT

26. Firearm Owner's Identification Card Act (20 Ill. Adm. Code 1230)

-Eff.: 9/15/23; Exp.: 2/11/24

**PEREMPTORY RULEMAKING**Central Management Services

80-310-23-15712P EMS

JOINT COMMITTEE ON ADMINISTRATIVE RULES

DECEMBER MEETING AGENDA

27. Pay Plan (80 Ill. Adm. Code 310)  
-Eff.: 10/18/23

**EXEMPT RULEMAKING**

Pollution Control Board

35-611-23-09557 EMS

28. Primary Drinking Water Standards (35 Ill. Adm. Code 611)  
-Published: 7/14/23 – 47 Ill. Reg. 9551

**IV. Announcement of the next JCAR Meeting**

**V. Adjournment**

JOINT COMMITTEE ON ADMINISTRATIVE RULES  
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION  
TO PROPOSED RULEMAKING

ELEVATOR SAFETY REVIEW BOARD

Heading of the Part: Illinois Elevator Safety Rules

Code Citation: 41 Ill. Adm. Code 1000

Section Numbers: 1000.20      1000.120  
1000.30      1000.140  
1000.40      1000.150  
1000.50      1000.180  
1000.60

Date Originally Published in the *Illinois Register*: 5/12/23  
47 Ill. Reg. 6388

At its meeting on November 7, 2023, the Joint Committee on Administrative Rules considered the above-referenced rulemaking and recommends that the Elevator Safety Review Board engage with industry stakeholders at its quarterly Board Meetings, pursue filling Board vacancies, and report back to the Committee at its June 2024 meeting regarding if the elimination of the Temporary Certificate of Operation has impacted the public's access to elevators within the State.

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

## PROCLAMATIONS

**2023-326****Flag Lowering – LODD Firefighter and Emergency Medical Technician Andrew "Drew" Price**

**WHEREAS**, all residents owe a debt of gratitude to the firefighters of Illinois who selflessly risk their lives to protect people and keep our families and our property safe; and,

**WHEREAS**, every day, these men and women face great risks and often put their lives in danger to perform their duties; and,

**WHEREAS**, on Monday, November 13, 2023, 39-year-old Firefighter and Emergency Medical Technician (EMT) Andrew "Drew" Price of the Chicago Fire Department, died due to injuries sustained in the line of duty; and,

**WHEREAS**, a valiant and passionate public servant, Firefighter/EMT Price's dedication to his community was unparalleled, having served with the Chicago Fire Department for more than 13 years; and,

**WHEREAS**, Firefighter/EMT Price is survived by his wife, Lara Price, mother, Rochelle Price, parents-in-law, Karen Radez and Timothy Radez, siblings Courtney Reynolds, Carissa Weber, Jordan Price, and Natalie Price, as well as many other family members and friends;

**THEREFORE**, I, JB Pritzker, Governor of the State of Illinois, do hereby order all persons or entities governed by the Illinois Flag Display Act to lower flags to half-staff from sunrise Friday, November 17, 2023, till sundown Monday, November 20, 2023, in honor and remembrance of Firefighter and Emergency Medical Technician Andrew "Drew" Price, whose service shall forever be an inspiration to the people of Illinois.

Issued by the Governor: November 16, 2023

Filed by the Governor: November 16, 2023



## **ILLINOIS ADMINISTRATIVE CODE**

### **Issue Index - With Effective Dates**

Rules acted upon in Volume 47, Issue 48 are listed in the Issues Index by Title number, Part number, Volume and Issue. Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

#### **PROPOSED RULES**

89 - 301	.....	17563
89 - 359	.....	17575
89 - 402	.....	17589
2 - 1620	.....	17612
77 - 1100	.....	17619
77 - 1110	.....	17650
89 - 840	.....	17671
89 - 843	.....	17686
89 - 845	.....	17702
89 - 846	.....	17712
89 - 850	.....	17717
89 - 853	.....	17722
89 - 855	.....	17738
89 - 860	.....	17745
89 - 870	.....	17749
17 - 1535	.....	17755
17 - 2530	.....	17771
17 - 2580	.....	17778
62 - 240	.....	17786
77 - 955	.....	17803

#### **ADOPTED RULES**

71 - 10	11/15/2023 .....	17823
38 - 150	11/20/2023 .....	17827
68 - 1210	11/20/2023 .....	17844
68 - 1290	11/20/2023 .....	17846
89 - 50	11/20/2023 .....	17860
71 - 2005	11/16/2023 .....	17881
74 - 721	11/16/2023 .....	17903

#### **EXECUTIVE ORDERS AND PROCLAMATIONS**

23 - 326	11/16/2023 .....	17931
----------	------------------	-------