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ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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June 15, 2007
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INTRODUCTION

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

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

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

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

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1	December 26, 2006	January 5, 2007
2	January 2, 2007	January 12, 2007
3	January 8, 2007	January 19, 2007
4	January 16, 2007	January 26, 2007
5	January 22, 2007	February 2, 2007
6	January 29, 2007	February 9, 2007
7	February 5, 2007	February 16, 2007
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23	May 29, 2007	June 8, 2007

<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
24	June 4, 2007	June 15, 2007
25	June 11, 2007	June 22, 2007
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46	November 5, 2007	November 16, 2007
47	November 12, 2007	November 26, 2007
48	November 19, 2007	December 1, 2006
49	November 26, 2007	December 7, 2007
50	December 3, 2007	December 14, 2007
51	December 10, 2007	December 21, 2007
52	December 17, 2007	December 28, 2007

Editor's Note: The Secretary of State Index Department is providing this opportunity to notify you that the filing period for your Regulatory Agenda will occur from April 30, 2007 to July 2, 2007 as July 1, 2007 is a Sunday and the office is closed.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Permanency Planning
- 2) Code Citation: 89 Ill. Adm. Code 315
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
315.30	Amend
315.100	Amend
315.110	Amend
- 4) Statutory Authority: 20 ILCS 505
- 5) A complete description of the subjects and issues involved: Changes are being proposed to this Part to bring the Department into federal compliance with recent changes in Title IV-E regulations. In addition, cross-references to the Department's Indian Child Welfare Services rules (89 Ill. Adm. Code 307) are included that are to be considered when placing a Native American child.

In cases where a child is placed in an Illinois residential facility more than 300 miles from the caseworker's headquarters, the worker will maintain monthly telephone contact and visit the youth no less than once every six months. For youth placed for care in another state the requirement to visit once every twelve months is being amended to no less than once every six months. The caseworker from the state in which the child is placed must prepare a quarterly report regarding the health, safety and welfare of the child. A Department or Purchase of Service caseworker who visits a child from another state placed in care in Illinois will provide the same quarterly reports. Reports must be submitted to the respective Interstate Office and not directly to the caseworker.

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 11) Statement of Statewide policy objectives: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, place and manner in which interested parties 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 East Monroe, Station #65
Springfield, Illinois 62701-1498

Telephone: 217/524-1983
TDD: 217/524-3715
FAX: 217/557-0692
E-Mail address: cfpolicy@idcfs.state.il.us

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

- 13) Initial regulatory flexibility analysis: The Department has determined that the proposed amendment will not have an economic impact on small businesses.
- 14) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas: because the revisions were not anticipated at the time the regulatory agenda was completed.

The full text of the Proposed Amendments begin 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 a: SERVICE DELIVERY

PART 315

PERMANENCY PLANNING

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section

- 315.10 Purpose
- 315.20 Definitions
- 315.30 Best Interests Health and Safety of the Child
- 315.40 Accountability
- 315.45 The Need for a Permanent Home
- 315.50 Reasonable Efforts/Reasonable Progress
- 315.60 The Child's Sense of Time
- 315.70 The Critical Decisions
- 315.80 Components of the Permanency Planning Process

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section

- 315.100 Assessment
- 315.110 Worker Interventions and Contacts
- 315.120 Family Meetings
- 315.130 Developing the Service Plan
- 315.140 Distributing the Service Plan
- 315.150 Revising the Service Plan
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- 315.200 Selection of the Permanency Goal
- 315.205 Return Home Within Five Months
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- 315.220 Substitute Care Pending Court Determination on Termination of Parental Rights
- 315.225 Adoption
- 315.230 Guardianship

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315.235	Independence
315.240	Cannot Be Provided for in a Home Environment
315.245	Concurrent Planning
315.250	Applicability of Reunification Services

SUBPART D: EVALUATION AND DECISIONMAKING

Section	
315.300	Evaluating Whether Children in Placement Should Be Returned Home
315.305	When Reunification Is Inappropriate
315.310	Termination of Services and Planning for Aftercare

AUTHORITY: Implementing and authorized by the Children and Family Services Act [20 ILCS 505], the Abused and Neglected Child Reporting Act [325 ILCS 5], the Adoption Assistance and Child Welfare Act of 1980, amending Section 475 of the Social Security Act (42 USCA 670 et seq.), the Juvenile Court Act of 1987 [705 ILCS 405], and the Adoption Act [750 ILCS 50].

SOURCE: Adopted at 23 Ill. Reg. 2539, effective February 1, 1999; amended at 25 Ill. Reg. 11785, effective September 14, 2001; amended at 26 Ill. Reg. 7720, effective May 24, 2002; amended at 26 Ill. Reg. 11765, effective August 1, 2002; amended at 28 Ill. Reg. 8465, effective June 4, 2004; amended at 31 Ill. Reg. _____, effective _____.

SUBPART A: PRINCIPLES OF PERMANENCY PLANNING

Section 315.30 Best Interests, Health and Safety of the Child

- a) **Best Interests, Health and Safety of the Child**
- Permanency planning is an on-going process that first and foremost must consider the best interests, health and safety of the child in all planning decisions. Health and safety are the paramount factors that must be considered when determining the best interests of the child. This means that a child is or will be in a living arrangement that meets the placement selection criteria contained in 89 Ill. Adm. Code 301 (Placement and Visitation Services), or, for an Indian child, that meets the placement selection criteria contained in 89 Ill. Adm. Code 307 (Indian Child Welfare Services), and that protects the child's physical health and safety and promotes the child's emotional, medical, and developmental well-being. When evaluating the best interests of the child, the Department or its purchase of service provider shall consider the following factors as provided in the Juvenile Court Act:

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- 1) *the physical safety and welfare of the child, including food, shelter, health, and clothing;*
 - 2) *the development of the child's identity;*
 - 3) *the child's background and ties, including familial and religious, including the primary method and/or language of communication between the child and the biological parents or any other special communication needs;*
 - 4) *the child's sense of attachments, including:*
 - A) *where the child actually feels love, attachment, and a sense of being valued (as opposed to where adults believe the child should feel such love, attachment, and a sense of being valued);*
 - B) *the child's sense of security;*
 - C) *the child's sense of familiarity;*
 - D) *continuity of affection for the child;*
 - E) *the least disruptive placement alternative for the child;*
 - 5) *the child's wishes and long-term goals;*
 - 6) *the child's community ties, including church, school, and friends;*
 - 7) *the child's need for permanence, which includes the child's need for stability and continuity of relationships with parent figures and with siblings and other relatives;*
 - 8) *the uniqueness of every family and child;*
 - 9) *the risks attendant to entering and being in substitute care; and*
 - 10) *the preferences of the persons available to care for the child. [705 ILCS 405/1-3].*
- b) The child's best interests and health and safety must be considered and

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documented throughout service intervention and during, but not limited to, the following activities:

- 1) investigation of allegations of abuse or neglect,
- 2) completion of safety and risk assessments,
- 3) completion of the comprehensive assessment,
- 4) worker/client contacts,
- 5) service planning,
- 6) permanency goal selection,
- 7) family meetings,
- 8) administrative case reviews,
- 9) legal screenings, and
- 10) permanency hearings and other court proceedings.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART B: ASSESSMENT AND OTHER CASEWORK ACTIVITIES

Section 315.100 Assessment

Assessment consists of an initial assessment of a child and family to determine whether a case should be opened and services delivered, a comprehensive assessment to determine the needs of the family to provide the appropriate intervention and services, and an ongoing assessment conducted throughout the duration of time that the children and family are receiving services. Initial assessment provides a baseline of family strengths and needs by which a caseworker and supervisor can evaluate subsequent progress.

- a) Initial Assessment
The initial assessment consists of a preliminary assessment prior to case opening in order to:

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- 1) assess the health and safety of the children to determine whether the child can safely remain in his or her current living arrangement;
 - 2) identify the level of risk of harm to the children in the family, develop and implement a safety plan (if at any time the aggravating circumstances appropriate for expedited termination of parental rights exist, the worker shall immediately follow the instructions for expedited termination of parental rights contained in 89 Ill. Adm. Code 309 (Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible));
 - 3) identify what interventions and services can be provided to address the causes of abuse and neglect, and assure a child's health and safety without placement;
 - 4) identify any needs of an emergency nature, including food, shelter, and clothing;
 - 5) identify whether the child is an Indian child as defined in 89 Ill. Adm. Code 307 (Indian Child Welfare Services);
 - 65) begin to identify and preliminarily select placement resources that meet the placement selection criteria contained in 89 Ill. Adm. Code 301 (Placement and Visitation Services); and
 - 76) identify any special communication needs the child may have, in addition to identifying the communication needs specified by the child's parents and/or legal guardians.
- b) Comprehensive Assessment
- The comprehensive assessment is an assessment completed in time to ensure submittal of the service plan to the juvenile court no later than 45 days after placement as required by Section 2-10 of the Juvenile Court Act of 1987 [705 ILCS 405/2-10]. During the comprehensive assessment period the worker shall conduct at least weekly face-to-face visits with the parent and any children remaining in the custody of the parent. When the parent cannot be located, a diligent search shall be made to locate the parent, as required by 89 Ill. Adm. Code 332 (Diligent Searches Conducted by the Department of Children and

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Family Services), and the parent's portion of the comprehensive assessment shall be completed within 30 days after the parent is located.

- 1) The comprehensive assessment shall consist of any part of the initial assessment that has not yet been completed and the following tasks:
 - A) completion of a social history of the child and family to determine the strengths and needs of the family;
 - B) continued assessment of the health and safety and level of risk to the children in the family (If at any time the aggravating circumstances appropriate for expedited termination of parental rights exist, the worker shall immediately follow the instructions for expedited termination of parental rights.);
 - C) assessment of the parents as it relates to their ability to care for the child, including referral for diagnostic mental health and substance abuse assessment, when indicated;
 - D) for children for whom the Department has legal responsibility, the comprehensive assessment shall also include:
 - i) a compilation of the medical and immunization history of the child and, where available, relevant medical history of the child's parents;
 - ii) location of missing or non-custodial parents and other relatives and their relationship to the family;
 - iii) a preliminary, age appropriate substance abuse screening of the child, if indicated by any other component of the assessment;
 - iv) a basic educational screening including identification of the child's current school and grade level, educational history, and identification of any educational goals and needs, including the need for any further educational testing or assessments.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 2) In addition, for those children, who are placed in substitute care, the comprehensive assessment shall also include:
 - A) an initial health screening by a qualified medical provider in accordance with EPSDT standards, within 24 hours after placing the child in protective custody, of sufficient scope to permit the Department or purchase of service agency to ascertain enough about the current health of the child to identify:
 - i) any health needs requiring immediate attention; and
 - ii) any health information needed to make an informed placement decision.

If a child is in the hospital at the time the Department takes protective custody, the hospital discharge summary shall serve as the initial health screening.
 - B) a comprehensive health evaluation in time to submit the service plan to the juvenile court within the 45 day period after a child's placement in foster care that includes a physical, dental and mental health status of all children and a developmental screening on all children not yet of school age conducted by medical personnel and followed by more intensive evaluation as indicated or recommended. All children taken into Department custody are to be enrolled in Health Works within the first 45 days after the Department assumes custody.
- 3) For those children in foster or relative care, the comprehensive assessment shall include an assessment of whether the foster parent/relative caregiver identifying information shall be released to the parent. Identifying information of the foster parent/relative caregiver shall not be released to the child's parents or siblings in the care of their parents when any of the following is found in the assessment of the parent or other adult living in the home:
 - A) A check of the Law Enforcement Agencies Data System (LEADS) identifies a conviction for any of the crimes listed in Appendix A(a)(1), (3), or (4) of 89 Ill. Adm. Code 301 (Placement and

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Visitation Services); or

- B) The parent or other adult living in the home has threatened violence against a foster parent/relative caregiver or Department or purchase of service agency worker; or
 - C) The parent or other adult living in the home has exhibited violence against a foster parent/relative caregiver or Department or purchase of service agency worker in the past; or
 - D) The parent or other adult living in the home has or has threatened to abduct or harm the child.
- c) **Ongoing Assessment**
Ongoing assessment continues throughout the life of the case until service termination and shall be used to guide the Department or purchase of service agency in developing an appropriate case plan and guide decisionmaking concerning the Department's or purchase of service agency's reasonable efforts and the client's reasonable progress to correct conditions and/or behavior that threaten a child's health and safety. The ongoing assessment shall consist of reassessing health, safety and risk and the reapplication of any additional screenings as described in subsection (b) whenever the facts of the case indicate the need as well as well-child exams and a review of immunizations, until termination of services.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 315.110 Worker Interventions and Contacts

This Section applies to caseworker interventions and contacts made during the delivery of child welfare services and does not include the interventions and contacts required by child protective investigative staff during the course of child abuse and neglect investigations. To meet any of the intervention and contact requirements described in this Section with hearing impaired clients or limited non-English speaking clients, the worker must be able to facilitate communication using the client's primary mode of communication (e.g., fluency in the client's language or the use of foreign or sign language interpreters; e.g., Braille or taped communications for persons with visual impairments, etc.).

- a) **Initial Intervention and Contact by Caseworker**

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- 1) The assigned caseworker or person assigned by the supervisor, if the assigned caseworker is unavailable, must attend the shelter care hearing in court.
 - 2) The assigned caseworker must attempt face-to-face intervention and contact with the family in the home within five working days after the shelter care hearing or case assignment, whichever is earlier, unless the caseworker and supervisor believe, based upon the health, safety, and best interests of the child, that it is necessary to attempt contact sooner. If the family is unavailable, the caseworker shall make a second attempt within one working day after the failed attempt. If that attempt is also unsuccessful, the caseworker shall conduct a diligent search for the family.
- b) Ongoing Intervention and Contact
- 1) With Families
The families of children in placement shall be seen by the assigned caseworker at least monthly or more frequently as might be specified by the service plan unless parental rights have been terminated.
 - 2) With Children
The assigned caseworker shall see any child in substitute care in the child's living arrangement at least once every two weeks for the first month immediately following initial placement or a change in placement and at least once every month thereafter. When visiting children in substitute care, the caseworker must interview verbal children out of the presence of the caregiver.
 - 3) The above frequencies shall be followed, unless the supervisor, based on the assessment, determines and documents in the service plan, in writing, that the service plan requires more frequent or less frequent contact.
- c) Interventions and Contacts Following Reunification
During all interventions and contacts following reunification, the caseworker must see the child outside the presence of the parent.
- 1) Initial Intervention and Contact
Following the return home of a child who has been in substitute care, an

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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initial face-to-face intervention with the child and parent must be made via a visit in the home by the assigned caseworker within 24 to 72 hours after the child's return home. The timing of the visit will be based upon the safety plan completed when the child is returned home.

- 2) **First Month**
Following the initial visit, weekly or more frequent intervention and contact, as determined by the supervisor, with the child and parent in the home is required for the first month following reunification. At least two of the visits during this first month after reunification must be unannounced.
- 3) **Ongoing**
Frequency of intervention and contact subsequent to the first month of reunification shall be at least monthly until such time as safety and risk assessments indicate that there are no longer sufficient safety or risk factors present to require continued contact.
- d) **Contact With Foster Families/Relative Caregivers**
The assigned Department or purchase of service agency caseworker shall provide the primary foster parent or relative caregiver caring for a child for whom the Department is responsible with monthly face-to-face consultation and support and more often on an as needed basis. This face-to-face contact with the primary foster parent or relative caregiver may occur at the same time as contact with the children in placement is made, provided that children are given the opportunity to be seen and interviewed alone. If there are two or more foster children in one foster home with more than one worker, their respective workers shall together meet at least once every six months with the foster parent, in the foster home, to discuss issues affecting the children's care.
- e) **Children Placed in Residential Facilities**
Children placed in residential facilities (group homes or child care institutions and other facilities such as mental health and correctional facilities) must be visited by the assigned caseworker at least monthly, unless the facility is located more than 50 miles from the caseworker's headquarters. If the facility is more than 50 miles from the caseworker's headquarters, visits shall occur every two months. If the facility, in Illinois, is more than 300 miles from the caseworker's headquarters, the worker shall maintain monthly contact by teleconference with the youth and the provider and shall visit the youth no less than every six months.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- f) Children ~~Placed in Foster Care or Relative Care~~ Out of State Placements Children who are placed ~~in foster care or relative home care~~ out of state in compliance with 89 Ill. Adm. Code 328 (Interstate Placement of Children) must be visited no less frequently than every ~~six~~twelve months by a caseworker of the Department or of the state in which the child has been placed. If the caseworker from the state in which the child is placed conducts the visits, that worker shall prepare a quarterly report regarding the health, safety and welfare of the child. A Department or Purchase of Service worker who visits a child placed in Illinois from another state shall prepare the same quarterly report. In either case, the supervising caseworker must submit the quarterly report to his or her respective interstate office, and not directly to the other caseworker.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Licensing Standards for Day Care Homes
- 2) Code Citation: 89 Ill. Adm. Code 406
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
406.4	Amend
406.5	Amend
406.8	Amend
406.22	Amend
406.APPENDIX B	Amend
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], and the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Carbon Monoxide Alarm Detector Act [430 ILCS 135/10]
- 5) A Complete Description of the Subjects and Issues Involved: Sections 406.4 Application for License. Adds the requirement to provide, with the application, a written hazard protection plan of potential hazards in the home and the outdoor area such as traffic construction, bodies of water accessible to children, open stairwells, etc.

Section 406.5 Application for Renewal of License. Language detailing the actions the Department will follow when a timely and sufficient application for a renewal of license is submitted is replaced by language in statute [205 ILCS 10/5(d)] pursuant to a previous agreement with JCAR.

Section 406.8 General Requirements for Day Care Homes. Statutory provisions in [430 ILCS 135/10] requiring the installation of carbon monoxide detectors in homes that rely on combustion of fossil fuel or have an attached garage were added. In addition, language requiring greater protection of water and other hazards was added.

Section 406.22 Children Under 30 Months of Age. Subsections (b) and (g) clarify the positions a child may be put to sleep in order to prevent Sudden Infant Death Syndrome.

Appendix B. The provision of providing 2tbsp of peanut butter or meat to children 1 to 3 years of age was eliminated for consistency with Section 406.17(g) that does not allow these items to be provided to children under 2 in order to prevent choking.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

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- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 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
Springfield, Illinois 62701-1498

217/524-1983
TDD: 217/524-3715
E-Mail: CFPolicy@idcfs.state.il.us
Facsimile 217/557-0692

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

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses affected: This rulemaking affects home-operated child care businesses that are subject to licensure by the Department.
 - B) Reporting, bookkeeping or other procedures required for compliance: The ability to retain records related to compliance with fire codes and notices of compliance or non-compliance.

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- C) Types of professional skills necessary for compliance: The ability to understand and comply with licensing regulations affecting children's health and safety.
- 14) Regulatory Agenda on which this rulemaking was summarized: These amendments were not anticipated at the time the regulatory agenda was completed.

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 e: REQUIREMENTS FOR LICENSURE

PART 406

LICENSING STANDARDS FOR DAY CARE HOMES

Section

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AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Carbon Monoxide Alarm Detector Act [430 ILCS 135/10].

SOURCE: Adopted and codified at 7 Ill. Reg. 7855, effective July 1, 1983; amended at 8 Ill. Reg. 24951, effective January 1, 1985; amended at 9 Ill. Reg. 2454, effective March 1, 1985; emergency amendment at 15 Ill. Reg. 15088, effective October 8, 1991, for a maximum of 150 days; modified at 16 Ill. Reg. 2269; amended at 16 Ill. Reg. 7602, effective April 30, 1992; amended at 18 Ill. Reg. 5531, effective April 1, 1994; amended at 19 Ill. Reg. 2765, effective February 23, 1995; amended at 21 Ill. Reg. 4524, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4207, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17047, effective November 1, 2000; amended at 25 Ill. Reg. 5714, effective April 1, 2001; emergency amendment at 26 Ill. Reg. 13694, effective August 30, 2002, for a maximum of 150 days; emergency expired on January 26, 2003; amended at 27 Ill. Reg. 19180, effective December 15, 2003; amended at 30 Ill. Reg. 18280, effective November 13, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 406.4 Application for License

- a) A complete application shall be filed with the Department of Children and Family Services by the supervising agency on forms prescribed and provided by the Department.
- b) A complete application shall include:
 - 1) a completed, signed and dated Application for Home License;
 - 2) a list of persons who will be working in the day care home, including any substitutes and assistants, and members of the household age 13 and over;
 - 3) completed, signed and dated authorizations to conduct the background check for the applicants, each employee or person used to replace or supplement staff, and each member of the household age 13 and over;
 - 4) a completed, signed and dated Child Support Certification form; ~~and~~ |

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- 5) the names, addresses and telephone numbers of at least 3 adults not related to the applicants, nor living in the household, who can attest to their character and suitability to provide child care; ~~and-~~
- 6) a written hazard protection plan identifying potential hazards within the home and outdoor area accessible to the children in care. The written plan shall address the specific hazards and the adult supervision and physical means required to minimize the risks to children. Conditions to be addressed include, but are not limited to, traffic construction, bodies of water accessible to the children, open stairwells, and neighborhood dogs.
- c) The supervising agency shall study each day care home under its supervision before recommending issuance of a license. The licensing study shall be conducted by a licensing representative and shall be reviewed and approved by his/her supervisor. Supervisory approval indicates recommendation for license or denial of a license and compliance or non-compliance with the standards prescribed by this Part. The study shall be in writing and shall be signed by the licensing representative performing the study and by his/her supervisor. A license may not be recommended without the receipt of at least 3 positive, written references, and a written study signed by the licensing representative and supervisor. The applicant shall receive a copy of the results of the on-site compliance review upon request.
- d) Fire Safety
- 1) In order for a home to be licensed as a day care home, a fire inspection report (Appendix E) must be completed using forms provided by the Department indicating that the home is safe.
- 2) The fire inspection may be conducted by the licensing representative conducting the licensure study, staff of the private agency that supervises the day care home, the local fire department or the Office of the State Fire Marshal.
- A) For each new application received, the Department's Central Office of Licensing will notify the local fire prevention authorities and give them the opportunity to inspect the home applying for

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licensure and make recommendations on its suitability based on the standards prescribed by this Part.

- B) Department licensing staff and staff of child welfare agencies supervising licensed day care homes shall keep a list of fire departments that receive this notification. For license applicants residing in areas not covered by a participating fire department, Department staff or staff of the supervising agency shall notify the Office of the State Fire Marshal.
 - C) Once notified, the fire prevention authority shall have 15 working days to return its recommendations to the Department or supervising agency. Any comments received by the Department or supervising agency shall be considered in the licensing study. Applicants must comply with all requirements of this Part, whether or not recommendations are received.
 - D) If the local fire prevention authority or OSFM does not conduct a fire inspection, the fire inspection report shall be completed by the Department licensing representative or staff of the private agency supervising the home.
- 3) All fire inspection reports must be completed on forms prescribed and provided by the Department.
 - 4) Licensed day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.
- e) A new application shall be filed when any of the following occurs:
- 1) When an application for a license has been withdrawn, and the licensee or agency seeks to reapply;
 - 2) When there is a change in the name of the licensee, the location of the day care home, or the supervising agency;
 - 3) When there is a change in the status of joint licensees, such as separation, divorce or death; or

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- 4) Not sooner than 12 months after the Department has revoked or refused to renew a license and a new license is sought.
- f) Written approval of the supervising agency is required to effect changes in the license capacity or the ages of children served in conformance with the requirements of Section 406.13. Approval will not be granted unless the day care home's current operation is in compliance with the standards prescribed by this Part.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 406.5 Application for Renewal of License

- a) Application forms for license renewal shall be mailed to day care home licensees by the supervising agency 6 months prior to the expiration date of the license.
- b) The completed application shall be signed by the licensees and submitted to the supervising agency no later than 3 months from the date mailed to licensees to be considered timely and sufficient.
- c) When a licensed day care home seeks to change its name, location, or supervising agency, a new application reflecting the changes must be completed, signed by the licensees and submitted to the supervising agency 30 days prior to the effective date of the changes for the application to be considered timely and sufficient.
- d) When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to 30 days until the final Department decision has been made. The Department may further extend the period in which such decision must be made in individual cases for up to 30 days, if good cause is shown. [225 ILCS 10/5(d)]~~When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall continue in full force and effect until the final Department decision has been made (Section 5 of the Act).~~
- e) Fire Safety

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- 1) In order for a home to be licensed as a day care home, a fire inspection report (Appendix E) must be completed using forms provided by the Department indicating that the home is safe.
- 2) The fire inspection may be conducted by the licensing representative conducting the licensure study, staff of the private agency that supervises the day care home, the local fire department or the Office of the State Fire Marshal.
 - A) For each renewal application received, the Department's Central Office of Licensing will notify the local fire prevention authorities and give them the opportunity to inspect the home applying for licensure and make recommendations on its suitability based on the standards prescribed by this Part.
 - B) Department licensing staff and staff of child welfare agencies supervising licensed day care homes shall keep a list of fire departments that receive this notification. For license applicants residing in areas not covered by a participating fire department, Department staff or staff of the supervising agency shall notify the Office of the State Fire Marshal.
 - C) Once notified, the fire prevention authority shall have 15 working days to return its recommendations to the Department or supervising agency. Any comments received by the Department or supervising agency shall be considered in the licensing study. Applicants must comply with all requirements of this Part, whether or not recommendations are received.
 - D) If the local fire prevention authority or OSFM does not conduct a fire inspection, the fire inspection report shall be completed by the Department licensing representative or staff of the private agency supervising the home.
- 3) All fire inspection reports must be completed on forms prescribed and provided by the Department.
- 4) Licensed day care homes that fail to comply with all applicable local,

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municipal and State regulations may be prohibited from operating.

- f) Upon receipt of the application for license renewal, the supervising agency shall conduct a license study in order to determine that the day care home continues to meet licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. The licensees shall receive a copy of the results of the on-site compliance review upon request.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 406.8 General Requirements for Day Care Homes

- a) The physical facilities of the home, both indoors and outdoors, shall meet the following requirements for safety to children.
- 1) The home shall have a first aid kit consisting of adhesive bandages, scissors, thermometer, non-permeable gloves, Poison Control Center telephone number (1-800-222-1222), sterile gauze pads, adhesive tape, tweezers and mild soap.
 - 2) The kitchen shall be equipped with a readily accessible and operable fire extinguisher rated for Class A, B, and C fires and a flashlight in working order.
 - 3) Electrical outlets that are within reach of children under 5 years of age shall have protective coverings. There shall be no exposed or uninsulated wiring.
 - 4) The home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics.
 - A) A smoke detector in operating condition shall be within 15 feet of rooms where children nap or sleep. *The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4 and 6 inches from the ceiling.* In addition, there shall be at least one detector at the beginning and end of each separate corridor or hallway 200 feet or more in length in any

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occupied story.

- B) *In any facility constructed after December 31, 1987, or which undergoes substantial remodeling of its structure or wiring system after that date, the smoke detectors shall be permanently wired into the structure's AC power line, and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit. For purposes of this subsection (a)(4), "substantial remodeling" represents more than 15% of the replacement cost of the day care home.*
- C) *Compliance with any applicable federal, State or local law, rule or building code which requires the installation and maintenance of smoke detectors in a manner different from this Section, but providing a level of safety for occupants which is equal to or greater than that provided by this Section, shall be deemed to be compliance with this Section. (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])*
- 5) Fixed space heaters, fireplaces, radiators, and other heating sources in areas occupied by children shall be separated by partitions or a sturdy barrier to prevent contact. Portable space heaters may not be used in a day care home during the hours that child care is provided.
- 6) Facilities in which a wood-burning stove or fireplace has been installed and which is used during the hours that child care is provided shall provide a written plan of how the stove or fireplace will be used and what actions will be taken to ensure the children's safety when in use.
- 7) When the basement area may be used for child care, 2 exits shall be provided.
- A) At least one exit shall be a basement exit via a door directly to the outside (without traversing any other level of the home) or a protected exit from a basement via a door or stairway that allows unobstructed travel directly to the outside of the building at street or ground level. The stairway may not be more than 8 feet high.

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- B) A second exit may be a window.
 - i) The window shall be operable from the inside without the use of tools and provide a clear opening not less than 20 inches in width, 24 inches in height, and 5.7 square feet in area.
 - ii) If the window is used as a second exit, the bottom of the window opening shall be no more than 44 inches above the floor.
 - iii) When the bottom of the window opening used as a second exit is greater than 24 inches above the floor, there shall be a permanently affixed, sturdy ramp or stairs located below the window to allow speedy access in the event of an emergency.
 - C) If the basement area does not meet these exiting requirements, the basement may be used for child care only with the prior written approval of the Office of the State Fire Marshal or local agencies authorized by the Office of the State Fire Marshal to conduct inspections on its behalf.
- 8) All walls and surfaces shall be free from chipped or peeling paint.
 - 9) Walls of rooms that children use shall be maintained free of lead paint.
 - 10) Furniture and equipment shall be kept in safe repair.
 - 11) First aid supplies, medication, cleaning materials, poisons, sharp scissors, plastic bags, sharp knives, cigarettes, matches, lighters, flammable liquids, and other hazardous materials shall be stored in places inaccessible to children. Hazardous items for infants and toddlers also include items that can cause choking, including but not limited to: coins, balloons, safety pins, marbles, Styrofoam™ and similar products, and sponge, soft rubber or soft plastic toys that can be bitten or broken into small pieces.
 - 12) Tools and gardening equipment shall be stored in locked cabinets, if possible, or in places inaccessible to all children.

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- 13) *Handguns are prohibited on the premises of the day care home except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the day care home.*
- 14) *Any firearm, other than a handgun in the possession of a peace officer or other person as provided in subsection (a)(13), shall be kept in a disassembled state, without ammunition, in locked storage in a closet, cabinet, or other locked storage facility inaccessible to children. Ammunition for such firearms shall be kept in locked storage separate from that of the disassembled firearms, inaccessible to children.*
- 15) *The operator of the home shall notify the parents or guardian of any child accepted for care that firearms and ammunition are stored on the premises. The operator shall also notify the parents or guardian that such firearms and ammunition are locked in storage inaccessible to children.* (Section 7 of the Act) Such notification need not disclose the location where the firearms and ammunition are stored.
- 16) There shall be written plans for immediate evacuation in case of emergency. The evacuation plan shall identify the exits from each area used for child care and shall specify the evacuation route. Monthly fire drills shall be conducted for the purpose of removing children from the home as quickly as possible. Tornado drills shall be conducted monthly for the purpose of getting children accustomed to moving to a position of safety in the event of a tornado. Records shall be maintained of the dates and times required drills are conducted.
- 17) Exit doors shall be kept clear of equipment and debris at all times.
- 18) In the event of a fire, the day care home shall be evacuated immediately and the children's safety insured before calling the fire department or attempting to combat the fire.
- 19) There shall be an operable telephone available on the premises of the licensee. The number of the Poison Control Center (1-800-222-1222) and other emergency numbers shall be posted in an area that is readily available in an emergency.

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- 20) All in-ground swimming pools located in areas accessible to children shall be fenced. The fence shall be at least 5 feet in height and secured by a locked gate. Day care homes that have a license or a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.
- 21) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5 foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, steps shall be removed from the pool or otherwise protected to insure the pool cannot be accessed. Day care homes that have a license or a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.
- 22) Portable wading pools shall be emptied daily and disinfected before being air-dried.
- 23) All hot tubs shall have securely locked covers or otherwise be inaccessible to children.
- 24) Free hanging cords on blinds, shades and drapes shall be tied or otherwise kept out of reach of children.
- 25) A home that has an attached garage and/or relies on combustion of fossil fuel for heating, ventilation, or hot water shall be equipped with a minimum of one approved carbon monoxide detector in operating condition on every floor level, including basements and occupied attics.
- A) A carbon monoxide detector in operating condition shall be within 15 feet of rooms where children nap or sleep. The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4 and 6 inches from the ceiling
- B) The carbon monoxide detector may be combined with smoke detector devices, provided that the combined unit complies with the applicable provisions of the respective administrative code.

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- b) The kitchen shall be clean, equipped for the preservation, storage, preparation and serving of food, and reasonably safe from hazards.
- c) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies in areas for child care shall be disinfected daily unless plastic liners are used and disposed of daily.
- d) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of an approved public water supply, the applicant shall supply written records of current test results indicating the water supply is safe for drinking. New test results must be provided prior to relicensing. If nitrate content exceeds 10 parts per million, bottled water must be used for children under 15 months of age.
- e) Hot and cold running water shall be provided. When children under age 10 or who are developmentally disabled are cared for, the maximum hot water temperature from all faucets of sinks designated for children washing hands shall be no more than 115° Fahrenheit. Caregivers shall always test the hot water before allowing children less than 5 years of age to use the water.
- f) Insect and rodent control shall be maintained.
 - 1) All outside doors except those with operable self-closing devices, operable windows, and other openings used for ventilation shall be screened.
 - 2) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present. Over-the-counter products may be used only according to package instructions. Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained.
- g) Healthy household pets that present no danger to children are permitted.
 - 1) A licensed veterinarian shall certify that the animals are free of diseases that could endanger the children's health and that dogs and cats have been inoculated for rabies.

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- 2) If certification is not available, animals shall be confined at all times in an area inaccessible to children.
 - 3) There shall be careful supervision of children who are permitted to handle and care for the animals.
 - 4) Immediate treatment shall be available to any child who is bitten or scratched by an animal.
 - 5) The presence of monkeys, ferrets, turtles, iguanas, psittacine birds (birds of the parrot family) or any wild or dangerous animal is prohibited in areas accessible to children during the hours the day care home is in operation. Wild and dangerous animals include, but are not limited to, venomous and constricting snakes, undomesticated cats and dogs, racoons, and other animals determined to be dangerous by local public health authorities.
- h) Indoor space shall consist of a clean, comfortable environment for children.
- 1) The day care home shall be well-ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.
 - 2) The dwelling shall be kept clean, sanitary, and in good repair.
 - 3) There shall be provision for isolating a child who becomes ill or who is suspected of having a contagious disease.
 - 4) When used for child care, floors shall have protective covering such as, but not limited to, tile, carpet, linoleum. Paint or sealer alone is not acceptable as a protective covering.
 - 5) When children under 30 months of age are in care, stairs leading to second levels, attics or basements shall be fitted with a sturdy gate, door or other barrier to prevent the children's access to stairs without adult supervision. Such a barrier shall be moveable enough so as not to impede evacuation, if necessary.
- i) The licensee shall identify those areas in the home used for child care. The identified areas minus any special use areas shall be measured to calculate the square footage available for child care. When the licensed capacity of the home

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exceeds 8 children, there shall be:

- 1) A minimum of 35 square feet of floor space per each child in care, and
 - 2) An additional 20 square feet of floor space for each child under 30 months of age when the play area is the same as the sleep area. However, if portable bedding is used for napping, then removed, the licensing representative shall approve the use of only 35 square feet of space for each child if the applicant/licensee has adequate storage for the bedding materials and the bedding materials are removed before and after naptime.
- j) *No person may smoke tobacco in any area of the day care home in which day care services are being provided to children, while those children are present on the premises. In addition, no person may smoke tobacco while providing transportation, in either an open or enclosed motor vehicle, to children who are receiving child care services. Nothing in this subsection prohibits smoking in the home in the presence of a person's own children or in the presence of children to whom day care services are not then being provided. [225 ILCS 10/5.5]*
- k) There shall be safe outdoor space for active play.
- 1) Space shall be provided for play in yards, nearby parks or playgrounds under adult supervision.
 - 2) Space shall be protected by a physical barrier and means or by adult caregiver supervision against all water hazards, including, but not limited to, such as pools, ponds, standing water, ornamental bodies of water, and retention ponds, regardless of the depth of the water. Other hazards, such as, but not limited to, heavy traffic, and construction, shall be inaccessible to children in care through a physical barrier and adult supervision.
 - 3) Play areas shall be well drained and safely maintained.
 - 4) All pieces of outdoor equipment used by children 5 years of age and younger on the day care home premises that is purchased or installed on or after April 1, 2001 shall meet the following standards to guard against entrapment or situations that may cause strangulation.
 - A) Openings in exercise rings shall be smaller than 4½ inches or

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larger than 9 inches in diameter.

- B) There shall be no openings in a play structure with a dimension between 3½ inches and 9 inches (except for exercise rings). Side railings, stairs and other locations that a child might slip or climb through shall be checked for appropriate dimensions.
 - C) Distances between vertical slats or poles, where used, must be 3½ inches or less (to prevent head entrapment).
 - D) No opening shall form an angle of less than 55 degrees unless one leg of the angle is horizontal or slopes downward.
 - E) No openings shall be between ? inch and one inch in size (to prevent finger entrapment).
- 5) The use of a trampoline by children in care is prohibited.
 - 6) Children shall be closely supervised by the caregiver when public parks or playgrounds are used for play, during play and while traveling to and from the area.
 - 7) Supervision shall be provided during outdoor play by caregivers who meet the requirements of Section 406.9.
- l) Operation of other business on the premises must not interfere with the care of children.
 - m) A day care home may not house bedridden or chronically ill persons except by permission of the supervising agency. The supervising agency shall grant such permission unless the person has a contagious or a reportable communicable disease or requires care that adversely affects the ability of the caregiver to supervise children.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 406.22 Children Under 30 Months of Age

- a) Children under 30 months of age shall not be permitted in bathrooms, kitchens, or

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other hazardous areas without the caregiver or assistant present.

- b) To minimize the risk of Sudden Infant Death Syndrome, children shall be placed on their backs when put down to sleep.
- 1) When the infant cannot rest or sleep on his/her back due to a disability or illness, the caregiver shall have written instructions, signed by a physician, detailing an alternative safe sleep position and/or special sleeping arrangements for the infant. The caregiver shall put the infant to sleep in accordance with a physician's written instructions.
 - 2) When an infant can easily turn over from the back to tummy position, the infant shall be put down to sleep on his/her back, but allowed to adopt whatever sleeping position the infant prefers.
 - 3) Infants unable to roll from their stomachs to their backs, and from their backs to their stomachs, when found facedown, shall be placed on their backs.
 - 4) No infant shall be put to sleep on a sofa, soft mattress, car seat or swing.
 - 5) When an infant is awake, the infant shall be placed on his/her tummy part of the time and observed at all times.
~~unless contraindicated by a physician. Children shall not be placed on their abdomens, unless specifically instructed in writing by the child's physician to do so.~~
- c) Children under 30 months of age shall be provided a daily program that is designed to meet their needs.
- 1) The caregiver shall demonstrate warm, positive feelings toward each child through actions such as hugging, patting, smiling, and cuddling.
 - 2) Routines such as naps and feedings shall be discussed with the parents and shall be consistent with the child's routine at home.
 - 3) Non-mobile children who are awake shall be moved to different positions and shall be held, rocked, and carried about.

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- 4) The caregiver shall frequently change the place, position, and toys available for children who cannot move about the room.
 - 5) Consistent toilet training shall be undertaken at a time mutually agreed upon by parent and caregiver in accordance with the child's age and/or stage of development.
 - 6) Children shall be taken outdoors for a portion of every day, when weather permits, except when the child is ill or unless indicated otherwise by parent or physician.
- d) Feeding schedules and procedures shall meet the developmental needs of the children.
- 1) Flexible feeding schedules of children shall be established to coordinate with parents' schedules at home and to allow for nursing.
 - 2) Infants shall either be held or be fed sitting up for bottle feeding. Infants unable to sit shall always be held for bottle feeding. When infants are able to hold their own non-glass bottles, they may feed themselves without being held. The bottle must be removed when the child has fallen asleep. Bottle propping and carrying of bottles by young children throughout the day/night shall not be permitted.
 - 3) Bottles shall never be warmed or defrosted in a microwave oven.
 - 4) Children shall be allowed and encouraged to feed themselves when they indicate a readiness to do so.
 - 5) Safe finger foods such as those that dissolve in the mouth may be provided.
- e) Proper standards of hygiene shall be observed in the home.
- 1) Hands shall be washed with soap and running water and dried before the feeding of each child.
 - 2) Formula brought in by the parent shall be labeled and placed in the refrigerator.

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- 3) All utensils shall be washed after each use.
 - 4) Foods stored or prepared in jars shall be served from a separate dish for each child. Any leftovers from the serving dish shall be discarded. Leftovers in the jar shall be labeled with the child's name, dated, refrigerated, and served within 24 hours or discarded.
 - 5) A toilet shall be easily accessible so that the contents of reusable diapers may be disposed of before placing the diapers in the diaper pail. Disposable diapers and their contents shall be disposed of in accordance with the manufacturer's instructions.
 - 6) Persons changing diapers shall wash hands under running water with soap after each change of diaper. Hands shall be dried with single-use towels. Additionally, disposable, non-permeable gloves shall be worn when changing a child who has watery or bloody stools.
 - 7) The child whose diaper is being changed is to be washed on the hands and anal area if there has been defecation or if irritation is present.
 - 8) Children who are not toilet trained shall be diapered in their own cribs, at a central diapering area on a surface that is disinfected after each use, or on a disposable paper sheet that is disposed of after each diapering.
 - 9) The toilet seat, if soiled, or potty shall be cleaned with germicidal solution (see subsection (f)) after every use.
 - 10) Soiled diapers shall be changed promptly.
 - 11) Sheets shall be changed when soiled, and all sheets shall be changed routinely 2 times per week.
 - 12) All beds shall be wiped clean as often as necessary.
 - 13) Toys and equipment shall be kept clean.
- f) A germicidal solution of ¼ cup household chlorine bleach to one gallon of water (or one tablespoon bleach to one quart of water) or other germicidal solution

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approved by the Centers for Disease Control and Prevention shall be used to clean surfaces soiled by blood or body fluids. The bleach solution shall be made fresh daily.

- g) The equipment must be appropriate to the developmental needs of the children in care.
- 1) Safe, sturdy, well-constructed individual cribs, playpens, or port-a-cribs for infants shall be equipped with good firm, fitting mattresses made of waterproof materials that can be washed. Washable cots may be used for children 15 months of age and over.
 - 2) Sleeping equipment for children under 15 months must have protection to prevent falls.
 - 3) There shall be no more than 1½ inches of space between the mattress and bed frame when the mattress is pushed flush at one corner of the crib.
 - 4) No positioning device that restricts movement within the child's bed shall be used without written instructions from the child's physician. Soft bedding, bumpers, ~~pillowspillow~~, ~~quiltsquilt~~, comforters, sheepskins, stuffed toys, laundry and other soft products shall be removed from the crib when children are napping or sleeping. If using a blanket, put the child with feet at the foot of the crib. Tuck a thin blanket around the crib mattress, reaching only as far as the child's chest.
 - 5) Bed linens used on the cots, cribs, or playpens shall be safe, tightly fitting, and washable.
 - 6) Conveniently located, washable, plastic-lined covered receptacles shall be provided for soiled diapers and linens.
 - 7) A toilet seat or potty shall be provided.
- h) The materials must be appropriate to the developmental needs of the child in care.
- 1) Provision shall be made for an adequate supply of individual diapers, clothing, powder, oil, etc.

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- 2) There shall be a variety of toys and art materials for children under 30 months of age to observe, grasp, pick up, and manipulate.
 - 3) Pull toys, pounding toys, large hollow blocks, or large balls shall be available for development of large muscles.
 - 4) Mobile walkers are prohibited. Stationary exercisers may be used.
- i) Equipment and play materials shall be durable and free from characteristics that may be hazardous or injurious to children under 30 months of age. Hazardous or injurious characteristics include sharp, rough edges; toxic paint; and objects small enough to be swallowed.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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Section 406.APPENDIX B Meal Pattern Chart for Children Over One Year of Age

	BREAKFAST			LUNCH/SUPPER		
	Ages			Ages		
	1 to 3	3 to 6	6 to 12	1 to 3	3 to 6	6 and older ¹
MILK						
Milk, fluid	½ cup ²	¾ cup	1 cup	½ cup ²	¾ cup	1 cup
VEGETABLES AND FRUITS⁴						
Vegetable(s) and/or fruit(s)	¼ cup	½ cup	½ cup	¼ cup total	½ cup total	¾ cup total
or						
Full-strength vegetable or fruit juice or an equivalent quantity of any combination of vegetable(s), fruit(s), and juice.	¼ cup	½ cup	½ cup			
BREAD AND BREAD ALTERNATES³						
Bread	½ slice	½ slice	1 slice	½ slice	½ slice	1 slice
or						
Cornbread, biscuits, rolls, muffins, etc.	½ serving	½ serving	1 serving	½ serving	½ serving	1 serving
or						
Cold dry cereal	¼ cup or ? oz.	? cup or ½ oz.	¾ cup or 1 oz.			
or						
Cooked cereal	¼ cup	¼ cup	½ cup			
or						
Cooked pasta or noodle products	¼ cup	¼ cup	½ cup			
or						
Cooked cereal grain or an equivalent quantity of any combination of bread/bread alternate	¼ cup	¼ cup	½ cup			
Cooked pasta or noodle products or cooked cereal grains or an equivalent quantity of any combination of bread/bread alternate				¼ cup	¼ cup	½ cup
MEAT AND MEAT ALTERNATES						
Lean meat or poultry or fish ⁵				1 oz.	1½ oz.	2 oz.
or						
Cheese				1 oz.	1½ oz.	2 oz.
or						
Eggs				1 egg	1 egg	1 egg
or						
Cooked dry beans or peas				¼ cup	? cup	½ cup
or						
Peanut butter or an equivalent quantity of any combination of meat/meat alternate				2 2 tblsp.	3 tbsp.	4 tbsp.

¹Children age 12 and up may be served adult-sized portions based on the greater food needs of older boys and girls,

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but shall be served not less than the minimum quantities specified for children age 6 up to 12.

²For purposes of the requirements outlined, a cup means a standard measuring cup.

³Bread, pasta, or noodle products and cereal grains shall be whole-grain or enriched. Cornbread, biscuits, rolls, muffins, etc., shall be made with whole-grain or enriched meal or flour. Cereal shall be whole-grain or enriched or fortified.

⁴Serve 2 or more kinds of vegetable(s) and/or fruit(s). Full strength vegetable or fruit juice may be counted to meet not more than one-half of this requirement.

⁵Cooked lean meat without bone.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Licensing Standards for Group Day Care Homes
- 2) Code Citation: 89 Ill. Adm. Code 408
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
408.10	Amend
408.15	Amend
408.30	Amend
408.65	Amend
408.105	Amend
408.120	Amend
- 4) Statutory Authority: Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], and the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Carbon Monoxide Alarm Detector Act [430 ILCS 135/10]
- 5) A Complete Description of the Subjects and Issues Involved: Sections 408.10 Application for License. Adds the requirement to provide with the application a written hazard protection plan of potential hazards in the home and the outdoor area such as traffic construction, bodies of water accessible to children, open stairwells, and others. In addition the language under the paragraph on fire safety referring to "staff of a supervising agency" other than the Department was deleted from this Section and Section 408.15 because group day care homes are only supervised by the Department and not by a child welfare agency.

Section 408.15 Application for Renewal of License. Language detailing the actions the Department will follow when a timely and sufficient application for renewal is submitted has been replaced by language in statute [205 ILCS 10/5(d)] pursuant to a previously agreed with JCAR

Section 408.30 General Requirements for Group Day Care Homes. Statutory provisions in [430 ILCS 135/10] requiring the installation of carbon monoxide detectors in homes that rely on combustion of fossil fuel or have an attached garage were added. In addition, language requiring greater protection of water and other hazards was added.

Section 408.65 Number and Ages of Children Served. The language for when an assistant during extended capacity is needed was clarified.

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Section 408.105 Children Under 30 Months of Age. Subsections (b) and (g) clarify the positions a child may be put to sleep in order to prevent Sudden Infant Death Syndrome.

Section 408.120 Records and Reports. In subsection (p) cross-reference 89 Ill. Adm. Code 406.55(a) was corrected to read 89 Ill. Adm. Code 408.55(a).

- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 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
Springfield, Illinois 62701-1498

217/524-1983
TDD: 217/524-3715
E-Mail: CFPolicy@idcfs.state.il.us
Facsimile: 217/557-0692

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

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses affected: This rulemaking affects home operated child care businesses that are subject to licensure by the Department.
 - B) Reporting, bookkeeping or other procedures required for compliance: The ability to retain records related to compliance with fire codes and notices of compliance or non-compliance.
 - C) Types of professional skills necessary for compliance: The ability to understand and comply with licensing regulations affecting children's health and safety.
- 14) Regulatory Agenda on which this rulemaking was summarized: These amendments were not anticipated when the regulatory agenda was completed.

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

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TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER e: REQUIREMENTS FOR LICENSURE

PART 408

LICENSING STANDARDS FOR GROUP DAY CARE HOMES

Section	
408.1	Purpose
408.5	Definitions
408.7	Effective Date of Standards (Repealed)
408.10	Application For License
408.15	Application for Renewal of License
408.20	Provisions Pertaining to the License
408.25	Provisions Pertaining to Permits
408.30	General Requirements for Group Day Care Homes
408.35	General Requirements for Group Day Care Home Family
408.40	Background Checks
408.45	Caregivers
408.50	Child Care Assistants
408.55	Substitutes
408.60	Admission and Discharge Procedures
408.65	Number and Ages of Children Served
408.70	Health, Medical Care and Safety
408.75	Discipline of Children
408.80	Nutrition and Meals
408.85	Program
408.90	Transportation of Children
408.95	Swimming
408.100	Children with Special Needs
408.105	Children Under 30 Months of Age
408.110	School Age Children
408.115	Night Care
408.120	Records and Reports
408.125	Confidentiality of Records and Information
408.130	Cooperation with the Department
408.135	Severability of This Part
408.APPENDIX A	Meal Pattern Chart for Children 0 to 12 Months of Age
408.APPENDIX B	Meal Pattern Chart for Children Over One Year of Age
408.APPENDIX C	Minimum Equipment and Supplies – Preschool Programs

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408.APPENDIX D	Minimum Equipment and Supplies – Infant and Toddler Programs
408.APPENDIX E	Background of Abuse, Neglect, or Criminal History Which May Prevent Licensure or Employment in a Group Day Care Home
408.APPENDIX F	Early Childhood Teacher Credentialing Programs
408.APPENDIX G	In-Service Training
408.APPENDIX H	Chart of Number and Ages of Children Served
408.APPENDIX I	List of Items for Fire Prevention Inspection

AUTHORITY: Implementing and authorized by the Child Care Act of 1969 [225 ILCS 10], the Children's Product Safety Act [430 ILCS 125], Section 3 of the Abused and Neglected Child Reporting Act [325 ILCS 5/3], Sections 1 and 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/1 and 2], and Carbon Monoxide Alarm Detector Act [430 ILCS 135/10].

SOURCE: Adopted at 13 Ill. Reg. 14828, effective October 1, 1989; emergency amendment at 15 Ill. Reg. 15104, effective October 8, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 8950, effective May 30, 1992; amended at 18 Ill. Reg. 5540, effective April 1, 1994; amended at 19 Ill. Reg. 2784, effective February 23, 1995; amended at 21 Ill. Reg. 4563, effective April 1, 1997; emergency amendment at 24 Ill. Reg. 4212, effective March 1, 2000, for a maximum of 150 days; emergency expired July 28, 2000; amended at 24 Ill. Reg. 17057, effective November 1, 2000; amended at 25 Ill. Reg. 5281, effective April 1, 2001; amended at 27 Ill. Reg. 19232, effective December 15, 2003; amended at 30 Ill. Reg. 18310, effective November 13, 2006; amended at 31 Ill. Reg. _____, effective _____.

Section 408.10 Application For License

- a) A complete application shall be filed with the Department of Children and Family Services on forms prescribed and provided by the Department.
- b) A complete application shall include:
 - 1) a completed, signed and dated Application for Home License;
 - 2) a list of persons who will be working in the group day care home, including any substitutes and assistants, and members of the household age 13 and over;
 - 3) completed, signed and dated authorizations to conduct the background check for the applicant, each employee or person used to replace or supplement staff, and each member of the household age 13 and over;

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- 4) a completed, signed and dated Child Support Certification form;
 - 5) documentation that the applicant meets the qualifications for a caregiver in Section 408.45(e); ~~and~~
 - 6) the names, addresses and telephone numbers of at least 3 adults not related to the applicants, nor living in the household, who can attest to their character and suitability to provide child care; ~~and-~~
 - 7) a written hazard protection plan identifying potential hazards within the home and outdoor area accessible to the children in care. The written plan shall address the specific hazards and the adult supervision and physical means required to minimize the risks to children. Conditions to be addressed include, but are not limited to, traffic construction, bodies of water accessible to the children, open stairwells, and neighborhood dogs.
- c) Fire Safety
- 1) In order for a home to be licensed as a group day care home, a fire inspection report (Appendix I) must be completed using forms provided by the Department indicating that the home is safe.
 - 2) The fire inspection may be conducted by the licensing representative conducting the licensure study, staff of the private agency that supervises the group day care home, the local fire department or the Office of the State Fire Marshal.
 - A) For each new application received, the Department's Central Office of Licensing will notify the local fire prevention authorities and give them the opportunity to inspect the home applying for licensure and make recommendations on its suitability based on the standards prescribed by this Part.
 - B) Department licensing staff ~~and staff of child welfare agencies~~ supervising licensed group day care homes shall keep a list of fire departments that receive this notification. For license applicants residing in areas not covered by a participating fire department,

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Department staff ~~or staff of the supervising agency~~ shall notify the Office of the State Fire Marshal.

- C) Once notified, the fire prevention authority shall have 15 working days to return its recommendations to the Department ~~or supervising agency~~. Any comments received by the Department ~~or supervising agency~~ shall be considered in the licensing study. Applicants must comply with all requirements of this Part, whether or not recommendations are received.
 - D) If the local fire prevention authority or OSFM does not conduct a fire inspection, the fire inspection report shall be completed by the Department licensing representative ~~or staff of the private agency~~ supervising the home.
- 3) All fire inspection reports must be completed on forms prescribed and provided by the Department.
 - 4) Licensed day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.
- d) The license shall be issued when the standards prescribed by this Part have been met. Upon receipt of an application for a license, the Department shall conduct a license study to determine if the group day care home meets licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. A license may not be recommended without the receipt of at least three positive, written references, and a written study signed by the licensing representative and supervisor. The applicant shall receive a copy of the results of the on-site compliance review upon request.
 - e) A new application shall be filed when any of the following occurs:
 - 1) When an application for a license has been withdrawn, and the applicant or licensee seeks to reapply;
 - 2) When there is a change in the name of the licensee or the location of the group day care home;

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- 3) When there is a change in the status of joint licensees, such as separation, divorce or death; or
- 4) Not sooner than 12 months after the Department has revoked or refused to renew a license and a new license is sought.
- f) Written approval of the Department is required to effect changes in the license capacity, the area of the home used for child care, or the ages of children served in conformance with the requirements of Section 408.65. Approval will not be granted unless the day care home's current operation is in compliance with the standards prescribed by this Part.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 408.15 Application for Renewal of License

- a) Application forms for license renewal shall be mailed to group day care home licensees by the Department 6 months prior to the expiration date of the license.
- b) The completed application shall be signed by the licensees and submitted to the Department no later than 30 days from the date mailed to licensees to be considered timely and sufficient.
- c) When a licensed group day care home seeks to change its name or location, a new application reflecting the changes must be completed, signed by the licensees and submitted to the Department 3 months prior to the effective date of the changes for the application to be considered timely and sufficient.
- d) When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature and the Department fails to render a decision on the application for renewal of the license prior to the expiration date of the license, the existing license shall continue in full force and effect for up to 30 days until the final Department decision has been made. The Department may further extend the period in which such decision must be made in individual cases for up to 30 days, if good cause is shown. [225 ILCS 10/5(d)]~~When a licensee has made timely and sufficient application for renewal of a license or a new license with reference to any activity of a continuing nature, the existing license shall continue in full force and effect until the final Department decision has been made. (Section 5 of the Act)~~

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- e) Fire Safety
- 1) In order for a home to be licensed as a group day care home, a fire inspection report (Appendix I) must be completed using forms provided by the Department indicating that the home is safe.
 - 2) The fire inspection may be conducted by the licensing representative conducting the licensure study, staff of the private agency that supervises the group day care home, the local fire department or the Office of the State Fire Marshal.
 - A) For each renewal application received, the Department's Central Office of Licensing will notify the local fire prevention authorities and give them the opportunity to inspect the home applying for licensure and make recommendations on its suitability based on the standards prescribed by this Part.
 - B) Department licensing staff ~~and staff of child welfare agencies~~ supervising licensed group day care homes shall keep a list of fire departments that receive this notification. For license applicants residing in areas not covered by a participating fire department, Department staff ~~or staff of the supervising agency~~ shall notify the Office of the State Fire Marshal.
 - C) Once notified, the fire prevention authority shall have 15 working days to return its recommendations to the Department ~~or supervising agency~~. Any comments received by the Department ~~or supervising agency~~ shall be considered in the licensing study. Applicants must comply with all requirements of this Part, whether or not recommendations are received.
 - D) If the local fire prevention authority or OSFM does not conduct a fire inspection, the fire inspection report shall be completed by the Department licensing representative ~~or staff of the private agency~~ supervising the home.
 - 3) All fire inspection reports must be completed on forms prescribed and provided by the Department.

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- 4) Licensed day care homes that fail to comply with all applicable local, municipal and State regulations may be prohibited from operating.
- f) Upon receipt of the application for license renewal, the Department shall conduct a license study in order to determine that the group day care home continues to meet licensing standards. The licensing study shall be in writing and shall be reviewed and signed by the licensing supervisor and the licensing representative performing the study. The licensees shall receive a copy of the results of the on-site compliance review upon request.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 408.30 General Requirements for Group Day Care Homes

- a) The physical facilities of the home, both indoors and outdoors, shall meet the following requirements for safety to children.
 - 1) The home shall have a first aid kit consisting of adhesive bandages, scissors, non-permeable gloves, Poison Control Center telephone number (1-800-222-1222), thermometer, sterile gauze pads, adhesive tape, tweezers, first aid cream and mild soap.
 - 2) The kitchen shall be equipped with a readily accessible and operable fire extinguisher rated for Class A, B, and C fires and a flashlight in working order.
 - 3) Electrical outlets that are within reach of children under 5 years of age shall have protective coverings. There shall be no exposed or uninsulated wiring.
 - 4) The home shall be equipped with a minimum of one approved smoke detector in operating condition on every floor level, including basements and occupied attics.
 - A) A smoke detector in operating condition shall be within 15 feet of rooms where children nap or sleep. *The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4 and 6 inches from the ceiling.* In addition, there

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shall be at least one detector at the beginning and end of each separate corridor or hallway 200 feet or more in length in any occupied story.

- B) *In any facility constructed after December 31, 1987, or which undergoes substantial remodeling of its structure or wiring system after that date, the smoke detectors shall be permanently wired into the structure's AC power line, and, if more than one detector is required to be installed, the detectors shall be wired so that the activation of one detector will activate all the detectors in the facility unit.* For purposes of this subsection (a)(4), "substantial remodeling" represents more than 15 percent of the replacement cost of the group day care home.
- C) *Compliance with any applicable federal, State or local law, rule or building code which requires the installation and maintenance of smoke detectors in a manner different from this Section, but providing a level of safety for occupants which is equal to or greater than that provided by this Section, shall be deemed to be compliance with this Section.* (Section 2 of the Facilities Requiring Smoke Detectors Act [425 ILCS 10/2])
- 5) Fixed space heaters, fireplaces, radiators, and other heating sources in areas occupied by children shall be separated by partitions or a sturdy barrier to prevent contact. Portable space heaters may not be used in a group day care home during the hours that child care is provided.
- 6) A facility, in which a wood-burning stove or fireplace has been installed and that is used during the hours that child care is provided, shall provide a written plan of how the stove or fireplace will be used and what actions will be taken to ensure the children's safety when in use.
- 7) In one and 2 family dwellings, children under 30 months of age shall be housed and cared for on the second floor or below. In other residential buildings, children under 30 months of age shall be housed and cared for only in areas that the Office of the State Fire Marshal or local agencies authorized by the Office of the State Fire Marshal to conduct inspections on its behalf state, in writing, that the combination of remote exits, fire detection, fire suppression, and/or automatic sprinkler system render the

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residence safe for the care of infants and toddlers.

- 8) No area accessible only by a ladder or folding stairs or through a trap door shall be used for sleeping or napping.
- 9) When the basement area may be used for child care, 2 exits shall be provided.
 - A) At least one exit shall be a basement exit via a door directly to the outside (without traversing any other level of the home) or a protected exit from a basement via a door or stairway that allows unobstructed travel directly to the outside of the building at street or ground level. The stairway may not be more than 8 feet high.
 - B) A second exit may be a window.
 - i) The window shall be operable from the inside without the use of tools and provide a clear opening not less than 20 inches in width, 24 inches in height, and 5.7 square feet in area.
 - ii) If the window is used as a second exit, the bottom of the window opening shall be no more than 44 inches above the floor.
 - iii) When the bottom of the window opening used as a second exit is more than 24 inches from the floor, there shall be a permanently affixed, sturdy ramp or stairs located below the window to allow speedy access in the event of an emergency.
 - C) If the basement area does not meet these existing requirements, the basement may be used for child care only with the prior written approval of the Office of the State Fire Marshal or local agencies authorized by the Office of the State Fire Marshal to conduct inspections on its behalf.
- 10) All walls and surfaces shall be free from chipped or peeling paint.

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- 11) Walls of rooms that children use shall be maintained free of lead paint.
- 12) Furniture and equipment shall be kept in safe repair.
- 13) First aid supplies, medication, cleaning materials, poisons, sharp scissors, plastic bags, sharp knives, cigarettes, matches, lighters, flammable liquids, and other hazardous materials shall be stored in places inaccessible to children. Hazardous items for infants and toddlers also include items that can cause choking, including but not limited to: coins, balloons, safety pins, marbles, Styrofoam (trademark) and similar products, and sponge, soft rubber or soft plastic toys that can be bitten or broken into small pieces.
- 14) Tools and gardening equipment shall be stored in locked cabinets, if possible, or in places inaccessible to all children.
- 15) Exit doors shall be kept clear of equipment and debris at all times.
- 16) There shall be an operable telephone available on the premises of the licensee. The number of the Poison Control Center (1-800-222-1222) and other emergency numbers shall be posted in an area that is readily available in an emergency.
- 17) Free hanging cords on blinds, shades and drapes shall be tied or otherwise kept out of reach of children.
- 18) A home that has an attached garage and/or relies on combustion of fossil fuel for heating, ventilation, or hot water shall be equipped with a minimum of one approved carbon monoxide detector in operating condition on every floor level, including basements and occupied attics.
 - A) A carbon monoxide detector in operating condition shall be within 15 feet of rooms where children nap or sleep. The detector shall be installed on the ceiling and at least 6 inches from any wall, or on a wall located between 4 and 6 inches from the ceiling.
 - B) The carbon monoxide detector may be combined with smoke detector devices, provided that the combined unit complies with the applicable provisions of the regulations applicable to each.

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- b) The licensee shall identify those areas in the home used for child care. The identified areas minus any special use areas shall be measured to calculate the square footage available for child care. There shall be:
- 1) A minimum of 35 square feet of floor space for each child in care; and
 - 2) An additional 20 square feet of floor space for each child under 30 months of age when the play area is the same as the sleep area. However, if portable bedding is used for napping, then removed, the licensing representative shall approve the use of only 35 square feet of space for each child if the applicant/licensee has adequate storage space for the bedding materials and the bedding materials are removed before and after nap time.
- c) *No person may smoke tobacco in any area of the group day care home in which day care services are being provided to children, while those children are present on the premises. In addition, no person may smoke tobacco while providing transportation, in either an open or enclosed vehicle, to children who are receiving child care services. Nothing in this subsection prohibits smoking in the home in the presence of a person's own children or in the presence of children to whom day care services are not then being provided. [225 ILCS 10/5.5]*
- d) Indoor space shall consist of a clean, comfortable environment for children.
- 1) The group day care home shall be well-ventilated, free from observable hazards, properly lighted and heated, and free of fire hazards.
 - 2) The dwelling shall be kept clean, sanitary, and in good repair.
 - 3) There shall be provision for isolating a child who becomes ill or who is suspected of having a communicable, infectious or contagious disease.
 - 4) When used for child care, floors shall have protective covering such as, but not limited to, tile, carpet, linoleum. Paint or sealer alone is not acceptable as a protective covering.
 - 5) When children under 30 months of age are in care, stairs leading to second levels, attics or basements shall be fitted with a sturdy gate, door or

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other barrier to prevent the children's access to the stairs without adult supervision. Such a barrier shall be moveable enough so as not to impede evacuation, if necessary.

- e) The kitchen shall be clean, equipped for the preservation, storage, preparation and serving of food, and reasonably safe from hazards.
- f) Garbage and refuse containers used to discard diapering supplies, food products or disposable meal service supplies in areas for child care shall be disinfected daily unless plastic liners are used and disposed of daily.
- g) A safe and sanitary water supply shall be maintained. If a private water supply is used instead of an approved public water supply, the applicant shall supply written records of current test results indicating the water supply is safe for drinking. New test results must be provided prior to relicensing. If nitrate content exceeds 10 parts per million, bottled water must be used for children under 15 months of age.
- h) Hot and cold running water shall be provided. When children under age 10 or who are developmentally disabled are cared for, the maximum hot water temperature from all faucets of sinks designated for children washing hands shall be no more than 115° Fahrenheit. Caregivers shall always test the hot water before allowing children less than 5 years of age to use the water.
- i) The group day care home shall provide one toilet for each 10 persons or portion thereof who are present during the hours the group day care home is in operation. These 10 persons include caregivers, child care assistants, members of the household and children other than those under 30 months of age for whom a potty chair is provided.
- j) There shall be a minimum of 75 square feet of outdoor space per child for the total number of children using the area at any one time. At least 25% of the required space shall be on the premises of the group day care home. The remainder may be a public park, playground or other outdoor recreation area within walking distance (1000 feet) of the group day care home provided the caregiver or an adult assistant accompanies children to this outdoor area.
- k) There shall be safe outdoor space for active play.

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- 1) Space shall be provided for play in yards, nearby parks or playgrounds under adult supervision.
- 2) Space shall be protected by a physical barrier and means ~~or~~ by adult caregiver supervision against all water hazards, including, but not limited to, such as pools, ponds, standing water, ornamental bodies of water, and retention ponds, regardless of the depth of the water. Other hazards, such as, but not limited to, heavy traffic, and construction, shall be inaccessible to children in care through a physical barrier and adult supervision. Further, outdoor space shall be partitioned or supervised in such a manner that young children are not endangered by the activities of older children.
- 3) Play areas shall be well drained and safely maintained.
- 4) All pieces of outdoor equipment used by children 5 years of age and younger on the day care premises that is purchased or installed on or after April 1, 2001 shall meet the following standards to guard against entrapment or situations that may cause strangulation.
 - A) Openings in exercise rings shall be smaller than 4½ inches or larger than 9 inches in diameter.
 - B) There shall be no openings in a play structure with a dimension between 3½ inches and 9 inches (except for exercise rings). Side railings, stairs and other locations that a child might slip or climb through shall be checked for appropriate dimensions.
 - C) Distances between vertical slats or poles, where used, must be 3½ inches or less (to prevent head entrapment).
 - D) No opening shall form an angle of less than 55 degrees unless one leg of the angle is horizontal or slopes downward.
 - E) No opening shall be between ? inch and one inch in size (to prevent finger entrapment).
- 5) The use of a trampoline by children in care is prohibited.
- 6) In-ground swimming pools located in areas accessible to children shall be

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fenced. The fence shall be at least 5 feet in height and secured by a locked gate. Group day care homes that are licensed or have a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.

- 7) All above-ground pools shall have non-climbable sidewalls that are at least 4 feet high or shall be enclosed with a 5 foot fence that is at least 36 inches away from the pool's side wall and secured with a locked gate. When the pool is not in use, steps shall be removed from the pool or otherwise protected to insure the pool cannot be accessed. Group day care homes that are licensed or have a permit on April 1, 2001 and are in compliance with the requirement for a 3½ foot fence shall be considered in compliance with the fence requirement.
 - 8) Portable wading pools shall be emptied daily and disinfected before being air-dried.
 - 9) All hot tubs shall have securely locked covers or otherwise be inaccessible to children.
 - 10) Children shall be closely supervised by the caregiver when public parks or playgrounds are used for play, during play and while traveling to and from the area.
 - 11) Supervision shall be provided during outdoor play by caregivers who meet the requirements of Section 408.45 of this Part.
- l) A caregiver who relies upon outdoor space shared with other residents in a multiple family dwelling shall have a written agreement with the other residents or the owners of the outdoor area authorizing the use of the space by the group day care home and the children cared for.
 - m) Insect and rodent control shall be maintained.
 - 1) All outside doors except those with operable self-closing devices, operable windows, and other openings used for ventilation shall be screened.
 - 2) Chemicals for insect and rodent control shall be applied in minimum amounts and shall not be used when children are present. Over-the-

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counter products may be used only according to package instructions. Commercial chemicals, if used, shall be applied by a licensed pest control operator and shall meet all standards of the Department of Public Health (Structural Pest Control Code, 77 Ill. Adm. Code 830). A record of any pesticides used shall be maintained.

- n) Healthy household pets that present no danger to children are permitted.
 - 1) A licensed veterinarian shall certify that the animals are free of diseases that could endanger the children's health and that dogs and cats have been inoculated for rabies.
 - 2) If certification is not available, animals shall be confined at all times in an area inaccessible to children.
 - 3) There shall be careful supervision of children who are permitted to handle and care for the animals.
 - 4) Immediate treatment shall be available to any child who is bitten or scratched by an animal.
 - 5) The presence of monkeys, ferrets, turtles, iguanas, psittacine birds (birds of the parrot family) or any wild or dangerous animal is prohibited in areas accessible to children during the hours the group day care home is in operation. Wild and dangerous animals include, but are not limited to, venomous and constricting snakes, undomesticated cats and dogs, raccoons, and other animals determined to be dangerous by local public health authorities.
- o) The Department shall request that the Illinois Department of Public Health or a local health department authorized by it and/or the Office of the State Fire Marshal or the local fire department authorized by it inspect the group day care home and its premises whenever the Department has reason to believe that conditions in the home or its premises pose potential health or safety hazards to the children cared for in the home.
- p) There shall be written plans for immediate evacuation in case of emergency. The evacuation plan shall identify the exits from each area used for child care and shall specify the evacuation route. Fire drills shall be conducted monthly for the

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purpose of removing children from the home as quickly as possible. Tornado drills shall be conducted monthly for the purpose of getting children accustomed to moving to a position of safety in event of a tornado. Records shall be maintained of the dates and times required drills are conducted. The alphabetic card file required by Section 408.120(a)(2) shall accompany the caregiver during the drills.

- q) In the event of a fire, the group day care home shall be evacuated immediately and the children's safety insured before calling the fire department or attempting to combat the fire.
- r) *Handguns are prohibited on the premises of the group day care home except in the possession of peace officers or other adults who must possess a handgun as a condition of employment and who reside in the group day care home.*
- s) *Any firearm, other than a handgun in the possession of a peace officer or other person as provided in subsection (r), shall be kept in a disassembled state, without ammunition, in locked storage in a closet, cabinet, or other locked storage facility inaccessible to children. Ammunition for such firearms shall be kept in locked storage separate from that of the disassembled firearms, inaccessible to children.*
- t) *The operator of the group home shall notify the parents or guardian of any child accepted for care that firearms and ammunition are stored on the premises. The operator shall also notify the parents or guardian that such firearms and ammunition are in locked storage inaccessible to children (Section 7 of the Act). Such notification need not disclose the location where the firearms and ammunition are stored.*
- u) A group day care home operator relying upon a cooperative or lending arrangement to meet the equipment requirements of this Part shall provide a copy of a written agreement specifying which equipment required by this Part is covered by the agreement. Further, the operator shall demonstrate to the satisfaction of the Department that the equipment covered by the agreement is both available and utilized by the group day care home as required by this Part.
- v) Operation of other business on the premises must not interfere with the care of children.
- w) A group day care home may not house bedridden or chronically ill persons except

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by permission of the Department. The Department shall grant such permission unless the person has a reportable contagious or communicable disease or requires care that adversely affects the ability of the caregiver to supervise children.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 408.65 Number and Ages of Children Served (See Also Appendix H)

- a) A caregiver alone
The maximum number of children under the age of 12 cared for in a group day care home by a caregiver alone shall be 8 except when all the children are school age. The maximum number includes the caregiver's own children, related children and unrelated children under age 12 living in the home. A caregiver alone may care for children in accordance with the following age groupings:
- 1) A mixed age group consisting of:
 - A) Up to 8 children under 12 years of age, of which
 - B) Up to 5 children may be under 5 years of age, of which
 - C) Up to 3 children may be under 24 months of age; or
 - 2) A mixed age group consisting of:
 - A) Up to 8 children under 12 years of age, of which
 - B) Up to 6 children may be under 5 years of age, of which
 - C) Up to 2 children may be under 30 months of age; or
 - 3) Up to 8 pre-school children if no child is under age 3; or
 - 4) Up to 12 school age children as defined by Section 408.5.
- b) A caregiver and an assistant 18 years of age or older
The maximum number of children under the age of 12 cared for in a group day care home by a caregiver and an assistant shall be 12 except when extended capacity is considered under condition in Section 408.65(c). The maximum

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number includes the caregiver's own children, related children and unrelated children under age 12 living in the home. The caregiver and assistant 18 years of age or older may care for children in accordance with the following age groupings:

- 1) 12 children between 3 and 6 years of age. The assistant must be present when more than 8 such children are present; or
 - 2) No more than 12 children under 12 years of age of which no more than 6 children may be under 30 months of age, of which no more than 4 children may be under 15 months of age.
- c) Extended capacity
- 1) A caregiver, ~~and~~ a full-time assistant ~~and/or~~ if a part-time before and/or after school assistant is employed may care for 4 additional children who are attending school full-time. The assistant shall be present at all times when school children are present and there are more than 12 children in the home.
 - 2) Care provided for the additional before and after school children is limited to children who attend school full-time and it is limited to before and/or after school, holidays, weekends, during unforeseen school closings, and during the summer.
- d) The maximum number of children receiving night care shall be 12 children and groupings shall be consistent with subsections (a) and (b) of this Section.
- e) In the event of a brief unforeseen school closing, the caregiver may accept one additional school-age child and still be considered in compliance with the capacity requirements, as long as the total number of children under age 12 in the home does not exceed the maximum of 16 children. The caregiver shall maintain a record of the dates, names and ages of the children for whom this care was provided.
- f) When acceptance of siblings of children who are already in care will place the licensee out of compliance with the established age groupings, the licensee may develop a transition plan that shall be submitted to the licensing representative for review and approval. The plan may be approved when:

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- 1) The licensee is not currently operating under a transition plan and is in full compliance with all the licensing standards;
- 2) At least one of the siblings has been in care for 30 days or more; and
- 3) The transition plan will bring the home back into compliance with the established age groupings within 6 months after the date the plan is approved.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 408.105 Children Under 30 Months of Age

- a) Children under 30 months of age shall not be permitted in bathrooms, kitchens, or hazardous areas without the caregiver or assistant present.
- b) To minimize the risk of Sudden Infant Death Syndrome, children shall be placed on their backs when put down to sleep.
 - 1) When the infant cannot rest or sleep on his/her back due to a disability or illness, the caregiver shall have written instructions, signed by a physician, detailing an alternative safe sleep position and/or special sleeping arrangements for the infant. The caregiver shall place the infant to sleep in accordance with a physician's written instructions.
 - 2) When an infant can easily turn over from the back to tummy position, the infant shall be put down to sleep on his/her back, but allowed to adopt whatever sleeping position the infant prefers.
 - 3) Infants unable to roll from their stomachs to their backs, and from their backs to their stomachs, when found facedown, shall be placed on their backs.
 - 4) No infant shall be put to sleep on a sofa, soft mattress, car seat or swing.
 - 5) When an infant is awake, the infant shall be placed on his/her tummy part of the time and observed at all times.
~~unless contraindicated by a physician. Children shall not be placed on~~

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~~their abdomens, unless specifically instructed in writing by the child's physician to do so.~~

- c) Children under 30 months of age shall be provided a daily program that is designed to meet their needs.
- 1) The caregivers shall demonstrate warm, positive feelings toward each child through actions such as hugging, patting, smiling, and cuddling.
 - 2) Routines such as naps and feedings shall be discussed with the parents and shall be consistent with the child's routine at home.
 - 3) Non-mobile children who are awake shall be moved to different positions and shall be held, rocked, and carried about.
 - 4) The caregivers shall frequently change the place, position, and toys available for children who cannot move about the room.
 - 5) Consistent toilet training shall be undertaken at a time mutually agreed upon by parents and caregiver in accordance with the child's age and/or stage of development.
 - 6) Children shall be taken outdoors for a portion of every day, when weather permits, except when the child is ill or unless indicated otherwise by parents or physician.
- d) Feeding schedules and procedures shall meet the developmental needs of the children.
- 1) Flexible feeding schedules of children shall be established to coordinate with parents' schedules at home and to allow for nursing.
 - 2) Infants shall either be held or be fed sitting up for bottle feeding. Infants unable to sit shall always be held for bottle feeding. When infants are able to hold their own non-glass bottle, they may feed themselves without being held. The bottle must be removed when the child has fallen asleep. Bottle propping and carrying of bottles by young children throughout the day/night shall not be permitted.

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- 3) Bottles shall never be warmed or defrosted in a microwave oven.
 - 4) Children shall be allowed and encouraged to feed themselves when they indicate a readiness to do so.
 - 5) Safe finger foods such as those that dissolve in the mouth may be provided.
- e) Proper standards of hygiene shall be observed in the home.
- 1) Hands shall be washed with soap and running water and dried before the feeding of each child.
 - 2) Formula brought in by the parent shall be labeled and refrigerated.
 - 3) All utensils shall be washed after each use.
 - 4) Foods stored or prepared in jars shall be served from a separate dish for each child. Any leftovers from the serving dish shall be discarded. Leftovers in the jar shall be labeled with the child's name, dated, refrigerated, and served within 24 hours or discarded.
 - 5) A toilet shall be easily accessible so that the contents of reusable diapers may be disposed of before placing the diapers in the diaper pail. Disposable diapers and their contents shall be disposed of in accordance with the manufacturer's instructions.
 - 6) Persons changing diapers shall wash hands under running water with soap after each change of diaper. Hands shall be dried with single-use towels. Additionally, disposable, non-permeable gloves shall be worn when changing a child who has watery or bloody stools.
 - 7) The child whose diaper is being changed is to be washed on the hands and anal area if there has been defecation or if irritation is present.
 - 8) Children who are not toilet trained shall be diapered in their own cribs, at a central diapering area on a surface that is disinfected after each use, or on a disposable paper sheet that is disposed of after each diapering.

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- 9) The toilet seat, if soiled, or potty shall be cleaned with germicidal solution (see subsection (f)) after every use.
 - 10) Soiled diapers shall be changed promptly.
 - 11) Sheets shall be changed when soiled, and all sheets shall be changed routinely 2 times per week.
 - 12) All beds shall be wiped clean as often as necessary.
 - 13) Toys and equipment shall be kept clean.
- f) A germicidal solution of ¼ cup household chlorine bleach to one gallon of water (or one tablespoon bleach to one quart of water) or other germicidal solution approved by the Centers for Disease Control and Prevention shall be used to clean surfaces soiled by blood or body fluids. The bleach solution shall be made fresh daily.
- g) The equipment must be appropriate to the developmental needs of the children in care.
- 1) Safe, sturdy, well-constructed individual cribs, playpens, or port-a-cribs for infants shall be equipped with good firm, fitting mattresses made of waterproof materials that can be washed. Washable cots may be used for children 15 months of age and over.
 - 2) Sleeping equipment for children under 15 months must have protection to prevent falls.
 - 3) There shall be no more than 1½ inches of space between the mattress and bed frame when the mattress is pushed flush at one corner of the crib.
 - 4) No positioning device that restricts movement within the child's bed shall be used without written instructions from the child's physician. Soft bedding, bumpers, pillows, quilts, comforters, stuffed toys, laundry and other soft products shall be removed from the crib when children are napping or sleeping. If using a blanket, put the child with feet at the foot of the crib. Tuck a thin blanket around the crib mattress, reaching only as far as the child's chest.

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- 5) Bed linens used on the cots, cribs, or playpens shall be safe, tightly fitting, and washable.
- 6) Conveniently located, washable, plastic-lined covered receptacles shall be provided for soiled diapers and linens.
- 7) A toilet seat or potty shall be provided.
- h) The materials must be appropriate to the developmental needs of the child in care.
 - 1) Provision shall be made for an adequate supply of individual diapers, clothing, powder, oil, etc.
 - 2) There shall be a variety of toys and art materials for children under 30 months of age to observe, grasp, pick up, and manipulate.
 - 3) Pull toys, pounding toys, large hollow blocks, or large balls shall be available for development of large muscles.
 - 4) Mobile walkers are prohibited. Stationary exercisers may be used.
- i) Equipment and play materials shall be durable and free from characteristics that may be hazardous or injurious to children under 30 months of age. Hazardous or injurious characteristics include sharp, rough edges; toxic paint; and objects small enough to be swallowed.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

Section 408.120 Records and Reports

- a) A facility shall maintain a record file on the children enrolled.
 - 1) A written application for admission of each child shall be on file with the signature of the parent or guardian.
 - 2) An alphabetic card file or register on each child shall be maintained and shall include:

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- A) Name, date of birth, and sex;
 - B) Date of admission and discharge;
 - C) Scheduled days and hours of care;
 - D) Names of parents or guardians, home address and business address and telephone numbers, marital status, and the working hours of the parents or guardians;
 - E) Name, address and telephone number of child's physician (or other person designated by parents who object to medical treatment on religious grounds);
 - F) Names, addresses and telephone numbers of others authorized to pick up the child; and
 - G) Names, addresses, and telephone numbers of others to contact within the immediate area if parents or guardian cannot be contacted in case of emergency.
 - H) Information regarding the child's personal development, habits, medical needs, and other information critical to the child's well-being.
- 3) There shall be signed consent forms from the parent or guardian including:
- A) Permission for emergency medical care and treatment if the parent is not readily available.
 - B) Permission to administer medication, if applicable.
 - C) Permission for someone other than parent or guardian to pick up child if necessary.
 - D) Visits, trips or excursions off the premises.
 - E) Transportation provided by caregiver.

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- F) Permission to use the facility's swimming pool, if applicable.
- 4) Accidents or illnesses which have occurred to the child at the facility shall be recorded in the file. When a child is not permitted to attend the facility because of an accident or illness, the date of readmission to the facility shall be recorded.
- 5) All required health and medical reports as required by Section 408.70.
- 6) A statement signed by the parents or guardian indicating receipt of a summary of licensing standards and other materials as required by subsection (c) shall be in the child's record file.
- b) A facility shall maintain accurate daily attendance records on all children enrolled. If a child attends on a part-time or irregular basis, this shall be recorded in the attendance record.
- c) The facility shall distribute a summary of the licensing standards, provided by the Department, to the parents or guardian of each child at the time that the child is accepted for care in the facility. In addition, consumer information materials provided by the Department including, but not limited to, information on reporting and prevention of child abuse and neglect and preventing and reporting communicable disease, shall be distributed to the parents or guardian of each child cared for when designated for such distribution by the Department. Each child's record shall contain a statement signed by the child's parent or guardian, indicating that they have received a summary of licensing standards and other materials designated by the Department for such distribution.
- d) The group day care home shall enter in the child's record and orally report immediately to the child's parent, guardian, and the Department any serious occurrences involving children. Oral reports shall be confirmed in writing within 2 working days of the occurrence. If the home is unable to contact the parent, guardian or Department immediately, it shall document this fact in the child's record. These occurrences include serious accident or injury requiring extensive medical care or hospitalization; death; arrest; alleged abuse or neglect; major fire or other emergency situations.
- e) Suspected child abuse or neglect shall be reported immediately to the Child Abuse/Neglect Hotline as required by the Abused and Neglected Child Reporting

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Act. The telephone number for the reporting hotline is 1-800-252-2873.

- f) The caregiver shall immediately notify the Department of the death of any child at the facility; a child is missing from the group day care home; any illness or injury of a child resulting in medical treatment or hospitalization, and any known or suspected case or carrier of a reportable contagious, infectious, or communicable disease among children, staff or members of the household.
- g) The caregiver shall immediately notify the Department of any natural disaster or other occurrence resulting in the loss of or damage to physical plant or equipment required to operate the group day care home in accordance with this Part.
- h) Records shall be maintained on all staff and shall contain all pertinent information relative to character, suitability, and qualifications for the position; health; 3character references verified by the group day care home; history of employment for the previous 5 years; date of employment by the group day care home; and, if applicable, date and reasons for separation from the day care home.
- i) The caregiver shall make available to staff a current and complete copy of the licensing standards in a location readily accessible to staff. Further, the licensee shall maintain a record signed by staff indicating that they have reviewed the licensing standards and any subsequent changes to those standards provided to the licensee by the Department. Records documenting compliance with this requirement shall be maintained by the licensee and available for licensing review.
- j) Each staff person shall sign a statement prescribed by the Department acknowledging his or her status as a mandated reporter of child abuse or neglect under the Abused and Neglected Child Reporting Act and acknowledging he or she has knowledge and understanding of the reporting requirements under that Act. Such statement shall be signed and dated by the staff person prior to employment, and shall be maintained by the licensee.
- k) The facility shall maintain and submit reports on staff to the Department on forms provided by the Department.
 - 1) An individual report on each new employee shall be filed with the Department; a copy of this report shall be kept at the facility.

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- 2) All staff changes shall be reported to the Department immediately.
- 3) Copies of documentation of medical information, verification of educational achievement, and character references of employees shall be provided upon request by the Department.
- l) The facility shall promptly report any known or suspected case or carrier of communicable disease to local health authorities, and shall comply with the Illinois Department of Public Health's rules for the Control of Communicable Diseases (77 Ill. Adm. Code 690).
- m) Authorized Department licensing representatives or other Department representatives who have the Director's written authorization which specifies the statutory authority or administrative rule under which the access is granted shall have access to records and reports. All persons who have access to the records and reports shall respect their confidential nature.
- n) A medical record for each child, on forms provided by the Department, shall be maintained at the facility, dated no earlier than 6 months prior to enrollment, and signed by the examining physician, an advance practice nurse who has a written collaborative agreement with a collaborating physician that authorizes the advance practice nurse to perform health examinations, a physician assistant who has been delegated the performance of health examinations by the supervising physician; or the medical record is certified by a recognized health facility.
- o) The licensee shall notify the supervising agency within one week, in writing, of any changes to the household composition. Changes that require notification include the addition of any new person into the home, the return of any former household member, or the departure of any household member.
- p) The licensee shall keep a record of dates and hours worked by the substitute caregiver while the licensee is absent from the group day care home, as required in 89 Ill. Adm. Code ~~408.55(a)~~406.55(a).

(Source: Amended at 31 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Temporary Assistance for Needy Families
- 2) Code Citation: 89 Ill Adm. Code 112
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
112.71	Amendment
112.251	Amendment
- 4) Statutory Authority: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13] and P.A. 93-0598
- 5) A Complete Description of the Subjects and Issues involved: This rulemaking affects Human Capital Development. This rulemaking clarifies Sections 112.71 and 112.251 by removing the payment level cap provisions that are due to the birth of a child. This rulemaking also makes grammatical changes in Section 112.71.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? Yes

<u>Section Number:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
112.156	New Section	31 Ill. Reg. 3; January 5, 2007
- 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 this rulemaking 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

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

217/785-9772

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent regulatory agendas because: it was not anticipated by the Department when the two most regulatory agendas were published.

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

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TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMSPART 112
TEMPORARY ASSISTANCE FOR NEEDY FAMILIES

SUBPART A: GENERAL PROVISIONS

Section

- 112.1 Description of the Assistance Program and Time Limit
- 112.2 Time Limit on Receipt of Benefits for Clients Enrolled in Post-Secondary Education
- 112.3 Receipt of Cash Benefits Beyond the 60 Month Lifetime Limit
- 112.5 Incorporation by Reference
- 112.6 The Family Violence Option

SUBPART B: NON-FINANCIAL FACTORS OF ELIGIBILITY

Section

- 112.8 Caretaker Relative
- 112.9 Client Cooperation
- 112.10 Citizenship
- 112.20 Residence
- 112.30 Age
- 112.40 Relationship
- 112.50 Living Arrangement
- 112.52 Social Security Numbers
- 112.54 Assignment of Medical Support Rights
- 112.60 Basis of Eligibility
- 112.61 Death of a Parent (Repealed)
- 112.62 Incapacity of a Parent (Repealed)
- 112.63 Continued Absence of a Parent (Repealed)
- 112.64 Unemployment of the Parent (Repealed)
- 112.65 Responsibility and Services Plan
- 112.66 Alcohol and Substance Abuse Treatment
- 112.67 Restriction in Payment to Households Headed by a Minor Parent
- 112.68 School Attendance Initiative
- 112.69 Felons and Violators of Parole or Probation

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SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section	
112.70	Employment and Work Activity Requirements
112.71	Individuals Exempt from TANF Employment and Work Activity Requirements
112.72	Participation/Cooperation Requirements
112.73	Adolescent Parent Program (Repealed)
112.74	Responsibility and Services Plan
112.75	Teen Parent Personal Responsibility Plan (Repealed)
112.76	TANF Orientation
112.77	Reconciliation and Fair Hearings
112.78	TANF Employment and Work Activities
112.79	Sanctions
112.80	Good Cause for Failure to Comply with TANF Participation Requirements
112.81	Responsible Relative Eligibility for JOBS (Repealed)
112.82	Supportive Services
112.83	Teen Parent Services
112.84	Employment Retention and Advancement Project
112.85	Four Year College/Vocational Training Demonstration Project (Repealed)

SUBPART E: PROJECT ADVANCE

Section	
112.86	Project Advance (Repealed)
112.87	Project Advance Experimental and Control Groups (Repealed)
112.88	Project Advance Participation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.89	Project Advance Cooperation Requirements of Experimental Group Members and Adjudicated Fathers (Repealed)
112.90	Project Advance Sanctions (Repealed)
112.91	Good Cause for Failure to Comply with Project Advance (Repealed)
112.93	Individuals Exempt From Project Advance (Repealed)
112.95	Project Advance Supportive Services (Repealed)

SUBPART F: EXCHANGE PROGRAM

Section	
112.98	Exchange Program (Repealed)

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SUBPART G: FINANCIAL FACTORS OF ELIGIBILITY

Section	
112.100	Unearned Income
112.101	Unearned Income of Parent
112.105	Budgeting Unearned Income
112.106	Budgeting Unearned Income of Applicants
112.107	Initial Receipt of Unearned Income
112.108	Termination of Unearned Income
112.110	Exempt Unearned Income
112.115	Education Benefits
112.120	Incentive Allowances
112.125	Unearned Income In-Kind
112.126	Earmarked Income
112.127	Lump-Sum Payments
112.128	Protected Income (Repealed)
112.130	Earned Income
112.131	Earned Income Tax Credit
112.132	Budgeting Earned Income
112.133	Budgeting Earned Income of Employed Applicants
112.134	Initial Employment
112.135	Budgeting Earned Income For Contractual Employees
112.136	Budgeting Earned Income For Non-contractual School Employees
112.137	Termination of Employment
112.138	Transitional Payments (Repealed)
112.140	Exempt Earned Income
112.141	Earned Income Exemption
112.142	Exclusion from Earned Income Exemption
112.143	Recognized Employment Expenses
112.144	Income from Work-Study and Training Programs
112.145	Earned Income From Self-Employment
112.146	Earned Income From Roomer and Boarder
112.147	Income From Rental Property
112.148	Payments from the Illinois Department of Children and Family Services
112.149	Earned Income In-Kind
112.150	Assets
112.151	Exempt Assets
112.152	Asset Disregards

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- 112.153 Deferral of Consideration of Assets
- 112.154 Property Transfers (Repealed)
- 112.155 Income Limit

SUBPART H: PAYMENT AMOUNTS

Section

- 112.250 Grant Levels
- 112.251 Payment Levels
- 112.252 Payment Levels in Group I Counties
- 112.253 Payment Levels in Group II Counties
- 112.254 Payment Levels in Group III Counties
- 112.255 Limitation on Amount of TANF Assistance to Recipients from Other States (Repealed)

SUBPART I: OTHER PROVISIONS

Section

- 112.300 Persons Who May Be Included in the Assistance Unit
- 112.301 Presumptive Eligibility
- 112.302 Reporting Requirements for Clients with Earnings
- 112.303 Budgeting
- 112.304 Budgeting Schedule
- 112.305 Strikers
- 112.306 Foster Care Program
- 112.307 Responsibility of Sponsors of Non-Citizens Entering the Country Prior to 8/22/96
- 112.308 Responsibility of Sponsors of Non-Citizens Entering the Country On or After 8/22/96
- 112.309 Institutional Status
- 112.310 Child Care for Representative Payees
- 112.315 Young Parents Program (Renumbered)
- 112.320 Redetermination of Eligibility
- 112.330 Extension of Medical Assistance Due to Increased Income from Employment
- 112.331 Four Month Extension of Medical Assistance Due to Child Support Collections
- 112.332 Extension of Medical Assistance Due to Loss of Earned Income Disregard (Repealed)
- 112.340 New Start Payments to Individuals Released from Department of Corrections Facilities (Repealed)

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SUBPART J: CHILD CARE

Section

112.350	Child Care (Repealed)
112.352	Child Care Eligibility (Repealed)
112.354	Qualified Provider (Repealed)
112.356	Notification of Available Services (Repealed)
112.358	Participant Rights and Responsibilities (Repealed)
112.362	Additional Service to Secure or Maintain Child Care Arrangements (Repealed)
112.364	Rates of Payment for Child Care (Repealed)
112.366	Method of Providing Child Care (Repealed)
112.370	Non-JOBS Education and Training Program (Repealed)

SUBPART K: TRANSITIONAL CHILD CARE

Section

112.400	Transitional Child Care Eligibility (Repealed)
112.404	Duration of Eligibility for Transitional Child Care (Repealed)
112.406	Loss of Eligibility for Transitional Child Care (Repealed)
112.408	Qualified Child Care Providers (Repealed)
112.410	Notification of Available Services (Repealed)
112.412	Participant Rights and Responsibilities (Repealed)
112.414	Child Care Overpayments and Recoveries (Repealed)
112.416	Fees for Service for Transitional Child Care (Repealed)
112.418	Rates of Payment for Transitional Child Care (Repealed)

AUTHORITY: Implementing Article IV and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Art. IV and 12-13].

SOURCE: Filed effective December 30, 1977; peremptory amendment at 2 Ill. Reg. 17, p. 117, effective February 1, 1978; amended at 2 Ill. Reg. 31, p. 134, effective August 5, 1978; emergency amendment at 2 Ill. Reg. 37, p. 4, effective August 30, 1978, for a maximum of 150 days; peremptory amendment at 2 Ill. Reg. 46, p. 44, effective November 1, 1978; peremptory amendment at 2 Ill. Reg. 46, p. 56, effective November 1, 1978; emergency amendment at 3 Ill. Reg. 16, p. 41, effective April 9, 1979, for a maximum of 150 days; emergency amendment at 3 Ill. Reg. 28, p. 182, effective July 1, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 33, p. 399, effective August 18, 1979; amendment at 3 Ill. Reg. 33, p. 415, effective August 18, 1979; amended at 3 Ill. Reg. 38, p. 243, effective September 21, 1979; peremptory amendment at 3 Ill. Reg. 38, p. 321, effective September 7, 1979; amended at 3 Ill. Reg. 40, p. 140, effective

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October 6, 1979; amended at 3 Ill. Reg. 46, p. 36, effective November 2, 1979; amended at 3 Ill. Reg. 47, p. 96, effective November 13, 1979; amended at 3 Ill. Reg. 48, p. 1, effective November 15, 1979; preemptory amendment at 4 Ill. Reg. 9, p. 259, effective February 22, 1980; amended at 4 Ill. Reg. 10, p. 258, effective February 25, 1980; amended at 4 Ill. Reg. 12, p. 551, effective March 10, 1980; amended at 4 Ill. Reg. 27, p. 387, effective June 24, 1980; emergency amendment at 4 Ill. Reg. 29, p. 294, effective July 8, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 37, p. 797, effective September 2, 1980; amended at 4 Ill. Reg. 37, p. 800, effective September 2, 1980; amended at 4 Ill. Reg. 45, p. 134, effective October 27, 1980; amended at 5 Ill. Reg. 766, effective January 2, 1981; amended at 5 Ill. Reg. 1134, effective January 26, 1981; preemptory amendment at 5 Ill. Reg. 5722, effective June 1, 1981; amended at 5 Ill. Reg. 7071, effective June 23, 1981; amended at 5 Ill. Reg. 7104, effective June 23, 1981; amended at 5 Ill. Reg. 8041, effective July 27, 1981; amended at 5 Ill. Reg. 8052, effective July 24, 1981; preemptory amendment at 5 Ill. Reg. 8106, effective August 1, 1981; preemptory amendment at 5 Ill. Reg. 10062, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10079, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10095, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10113, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10124, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 10131, effective October 1, 1981; amended at 5 Ill. Reg. 10730, effective October 1, 1981; amended at 5 Ill. Reg. 10733, effective October 1, 1981; amended at 5 Ill. Reg. 10760, effective October 1, 1981; amended at 5 Ill. Reg. 10767, effective October 1, 1981; preemptory amendment at 5 Ill. Reg. 11647, effective October 16, 1981; preemptory amendment at 6 Ill. Reg. 611, effective January 1, 1982; amended at 6 Ill. Reg. 1216, effective January 14, 1982; emergency amendment at 6 Ill. Reg. 2447, effective March 1, 1982, for a maximum of 150 days; preemptory amendment at 6 Ill. Reg. 2452, effective February 11, 1982; preemptory amendment at 6 Ill. Reg. 6475, effective May 18, 1982; preemptory amendment at 6 Ill. Reg. 6912, effective May 20, 1982; emergency amendment at 6 Ill. Reg. 7299, effective June 2, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 8115, effective July 1, 1982; amended at 6 Ill. Reg. 8142, effective July 1, 1982; amended at 6 Ill. Reg. 8159, effective July 1, 1982; amended at 6 Ill. Reg. 10970, effective August 26, 1982; amended at 6 Ill. Reg. 11921, effective September 21, 1982; amended at 6 Ill. Reg. 12293, effective October 1, 1982; amended at 6 Ill. Reg. 12318, effective October 1, 1982; amended at 6 Ill. Reg. 13754, effective November 1, 1982; rules repealed, new rules adopted and codified at 7 Ill. Reg. 907, effective January 11, 1983; rules repealed and new rules adopted and codified at 7 Ill. Reg. 2720, effective February 28, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 5195; amended at 7 Ill. Reg. 11284, effective August 26, 1983; amended at 7 Ill. Reg. 13920, effective October 7, 1983; amended at 7 Ill. Reg. 15690, effective November 9, 1983; amended (by adding Sections being codified with no substantive change) at 7 Ill. Reg. 16105; amended at 7 Ill. Reg. 17344, effective December 21, 1983; amended at 8 Ill. Reg. 213, effective December 27, 1983; emergency amendment at 8 Ill. Reg. 569, effective January 1, 1984, for a maximum of 150 days; amended at

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8 Ill. Reg. 4176, effective March 19, 1984; amended at 8 Ill. Reg. 5207, effective April 9, 1984; amended at 8 Ill. Reg. 7226, effective May 16, 1984; amended at 8 Ill. Reg. 11391, effective June 27, 1984; amended at 8 Ill. Reg. 12333, effective June 29, 1984; amended (by adding Sections being codified with no substantive change) at 8 Ill. Reg. 17894; preemptory amendment at 8 Ill. Reg. 18127, effective October 1, 1984; preemptory amendment at 8 Ill. Reg. 19889, effective October 1, 1984; amended at 8 Ill. Reg. 19983, effective October 3, 1984; emergency amendment at 8 Ill. Reg. 21666, effective October 19, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 21621, effective October 23, 1984; amended at 8 Ill. Reg. 25023, effective December 19, 1984; amended at 9 Ill. Reg. 282, effective January 1, 1985; amended at 9 Ill. Reg. 4062, effective March 15, 1985; amended at 9 Ill. Reg. 8155, effective May 17, 1985; emergency amendment at 9 Ill. Reg. 10094, effective June 19, 1985, for a maximum of 150 days; amended at 9 Ill. Reg. 11317, effective July 5, 1985; amended at 9 Ill. Reg. 12795, effective August 9, 1985; amended at 9 Ill. Reg. 15887, effective October 4, 1985; amended at 9 Ill. Reg. 16277, effective October 11, 1985; amended at 9 Ill. Reg. 17827, effective November 18, 1985; emergency amendment at 10 Ill. Reg. 354, effective January 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 1172, effective January 10, 1986; amended at 10 Ill. Reg. 3641, effective January 30, 1986; amended at 10 Ill. Reg. 4885, effective March 7, 1986; amended at 10 Ill. Reg. 8118, effective May 1, 1986; amended at 10 Ill. Reg. 10628, effective June 1, 1986; amended at 10 Ill. Reg. 11017, effective June 6, 1986; Sections 112.78 through 112.86 and 112.88 recodified to 89 Ill. Adm. Code 160 at 10 Ill. Reg. 11928; emergency amendment at 10 Ill. Reg. 12107, effective July 1, 1986, for a maximum of 150 days; amended at 10 Ill. Reg. 12650, effective July 14, 1986; amended at 10 Ill. Reg. 14681, effective August 29, 1986; amended at 10 Ill. Reg. 15101, effective September 5, 1986; amended at 10 Ill. Reg. 15621, effective September 19, 1986; amended at 10 Ill. Reg. 21860, effective December 12, 1986; amended at 11 Ill. Reg. 2280, effective January 16, 1987; amended at 11 Ill. Reg. 3140, effective January 30, 1987; amended at 11 Ill. Reg. 4682, effective March 6, 1987; amended at 11 Ill. Reg. 5223, effective March 11, 1987; amended at 11 Ill. Reg. 6228, effective March 20, 1987; amended at 11 Ill. Reg. 9927, effective May 15, 1987; amended at 11 Ill. Reg. 12003, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 12432, effective July 10, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 12908, effective July 30, 1987; emergency amendment at 11 Ill. Reg. 12935, effective August 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 13625, effective August 1, 1987; amended at 11 Ill. Reg. 14755, effective August 26, 1987; amended at 11 Ill. Reg. 18679, effective November 1, 1987; emergency amendment at 11 Ill. Reg. 18781, effective November 1, 1987, for a maximum of 150 days; amended at 11 Ill. Reg. 20114, effective December 4, 1987; Sections 112.90 and 112.95 recodified to Sections 112.52 and 112.54 at 11 Ill. Reg. 20610; amended at 11 Ill. Reg. 20889, effective December 14, 1987; amended at 12 Ill. Reg. 844, effective January 1, 1988; emergency amendment at 12 Ill. Reg. 1929, effective January 1, 1988, for a maximum of 150 days; amended at 12 Ill. Reg. 2126, effective January 12, 1988; SUBPARTS C, D and E recodified to

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SUBPARTS G, H and I at 12 Ill. Reg. 2136; amended at 12 Ill. Reg. 3487, effective January 22, 1988; amended at 12 Ill. Reg. 6159, effective March 18, 1988; amended at 12 Ill. Reg. 6694, effective March 22, 1988; amended at 12 Ill. Reg. 7336, effective May 1, 1988; amended at 12 Ill. Reg. 7673, effective April 20, 1988; amended at 12 Ill. Reg. 9032, effective May 20, 1988; amended at 12 Ill. Reg. 10481, effective June 13, 1988; amended at 12 Ill. Reg. 14172, effective August 30, 1988; amended at 12 Ill. Reg. 14669, effective September 16, 1988; amended at 13 Ill. Reg. 70, effective January 1, 1989; amended at 13 Ill. Reg. 6017, effective April 14, 1989; amended at 13 Ill. Reg. 8567, effective May 22, 1989; amended at 13 Ill. Reg. 16006, effective October 6, 1989; emergency amendment at 13 Ill. Reg. 16142, effective October 2, 1989, for a maximum of 150 days; emergency expired March 1, 1990; amended at 14 Ill. Reg. 705, effective January 1, 1990; amended at 14 Ill. Reg. 3170, effective February 13, 1990; amended at 14 Ill. Reg. 3575, effective February 23, 1990; amended at 14 Ill. Reg. 6306, effective April 16, 1990; amended at 14 Ill. Reg. 10379, effective June 20, 1990; amended at 14 Ill. Reg. 13652, effective August 10, 1990; amended at 14 Ill. Reg. 14140, effective August 17, 1990; amended at 14 Ill. Reg. 16937, effective September 30, 1990; emergency amendment at 15 Ill. Reg. 338, effective January 1, 1991, for a maximum of 150 days; emergency amendment at 15 Ill. Reg. 2862, effective February 4, 1991, for a maximum of 150 days; emergency expired July 4, 1991; amended at 15 Ill. Reg. 5275, effective April 1, 1991; amended at 15 Ill. Reg. 5684, effective April 10, 1991; amended at 15 Ill. Reg. 11127, effective July 19, 1991; amended at 15 Ill. Reg. 11447, effective July 25, 1991; amended at 15 Ill. Reg. 14227, effective September 30, 1991; amended at 15 Ill. Reg. 17308, effective November 18, 1991; amended at 16 Ill. Reg. 9972, effective June 15, 1992; amended at 16 Ill. Reg. 11550, effective July 15, 1992; emergency amendment at 16 Ill. Reg. 11652, effective July 1, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 13629, effective September 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 17724, effective November 9, 1992; amended at 16 Ill. Reg. 20147, effective December 14, 1992; amended at 17 Ill. Reg. 357, effective December 24, 1992; amended at 17 Ill. Reg. 813, effective January 15, 1993; amended at 17 Ill. Reg. 2253, effective February 15, 1993; amended at 17 Ill. Reg. 4312, effective March 25, 1993; emergency amendment at 17 Ill. Reg. 6325, effective April 9, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 6792, effective April 21, 1993; amended at 17 Ill. Reg. 15017, effective September 3, 1993; amended at 17 Ill. Reg. 19156, effective October 25, 1993; emergency amendment at 17 Ill. Reg. 19696, effective November 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 5909, effective March 31, 1994; amended at 18 Ill. Reg. 6994, effective April 27, 1994; amended at 18 Ill. Reg. 8703, effective June 1, 1994; amended at 18 Ill. Reg. 10774, effective June 27, 1994; amended at 18 Ill. Reg. 12805, effective August 5, 1994; amended at 18 Ill. Reg. 15774, effective October 17, 1994; expedited correction at 19 Ill. Reg. 998, effective October 17, 1994; amended at 19 Ill. Reg. 2845, effective February 24, 1995; amended at 19 Ill. Reg. 5609, effective March 31, 1995; amended at 19 Ill. Reg. 7883, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 10206, effective July 1, 1995, for a maximum of 150 days; emergency

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amendment at 19 Ill. Reg. 12011, effective August 7, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 12664, effective September 1, 1995; emergency amendment at 19 Ill. Reg. 15244, effective November 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15661, effective November 3, 1995; emergency amendment at 19 Ill. Reg. 15839, effective November 15, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 16295, effective December 1, 1995, for a maximum of 150 days; amended at 20 Ill. Reg. 845, effective January 1, 1996; amended at 20 Ill. Reg. 3538, effective February 15, 1996; amended at 20 Ill. Reg. 5648, effective March 30, 1996; amended at 20 Ill. Reg. 6018, effective April 12, 1996; amended at 20 Ill. Reg. 6498, effective April 29, 1996; amended at 20 Ill. Reg. 7892, effective June 1, 1996; emergency amendment at 20 Ill. Reg. 12499, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 14820, effective November 1, 1996; amendment at 20 Ill. Reg. 15983, effective December 9, 1996; emergency amendment at 21 Ill. Reg. 662, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 940, effective January 7, 1997; amended at 21 Ill. Reg. 1366, effective January 15, 1997; amended at 21 Ill. Reg. 2655, effective February 7, 1997; amended at 21 Ill. Reg. 7391, effective May 31, 1997; emergency amendment at 21 Ill. Reg. 8426, effective July 1, 1997, for a maximum of 150 days; recodified from the Department of Public Aid to the Department of Human Services at 21 Ill. Reg. 9322; amended at 21 Ill. Reg. 15597, effective November 26, 1997; emergency amendment at 22 Ill. Reg. 4466, effective February 24, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 12197, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 14420, effective July 24, 1998; amended at 22 Ill. Reg. 14744, effective August 1, 1998; amended at 22 Ill. Reg. 16256, effective September 1, 1998; emergency amendment at 22 Ill. Reg. 16365, effective September 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 18082, effective October 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 19840, effective November 1, 1998; emergency amendment at 23 Ill. Reg. 598, effective January 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 942, effective January 6, 1999; emergency amendment at 23 Ill. Reg. 1133, effective January 7, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 1682, effective January 20, 1999; emergency amendment at 23 Ill. Reg. 5881, effective May 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 6958, effective May 30, 1999; amended at 23 Ill. Reg. 7091, effective June 4, 1999; amended at 23 Ill. Reg. 7896, effective July 1, 1999; emergency amendment at 23 Ill. Reg. 8672, effective July 13, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 10530, effective August 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 12648, effective September 27, 1999; amended at 23 Ill. Reg. 13898, effective November 19, 1999; amended at 24 Ill. Reg. 289, effective December 28, 1999; amended at 24 Ill. Reg. 2348, effective February 1, 2000; amended at 25 Ill. Reg. 10336, effective August 3, 2001; emergency amendment at 25 Ill. Reg. 11584, effective September 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 14865, effective November 1, 2001; amended at 26 Ill. Reg. 138, effective January 1, 2002; amended at 26 Ill. Reg. 924, effective January 15, 2002; emergency

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amendment at 26 Ill. Reg. 3329, effective February 19, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 9803, effective June 24, 2002; amended at 26 Ill. Reg. 10492, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 10994, effective July 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17182, effective November 15, 2002; amended at 27 Ill. Reg. 4545, effective February 28, 2003; amended at 27 Ill. Reg. 7240, effective April 7, 2003; amended at 27 Ill. Reg. 18417, effective November 20, 2003; amended at 28 Ill. Reg. 1090, effective December 31, 2003; amended at 28 Ill. Reg. 5655, effective March 22, 2004; amended at 29 Ill. Reg. 5473, effective April 1, 2005; amended at 29 Ill. Reg. 8161, effective May 18, 2005; emergency amendment at 29 Ill. Reg. 16008, effective October 4, 2005, for a maximum of 150 days; emergency expired March 2, 2006; amended at 30 Ill. Reg. 9331, effective May 8, 2006; amended at 30 Ill. Reg. 11202, effective June 12, 2006; amended at 31 Ill. Reg. 6968, effective April 30, 2007; amended at 31 Ill. Reg. _____, effective _____.

SUBPART C: TANF EMPLOYMENT AND WORK ACTIVITY REQUIREMENTS

Section 112.71 Individuals Exempt from TANF Employment and Work Activity Requirements

- a) An individual shall be exempt from TANF Employment and Work Activity Requirements when that individual:
 - 1) Is a child who is not a parent.
 - 2) Is the parent or other caretaker relative of a child under age one in the home ~~who is~~ personally providing care for the child. ~~This includes family cap cases.~~
 - A) Only one person in a case may be exempted for this reason.
 - B) A parent under age 20, without a high school diploma or equivalent, cannot claim this exemption unless his or her youngest child is under 12 weeks of age.
 - 3) Is 60 years of age or older.
 - 4) ~~Is an adult~~~~Are adults~~ in a ~~family~~~~families~~ when only children are receiving TANF benefits.

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- b) Exemption from TANF Employment and Work Activity does not equate to exemption from the 60-month lifetime limit.

(Source: Amended at 31 Ill. Reg. _____, effective _____)

SUBPART H: PAYMENT AMOUNTS

Section 112.251 Payment Levels

a) The Payment Levels are flat, monthly standard amounts. The amount for an assistance unit is based on three variables:

- a1) the number in the assistance unit ~~except as specified in subsection (b) of this Section;~~
 - b2) the presence or absence of an adult in the assistance unit; and
 - c3) the grouping of the county in which the assistance unit lives.
- b) ~~Effective January 1, 1996 cash assistance will not increase solely because of the birth of a child to any member of the assistance unit. The cash assistance shall be capped at the pre-birth payment level. Medicaid coverage, food stamps and child care are not included in the cap.~~
- 1) ~~Cash assistance will not increase due to the birth of a child to any member of the assistance unit if an assistance unit fails to comply with the eligibility requirements or an assistance unit voluntarily requests termination of cash assistance and subsequently becomes eligible for cash assistance within nine months.~~
 - 2) ~~An increase in the payment level due to the birth of a child to any member of the assistance unit is allowed if:~~
 - A) ~~the birth is to a pregnant woman who became eligible for cash assistance during the pregnancy;~~
 - B) ~~for cases active as of January 1, 1996 the birth occurs within ten months after the date of implementation (by October 31, 1996);~~

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- ~~C) the child is conceived after the family became ineligible for cash assistance due to income or marriage and at least three payment months of ineligibility have passed before any reapplication;~~
 - ~~D) the child was born while the parent or caretaker relative was on cash assistance, the assistance unit did not receive an increase in assistance due to the birth of this child and the parent or other caretaker relative has been off cash assistance for nine payment months;~~
 - ~~E) the child was born as a result of incest or forcible rape based on the statement of the woman which is corroborated by a third party; or~~
 - ~~F) the child (including all children in the case of multiple births) was born to a minor included in the grant who became a first time minor parent.~~
- ~~3) The assistance unit may receive a general increase in the amount of aid that is provided to all recipients.~~
- e) ~~Subsection (b) shall not apply to affect the payment level of any assistance unit as a result of the birth of a child on or after January 1, 2004. The payment level cap will be eliminated for all affected assistance units by July 1, 2007.~~

(Source: Amended at 31 Ill. Reg. _____, effective _____)

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible
- 2) Code Citation: 89 Ill. Adm. Code 309
- 3) Section Number: 309.90 Adopted Action: Amendment
- 4) Statutory Authority: 20 ILCS 505/5
- 5) Effective Date of Rulemaking: June 8, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain an incorporation by reference? No
- 8) A copy of the adopted amendment, including material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposed Rules Published in the Illinois Register: October 27, 2006; 30 Ill. Reg. 16701
- 10) Has JCAR issued a Statement of Objection to this rulemaking? Yes
 - A) Date and Register citation to the Objection: May 4, 2007; 31 Ill. Reg. 6694
 - B) Date and Register citation to the agency's response:
 - C) Date agency submitted the response to JCAR:
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: Public Act 94-1010 that amended the Children and Family Services Act, effective on October 1st, 2006, requires the Department to deposit Putative Father Registry fees collected by the Department, or its agent, into a distinct fund for the Department's use in maintaining the Registry.
- 16) Information and questions regarding this adopted amendment shall be directed to:

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

Telephone: 217/524-1983
TTY: 217/524-3715
E-Mail: cfpolicy@idcfs.state.il.us
Facsimile: 217/557-0692

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

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER III: DEPARTMENT OF CHILDREN AND FAMILY SERVICES

SUBCHAPTER a: SERVICE DELIVERY

PART 309

ADOPTION SERVICES FOR CHILDREN FOR WHOM THE DEPARTMENT OF
CHILDREN AND FAMILY SERVICES IS LEGALLY RESPONSIBLE

Section	
309.10	Purpose
309.20	Definitions
309.30	Recruitment of Adoptive Families
309.40	Adoption Listing Services
309.50	Identification of Children for Potential Adoption Planning
309.60	Legal Risk Placements
309.70	Freeing Children for Adoption
309.80	Termination of Parental Rights
309.90	Putative Father Registry
309.100	Preparation of Children for Adoption
309.105	Who May Adopt a Child
309.110	Preparation and Training of Adoptive Families
309.120	Preparation of the Child's Biological Parents
309.130	Placement Considerations
309.140	Placement of Children with Adoptive Families
309.150	Providing Information to Adoptive Families
309.160	Post-Placement Services
309.170	Post-Adoption Services
309.180	Adoption Assistance
309.190	Adoption Registry

AUTHORITY: Implementing and authorized by Sections 4 and 5 of the Children and Family Services Act [20 ILCS 505/4 and 5] and the Adoption Act [750 ILCS 50]; implementing the Adoption Assistance and Child Welfare Act of 1980 (42 USCA 670; 45 CFR 1356.40 and 1356.41); and the Adoption and Safe Families Act (42 USCA 1305).

SOURCE: Adopted at 22 Ill. Reg. 8769, effective May 15, 1998; amended at 23 Ill. Reg. 11098, effective September 16, 1999; amended at 25 Ill. Reg. 11778, effective September 14, 2001; amended at 26 Ill. Reg. 16449, effective October 23, 2002; emergency amendment at 30 Ill. Reg.

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17123, effective October 13, 2006, for a maximum of 150 days; emergency expired March 11, 2007; amended at 31 Ill. Reg. 8466, effective June 8, 2007.

Section 309.90 Putative Father Registry

- a) The Department shall maintain a Putative Father Registry for the purpose of determining the identity and location of a putative father of a child who is, or is expected to be, the subject of an adoption proceeding in order to provide notice of such proceeding to the putative father.
- b) The Department shall maintain the following information in the Putative Father Registry:
 - 1) With respect to the putative father, if known:
 - A) Name of the putative father, including any other names by which the putative father may be known and that he may provide to the Registry;
 - B) Address at which the putative father may be served with notice of petition under the Adoption Act, including any change of address;
 - C) The Social Security Number of the putative father;
 - D) The putative father's birth date; and
 - E) If applicable, a certified copy of an order by a court of the State of Illinois or of another state or territory of the United States adjudicating the putative father to be the father of the child.
 - 2) With respect to the mother of the child, if known:
 - A) Name of the mother, including any other names known to the putative father by which the mother may be known;
 - B) The mother's last address;
 - C) The mother's Social Security Number; and

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- D) The mother's date of birth.
- 3) If known to the putative father, the name, gender, place of birth, and date of birth or anticipated date of birth of the child.
- 4) The date the Department received the putative father's registration.
- c) A putative father may register with the Putative Father Registry before the birth of the child but no later than 30 days after the birth of the child. All registrations shall be in writing, and signed or submitted online through the official Putative Father Registry website by the putative father, and submitted to the Department at the following address:
- Putative Father Registry
Department of Children and Family Services
160 North LaSalle - 6th Floor
Chicago, Illinois 60601
www.putativefather.org
info@putativefather.org
- Further, putative fathers may call the Putative Father Registry for alternative contact information at: 866/737-3237.
- d) An interested party, including persons intending to adopt a child, a child welfare agency with whom the mother has placed or has given written notice of her intention to place a child for adoption, the mother of the child, or an attorney representing an interested party may request that the Department search the Putative Father Registry to determine whether a putative father is registered in relation to a child who is or may be the subject of an adoption petition.
- e) Upon receipt of a search request pursuant to subsection (d) above, the registrar shall issue a certified response from the Putative Father Registry.
- f) Except as provided in subsection (d) above, information contained in the Putative Father Registry is confidential and shall not be published or open to public inspection.
- g) A person who knowingly or intentionally registers false information under this Section commits a Class B misdemeanor. A person who knowingly or

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intentionally releases confidential information in violation of this Section commits a Class B misdemeanor. (See 750 ILCS 50/12.1.)

- h) The Putative Father Registry shall not be used to notify a putative father who is the father of a child as a result of criminal sexual abuse or assault as defined under Article 12 of the Criminal Code of 1961.
- i) A \$40 fee will be charged to all parties receiving a certified response pursuant to subsection (e), except for:
 - 1) Certified responses pertaining to Department of Children and Family Services cases; and
 - 2) Certified responses as approved by a Deputy Director or legal counsel of the Department of Children and Family Services.

(Source: Amended at 31 Ill. Reg. 8466, effective June 8, 2007)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Construction and Filing of Accident and Health Insurance Policy Forms
- 2) Code Citation: 50 Ill. Adm. Code 2001
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
2001.2	New Section
2001.10	Amendment
2001.20	Amendment
2001.30	Amendment
- 4) Statutory Authority: Implementing Sections 143, 355, 356a and Articles IX and XX and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, 132 et seq., 156 et seq. and 401]
- 5) Effective Date of Rulemaking: May 31, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the principal office of the Division of Insurance and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 30 Ill. Reg. 18847; December 15, 2006
- 10) Has JCAR issued a Statement of Objection to this Rulemaking? No
- 11) Differences between proposal and final version:

Section 2001.20(a)(1), strike "1".
Section 2001.20(c)(1), (2)(A) and (B), on the second line add "the" and strike "such".
Section 2001.20(c)(2)(B), on the third line strike "such".
Section 2001.20(i) on the first line, strike the comma.
Section 2001.20(l), in the second sentence, strike "such".
Section 2001.20(m), in the second sentence, strike "such".
Section 2001.20(v), in the second sentence, add "those" and strike "which".
Section 2001.20(w), on the fourth line add "the" and strike "such".

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Section 2001.20(x), on the fourth line add "those" and strike "such".

Section 2001.20(aa), on the fifth line add "those" and strike "such".

Section 2001.20(bb), on the second line add "with the riders and endorsements" and strike "therewith".

Section 2001.20(bb)(2), on the third line add "the" and strike "such".

Section 2001.20(bb)(3), on the fifth line add "the" in front of "Division" and strike "this" in front of "Department".

Section 2001.30(a)(1), on the first line, strike "such". On the third line add "the" and strike "such".

Section 2001.30(a)(3)(B), add "Whether" and strike "If" and also strike ", so state".

Section 2001.30(a)(3)(C), on the second line add "the" in front of "Division" and strike "this" in front of "Department". In the second sentence add "the Division's" and strike "our". Also add "on the copies" following "approval" and strike "thereon".

- 12) Have all changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of rulemaking: The Division has made a number of housekeeping changes which will more accurately reflect the consolidation of our agency under IDFPR. The Division has also a definition Section which identifies terms that were not previously specifically defined.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

William McAndrew
Assistant Deputy Director, Life, Accident and Health Compliance Unit
Department of Financial and Professional Regulation
Division of Insurance
320 West Washington Street
Springfield, Illinois 62767-0001

217/782-4254

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

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CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER z: ACCIDENT AND HEALTH INSURANCEPART 2001
CONSTRUCTION AND FILING OF ACCIDENT AND
HEALTH INSURANCE POLICY FORMS

SUBPART A: PROVISIONS APPLICABLE TO INDIVIDUAL AND GROUP POLICIES

Section

2001.1	Applicability
2001.2	Definitions
2001.3	Discretionary Clauses Prohibited

SUBPART B: PROVISIONS APPLICABLE TO INDIVIDUAL POLICIES

Section

2001.10	Applicability
2001.20	Construction of Accident and Health Insurance Policy Forms
2001.30	Filing of Policy Forms

AUTHORITY: Implementing Sections 143, 355, 356a and Articles IX and XX and authorized by Section 401 of the Illinois Insurance Code [215 ILCS 5/143, 355, 356a, 132 et seq., 156 et seq. and 401].

SOURCE: Filed and effective April 1, 1952; codified at 7 Ill. Reg. 3471; amended at 20 Ill. Reg. 14405, effective October 25, 1996; amended at 29 Ill. Reg. 10172, effective July 1, 2005; amended at 31 Ill. Reg. 8472, effective May 31, 2007.

SUBPART A: PROVISIONS APPLICABLE TO INDIVIDUAL AND GROUP POLICIES

[Section 2001.2 Definitions](#)

[The following definitions shall apply to this Part:](#)

[Code means the Illinois Insurance Code \[215 ILCS 5\].](#)

[Director means the Director of the Illinois Department of Financial and Professional Regulation-Division of Insurance.](#)

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

(Source: Added at 31 Ill. Reg. 8472, effective May 31, 2007)

SUBPART B: PROVISIONS APPLICABLE TO INDIVIDUAL POLICIES

Section 2001.10 Applicability

This Subpart shall apply to:

- a) Individual accident and health policy, certificate, endorsement, rider and application forms filed with the Division~~this Department~~ by both foreign and domestic companies with respect to Section 143, Article IX and Article XX of the ~~Illinois Insurance~~-Code [215 ILCS 5/143, Art. IX and Art. XX].
- b) This Part shall also apply to individual policy, certificate, endorsement, rider and application forms filed in accordance with Section 356a of the ~~Illinois Insurance~~ Code [215 ILCS 5/356a].
- c) The filing procedure for accident and health forms as required by Section 355 of the ~~Illinois Insurance~~-Code [215 ILCS 5/355].
- d) The filing procedure for accident and health insurance policy forms prescribed by 50 Ill. Adm. Code 916.

(Source: Amended at 31 Ill. Reg. 8472, effective May 31, 2007)

Section 2001.20 Construction of Accident and Health Insurance Policy Forms

- a) Section 356a Form of Policy.
 - ↳ Each policy form of a domestic company that~~which~~ is issued for delivery to a person residing in another state, must be approved by the Director unless such policy form is subject to approval or disapproval by such other state.
- b) Section 357.1 Accident and Health Policy Provisions Required.

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- 1) In order to expedite departmental action on policies submitted for approval, it is requested that companies adhere to the statutory wording and order of the required provisions. Policies submitted ~~that~~~~which~~ include variations from the statutory words and order must be accompanied by a complete list of all variations and a justification for each. Extensive variations, without adequate justification, will only result in delay in the processing of such policies. The companies' cooperation in keeping such variations to a minimum is essential.
 - 2) Each provision of Section 357.2 through 357.113 of the ~~Illinois Insurance~~ Code [215 ILCS 5/357.2 through 357.113] must be preceded by a caption and if the captions differ in any respect from the captions appearing in the law changes must be clearly indicated and justified pursuant to subsection 2001.20(b)(1) ~~above~~.
 - 3) Numbering of the "Required Provisions" will not be required.
- c) Section 359a Application.
- 1) Where an Industrial Accident and Health policy is issued upon signed application of the person to be insured, ~~the~~~~such~~ application shall conform with Section 359a of the ~~Illinois Insurance~~ Code [215 ILCS 5/359a].
 - 2) The Application:
 - A) Where changes are made on the application for administrative purposes only, ~~the~~~~such~~ changes must be clearly indicated.
 - B) Where the application is subject to being changed for administrative purposes by the insurer, ~~the~~~~such~~ application shall clearly indicate that any ~~such~~ changes are not to be ascribed to the applicant.
- d) Section 361a Age Limit.
Any policy form containing an "age limit" shall contain in substance a provision setting forth the limitations of Section 361a of the ~~Illinois Insurance~~ Code [215 ILCS 5/361a].
- e) Section 362a Non-Application to Certain Policies.

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Section 362a(3) of the ~~Illinois Insurance~~ Code [215 ILCS 5/362a(3)] does not apply to group accident and health insurance provided for under Section 356a(1)(c) of the ~~Illinois Insurance~~ Code [215 ILCS 5/356a(1)(c)].

- f) Section 368 Industrial Accident and Health Insurance.
The ~~Division~~Department will require Industrial Accident and Health policy forms to be of the same form and content as other accident and health insurance policy forms required to be filed pursuant to Section 355 of the ~~Illinois Insurance~~ Code [215 ILCS 5/355], except Industrial Accident and Health Policies shall be issued on a weekly premium basis and contain the words "Industrial Policy" printed on each form.
- g) All provisions of the Third Edition of the Official Guide ~~that~~which are consistent with the statute will be required.
- h) Accident and Health Insurance:
- 1) May only be defined as insurance against bodily injury, disablement or death by accident and against disablement resulting from sickness or old age and every insurance appertaining thereto.
 - 2) Terms such as "external" and "violent" in connection with the definition of accident and health insurance are not acceptable.
- i) The information required in Section 356a(1), (a) and (b) of the ~~Illinois Insurance~~ Code [215 ILCS 5/356a(1)(a) and (b)] must appear in the policy form itself or on its schedule page and cannot be added to the policy by rider, endorsement, or supplement. Although riders, endorsements and supplements, when attached to the policy form, become a part of the contract, it is evident the law intends that the aforementioned information be made a part of the policy form itself, since this Section specifically refers to the policy and distinguishes between the policy forms, riders and endorsements.
- j) Funeral benefits will not be permitted in accident and health contracts.
- k) If hospitals are defined in accident and health contract forms presented for use in this State, then an appropriate definition must be used. A term such as "legally operated hospital" or any other definition ~~that~~which is definite and applicable in this State, will be accepted.

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- l) Waiting period provisions in accident and health insurance contracts ~~that~~which stipulate the contract must be maintained in "continuous force" or "in force for _____ months after the effective date of the policy" or "in force for _____ months prior to the date of the loss," will not be accepted. Such provisions do not adequately and clearly cover reinstatements and therefore, ~~such~~ waiting periods must be based upon the loss occurring _____ months after the effective date of the policy and read similar to: No indemnity will be paid for loss ~~that~~which occurs, or commences, prior to _____ months after the effective date of the policy.
- m) Additional waiting periods for certain designated diseases or illnesses based upon inception beyond the usual customary 15 to 30 days provided for in the Insuring Provisions are not permissible. If additional waiting periods are deemed necessary by the company for certain diseases and illnesses, then the ~~Division~~Department requires that ~~such~~ waiting periods be based upon the loss occurring so many months after the effective date of the policy rather than being based on the inception of the illness or disease.
- n) "Strict compliance provisions" in accident and health insurance contracts will not be acceptable for use in this State.
- o) Any specific requirement for medical attendance by a licensed physician other than that attendance ~~that~~which is normally and customarily required for the disease or accident resulting in loss for which claim is made, will not be acceptable.
- p) In accident and health insurance contracts ~~that~~which include "medical attendance benefits" and "surgical benefits" and limits liability to only one, provision must be made for the payment of the greater benefit.
- q) Broad, indefinite, ambiguous and inconsistent language must be excluded from all accident and health insurance forms. Examples of such wording are:
- 1) The use of the words "indirectly" and "partly" in connection with Exclusions, Limitations and Reductions,
 - 2) The use of the word "reasonable" when used in connection with medical attendance or any other condition or requirement included in the policy form, unless use of such word results in the provision being more

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favorable to the insured.

- 3) The use of such words as "appendages" "involving", "affecting", etc. in connection with specified physical conditions. Medical terms should be definite, for instance, various types of hernia should be spelled out, or provide a general statement that all types of hernia are meant.
- r) Surgical Benefit Provisions in accident and health insurance contracts must include and provide either:
- 1) That all operations will be covered not to exceed a stipulated amount for any operation that may be performed, or
 - 2) The inclusion of a schedule of operations ~~that~~which includes:
 - A) Comparable benefits for operations of comparable severity;
 - B) A provision ~~that~~which requires the company to pay a benefit for any operation not listed in the schedule, based on an amount equivalent to that specified for a listed operation of comparable severity; and
 - C) A provision ~~that~~which requires the company to pay for that operation which provides the largest benefit when the company's liability is limited to one operation where more than one is performed, under named or enumerated conditions.
- s) Surgical benefit provisions ~~that~~which are contingent upon payment of a hospital confinement benefit will not be approved.
- t) Benefits for hospital room ~~that~~which are based upon the actual expense incurred, may be made contingent only upon a charge being made by the hospital. Benefits payable on a stated or flat rate basis, regardless of the amount of expense incurred, may make the benefit contingent upon hospital confinement of so many hours.
- u) Premium, Cancellation and Renewal Provisions:
- 1) Waiver of Premium Provisions must include a statement of coverage and

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of the insured's rights and obligations regarding the resumption of premium payments after the period of total disability has terminated during which the premium has been waived. This statement must read similarly to: After the termination of the period of total disability, during which a premium has been waived, the insurance afforded in this contract shall continue in full force and effect until the next premium due date, at which time the insured shall have the right to resume the payment of premiums as provided in the contract.

- 2) If a premium is to be charged for the period from the expiration of the period of total disability during which a premium has been waived and the expiration date of the policy, then a statement of this fact must be added to the provision together with a provision that the insurer will notify the insured of the premium due.
- 3) A policy ~~that~~~~which~~ contains a cancellable provision may add at the end of the provision in (u)(2)-~~above~~, "subject to the right of the insurer to cancel in accordance with the cancellation provision hereof."
- 4) A policy in which the insurer reserves the right to refuse any renewal premiums, shall add, "unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by records of the insurer, written notice of its intention not to renew this policy beyond the period for which the premium has been waived."
- v) Requirements for the so-called "franchise insurance" are different from those for individual contracts in the following respects: Termination either by cancellation or refusal to renew any individual contracts of the group is prohibited, unless all like contracts of the group are terminated at the expiration of the contracts and upon at least ten days' notice in advance. The only other termination conditions ~~that~~~~which~~ may be included in such contracts are those ~~that~~~~which~~ terminate coverage because of nonpayment of premium, discontinuance of employment of the insured by the named employer or the discontinuance of membership in the designated organization or association, and in addition, coverage may be automatically terminated at a designated attained age.
- w) Policy forms ~~that~~, ~~which~~ in the opinion of the ~~Division~~~~Department~~, will invite misrepresentations in the advertising and sale of the same, due to the restrictive

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nature of thesueh forms as a result of unusual and/or over-lapping exclusions, limitations, reductions, or conditions, will not be accepted for use in this State.

- x) Time limitations, when included in benefit provisions, must be explained in terms such as hours, days, weeks, months or years. Terms such as "immediately" or "reasonably" are not acceptable, unless use of thosesueh words make the provision more favorable to the insured.
- y) Policy contracts issued by assessment companies must include a provision setting forth the contingent liability of the insured and should be based upon the regular premium provided in the policy, and in addition thereto, such premium payments as may be required by the company from time to time. This provision should be placed in the contract with equal prominence to the benefit provisions.
- z) Where a contingent liability provision is included in a contract issued by a mutual company as provided for in Section 55 of the ~~Illinois Insurance~~ Code [215 ILCS 5/55], the contingent liability of the policyholder must be based upon not less than one nor more than ten times the amount of the premium expressed in the continuation paragraph of the policy. This provision should be placed in the contract with equal prominence to the benefit provisions.
- aa) Limited policy contracts will not be approved thatwhieh, in the opinion of the Director, set forth in a more prominent manner the provisions for relatively large benefits for specified accidents of rare occurrence than provisions for relatively low benefits for accidents of more frequent occurrence. Accumulative indemnities benefits are permissible, but schedules showing thosesueh benefits will not be approved in accident and health contracts.
- bb) Riders, Endorsements and Exclusions:
 - 1) Riders and endorsements thatwhieh are not complete in themselves must be accompanied by the fill in material to be used with the riders and endorsements therewith, to be acceptable.
 - 2) Exclusion of coverage riders and endorsements, executed subsequent to the issuance of the policy, must provide for the signed acceptance of the insured in addition to a statement to the effect that thesueh rider or endorsement is not valid unless signed by the insured. Policy forms thatwhieh unilaterally reduce benefits must be formally approved by the

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Director prior to the date they are attached to a policy issued or delivered in this State.

- 3) Riders or endorsements submitted for the purpose of amending forms submitted in accordance with Section 355 of the ~~Illinois Insurance~~ Code [215 ILCS 5/355], so that such forms will comply with the requirements of the ~~Illinois Insurance~~ Code or regulations of ~~the Division~~~~this Department~~, will not be accepted for approval, unless the Director is given an adequate justification, in writing, for the use of ~~these~~~~h~~ riders or endorsements.
- cc) Application:
- 1) Questions in an application pertaining to diseases or conditions must be broken down so that applicants may insert their answer at least after every four or five diseases or conditions listed unless questions are grouped as to related diseases or conditions.
 - 2) Application forms ~~that~~~~which~~ are completed by individuals for themselves and others cannot include a certification as to the correctness of the answers in the application without some qualifications, preferably in the Attestation Provision, and should read similar to "to the best of your knowledge", or "to the best of your knowledge and belief". The courts have held that answers to the questions are given to the best of the applicant's belief, and the ~~Division~~~~Department~~ sees no reason why the aforementioned qualification should not be contained in the application.
 - 3) The receipt and/or application or policy provisions may provide that the insurance shall be effective upon issuance and the payment of the first premium while the insured is in good health. Provisions ~~that~~~~which~~ provide the insurance shall not become effective until delivery of the policy while the insured is in good health, will not be acceptable.
- dd) Where the application provides for a written proxy, such proxy must be executed over the separate signature of the applicant. The signature required for the application in accordance with Section 359a of the ~~Illinois Insurance~~ Code [215 ILCS 5/359a] may not be used to satisfy this requirement.
- ee) Advertising appearing on an application form, or any other form that requires the

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approval of the Director, is reviewed and filed by the Director in conjunction with the approval of the form. This is in conformity with Section 143 of the ~~Illinois Insurance~~ Code [215 ILCS 5/143].

- ff) The Director requires that any form, previously approved and subsequently revised, must be submitted under a new form number, and be approved in accordance with Section 143 of the ~~Illinois Insurance Code (Supra)~~. This applies to advertising appearing on applications or other forms approved by the Director. The only exception to this is advertising ~~that~~which contains statistical information, such as the amount of claims paid or assets. For changes of this kind, the insurer need not submit a new form number, but only advise the ~~Division~~Department in writing as to the change in the statistical information and the date of change. Advertising is not subject to approval but is filed for informational purposes only. See 50 Ill. Adm. Code 916 for appropriate transmittal sheets and instructions.

(Source: Amended at 31 Ill. Reg. 8472, effective May 31, 2007)

Section 2001.30 Filing of Policy Forms

- a) Policy forms, riders and endorsements must be formally filed pursuant to 50 Ill. Adm. Code 916 as follows:
- 1) Two copies of all ~~such~~ forms shall be submitted in blank. If the form does not clearly indicate the place for the name of the insured, time the insurance becomes effective, and the benefits, it will be required that ~~thesuch~~ forms be completed at the time of issuance.
 - 2) Each form must bear an identifying form number in the lower left corner of the first page. The form number is limited to ~~thirty (30)~~ characters. No other date, except the inclusion of a printing date and/or designation of a state, where a special edition is required, will be permitted in such space.
 - 3) The insurer shall file a letter of submission ~~as required by 50 Ill. Adm. Code 916.40(b)(1) through (6)~~ containing:
 - A) The name of the form, if any, and identifying form number.
 - B) Whether~~If~~ the submission is a new form, ~~so state~~.

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- C) If the form is intended to supersede another, ~~give~~ the form number of the form replaced and the date it was approved by the Division, ~~with this Department and highlight~~ all changes from the previously approved form highlighted. Any changes not highlighted will not be deemed to be approved.
- b) Copies of the policy forms, riders and endorsements will be retained in the files of the Division~~this Department~~. Under no circumstances will copies of forms be returned to the company with ~~the Division's~~ stamp of approval on the ~~copies~~thereon. Notice of approval will be given by letter or copy of the submitted transmittal form with the Division's~~Department's~~ stamp affixed ~~thereto~~.

(Source: Amended at 31 Ill. Reg. 8472, effective May 31, 2007)

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- 1) Heading of the Part: Medical Payment
- 2) Code Citation: 89 Ill. Adm. Code 140
- 3) Section Number: 140.12 Adopted Action:
Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: May 30, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials 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: 31 Ill. Reg. 349; January 12, 2007
- 10) Has JCAR issued a Statement of Objection to this rule making? No
- 11) Differences Between Proposal and Final Version: There have been no changes 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 amendment replace any emergency amendment currently in effect? Yes
- 14) Are there any other proposed rulemakings pending on this Part? No
- 15) Summary and Purpose of Amendment: This is a federally required change. Based on a State Medicaid Director letter from the federal Centers for Medicare and Medicaid Services (CMMS) dated December 13, 2006, the Department is required to implement procedures to assure that any entity, making or receiving Medicaid payments of \$5,000,000 or more annually, establish written policies for all employees, contractors, or agents of the entity regarding the False Claims Act and other provisions enacted in section 6032 of the Deficit Reduction Act (P.L. 109-0171), which added section

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1902(a)(68)(A) to the Social Security Act. Entities are defined as providers and governmental entities. Section 1902(a) deals with the requirements of State plans.

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

Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, 3rd Floor
Springfield IL 62763-0002

217/557-7157

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

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 140

MEDICAL PAYMENT

SUBPART A: GENERAL PROVISIONS

Section

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

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section

- 140.11 Enrollment Conditions for Medical Providers
- 140.12 Participation Requirements for Medical Providers
- 140.13 Definitions
- 140.14 Denial of Application to Participate in the Medical Assistance Program
- 140.15 Recovery of Money
- 140.16 Termination or Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.17 Suspension of a Vendor's Eligibility to Participate in the Medical Assistance Program
- 140.18 Effect of Termination or Revocation on Persons Associated with Vendor
- 140.19 Application to Participate or for Reinstatement Subsequent to Termination,

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	Suspension or Barring
140.20	Submittal of Claims
140.21	Reimbursement for QMB Eligible Medical Assistance Recipients and QMB Eligible Only Recipients and Individuals Who Are Entitled to Medicare Part A or Part B and Are Eligible for Some Form of Medicaid Benefits
140.22	Magnetic Tape Billings (Repealed)
140.23	Payment of Claims
140.24	Payment Procedures
140.25	Overpayment or Underpayment of Claims
140.26	Payment to Factors Prohibited
140.27	Assignment of Vendor Payments
140.28	Record Requirements for Medical Providers
140.30	Audits
140.31	Emergency Services Audits
140.32	Prohibition on Participation, and Special Permission for Participation
140.33	Publication of List of Sanctioned Entities
140.35	False Reporting and Other Fraudulent Activities
140.40	Prior Approval for Medical Services or Items
140.41	Prior Approval in Cases of Emergency
140.42	Limitation on Prior Approval
140.43	Post Approval for Items or Services When Prior Approval Cannot Be Obtained
140.55	Recipient Eligibility Verification (REV) System
140.71	Reimbursement for Medical Services Through the Use of a C-13 Invoice Voucher Advance Payment and Expedited Payments
140.72	Drug Manual (Recodified)
140.73	Drug Manual Updates (Recodified)

SUBPART C: PROVIDER ASSESSMENTS

Section	
140.80	Hospital Provider Fund
140.82	Developmentally Disabled Care Provider Fund
140.84	Long Term Care Provider Fund
140.94	Medicaid Developmentally Disabled Provider Participation Fee Trust Fund/Medicaid Long Term Care Provider Participation Fee Trust Fund
140.95	Hospital Services Trust Fund
140.96	General Requirements (Recodified)
140.97	Special Requirements (Recodified)
140.98	Covered Hospital Services (Recodified)

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- 140.99 Hospital Services Not Covered (Recodified)
- 140.100 Limitation On Hospital Services (Recodified)
- 140.101 Transplants (Recodified)
- 140.102 Heart Transplants (Recodified)
- 140.103 Liver Transplants (Recodified)
- 140.104 Bone Marrow Transplants (Recodified)
- 140.110 Disproportionate Share Hospital Adjustments (Recodified)
- 140.116 Payment for Inpatient Services for GA (Recodified)
- 140.117 Hospital Outpatient and Clinic Services (Recodified)
- 140.200 Payment for Hospital Services During Fiscal Year 1982 (Recodified)
- 140.201 Payment for Hospital Services After June 30, 1982 (Repealed)
- 140.202 Payment for Hospital Services During Fiscal Year 1983 (Recodified)
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AUTHORITY: Implementing and authorized by Articles III, IV, V, VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Adopted at 3 Ill. Reg. 24, p. 166, effective June 10, 1979; rule repealed and new rule adopted at 6 Ill. Reg. 8374, effective July 6, 1982; emergency amendment at 6 Ill. Reg. 8508, effective July 6, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 681, effective December 30, 1982; amended at 7 Ill. Reg. 7956, effective July 1, 1983; amended at 7 Ill. Reg. 8308, effective July 1, 1983; amended at 7 Ill. Reg. 8271, effective July 5, 1983; emergency amendment at 7 Ill. Reg. 8354, effective July 5, 1983, for a maximum of 150 days; amended at 7 Ill. Reg. 8540, effective July 15, 1983; amended at 7 Ill. Reg. 9382, effective July 22, 1983;

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Reg. 3552, effective February 28, 1992; amended at 16 Ill. Reg. 4006, effective March 6, 1992; amended at 16 Ill. Reg. 6408, effective March 20, 1992; expedited correction at 16 Ill. Reg. 11348, effective March 20, 1992; amended at 16 Ill. Reg. 6849, effective April 7, 1992; amended at 16 Ill. Reg. 7017, effective April 17, 1992; amended at 16 Ill. Reg. 10050, effective June 5, 1992; amended at 16 Ill. Reg. 11174, effective June 26, 1992; emergency amendment at 16 Ill. Reg. 11947, effective July 10, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 12186, effective July 24, 1992; emergency amendment at 16 Ill. Reg. 13337, effective August 14, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 15109, effective September 21, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 15561, effective September 30, 1992; amended at 16 Ill. Reg. 17302, effective November 2, 1992; emergency amendment at 16 Ill. Reg. 18097, effective November 17, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19146, effective December 1, 1992; expedited correction at 17 Ill. Reg. 7078, effective December 1, 1992; amended at 16 Ill. Reg. 19879, effective December 7, 1992; amended at 17 Ill. Reg. 837, effective January 11, 1993; amended at 17 Ill. Reg. 1112, effective January 15, 1993; amended at 17 Ill. Reg. 2290, effective February 15, 1993; amended at 17 Ill. Reg. 2951, effective February 17, 1993; amended at 17 Ill. Reg. 3421, effective February 19, 1993; amended at 17 Ill. Reg. 6196, effective April 5, 1993; amended at 17 Ill. Reg. 6839, effective April 21, 1993; amended at 17 Ill. Reg. 7004, effective May 17, 1993; emergency amendment at 17 Ill. Reg. 11201, effective July 1, 1993, for a maximum of 150 days; emergency amendment at 17 Ill. Reg. 15162, effective September 2, 1993, for a maximum of 150 days; emergency amendment suspended at 17 Ill. Reg. 18902, effective October 12, 1993; emergency amendment at 17 Ill. Reg. 18152, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 18571, effective October 8, 1993; emergency amendment at 17 Ill. Reg. 18611, effective October 1, 1993, for a maximum of 150 days; amended at 17 Ill. Reg. 20999, effective November 24, 1993; emergency amendment repealed at 17 Ill. Reg. 22583, effective December 20, 1993; amended at 18 Ill. Reg. 3620, effective February 28, 1994; amended at 18 Ill. Reg. 4250, effective March 4, 1994; amended at 18 Ill. Reg. 5951, effective April 1, 1994; emergency amendment at 18 Ill. Reg. 10922, effective July 1, 1994, for a maximum of 150 days; emergency amendment suspended at 18 Ill. Reg. 17286, effective November 15, 1994; emergency amendment repealed at 19 Ill. Reg. 5839, effective April 4, 1995; amended at 18 Ill. Reg. 11244, effective July 1, 1994; amended at 18 Ill. Reg. 14126, effective August 29, 1994; amended at 18 Ill. Reg. 16675, effective November 1, 1994; amended at 18 Ill. Reg. 18059, effective December 19, 1994; amended at 19 Ill. Reg. 1082, effective January 20, 1995; amended at 19 Ill. Reg. 2933, effective March 1, 1995; emergency amendment at 19 Ill. Reg. 3529, effective March 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 5663, effective April 1, 1995; amended at 19 Ill. Reg. 7919, effective June 5, 1995; emergency amendment at 19 Ill. Reg. 8455, effective June 9, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 9297, effective July 1, 1995, for a maximum of 150 days; emergency amendment at 19 Ill. Reg. 10252, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13019, effective

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September 5, 1995; amended at 19 Ill. Reg. 14440, effective September 29, 1995; emergency amendment at 19 Ill. Reg. 14833, effective October 6, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 15441, effective October 26, 1995; amended at 19 Ill. Reg. 15692, effective November 6, 1995; amended at 19 Ill. Reg. 16677, effective November 28, 1995; amended at 20 Ill. Reg. 1210, effective December 29, 1995; amended at 20 Ill. Reg. 4345, effective March 4, 1996; amended at 20 Ill. Reg. 5858, effective April 5, 1996; amended at 20 Ill. Reg. 6929, effective May 6, 1996; amended at 20 Ill. Reg. 7922, effective May 31, 1996; amended at 20 Ill. Reg. 9081, effective June 28, 1996; emergency amendment at 20 Ill. Reg. 9312, effective July 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 11332, effective August 1, 1996; amended at 20 Ill. Reg. 14845, effective October 31, 1996; emergency amendment at 21 Ill. Reg. 705, effective December 31, 1996, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 3734, effective March 5, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4777, effective April 2, 1997; amended at 21 Ill. Reg. 6899, effective May 23, 1997; amended at 21 Ill. Reg. 9763, effective July 15, 1997; amended at 21 Ill. Reg. 11569, effective August 1, 1997; emergency amendment at 21 Ill. Reg. 13857, effective October 1, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 1416, effective December 29, 1997; amended at 22 Ill. Reg. 4412, effective February 27, 1998; amended at 22 Ill. Reg. 7024, effective April 1, 1998; amended at 22 Ill. Reg. 10606, effective June 1, 1998; emergency amendment at 22 Ill. Reg. 13117, effective July 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16302, effective August 28, 1998; amended at 22 Ill. Reg. 18979, effective September 30, 1998; amended at 22 Ill. Reg. 19898, effective October 30, 1998; emergency amendment at 22 Ill. Reg. 22108, effective December 1, 1998, for a maximum of 150 days; emergency expired April 29, 1999; amended at 23 Ill. Reg. 5796, effective April 30, 1999; amended at 23 Ill. Reg. 7122, effective June 1, 1999; emergency amendment at 23 Ill. Reg. 8236, effective July 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9874, effective August 3, 1999; amended at 23 Ill. Reg. 12697, effective October 1, 1999; amended at 23 Ill. Reg. 13646, effective November 1, 1999; amended at 23 Ill. Reg. 14567, effective December 1, 1999; amended at 24 Ill. Reg. 661, effective January 3, 2000; amended at 24 Ill. Reg. 10277, effective July 1, 2000; emergency amendment at 24 Ill. Reg. 10436, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15086, effective October 1, 2000; amended at 24 Ill. Reg. 18320, effective December 1, 2000; emergency amendment at 24 Ill. Reg. 19344, effective December 15, 2000, for a maximum of 150 days; amended at 25 Ill. Reg. 3897, effective March 1, 2001; amended at 25 Ill. Reg. 6665, effective May 11, 2001; amended at 25 Ill. Reg. 8793, effective July 1, 2001; emergency amendment at 25 Ill. Reg. 8850, effective July 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 11880, effective September 1, 2001; amended at 25 Ill. Reg. 12820, effective October 8, 2001; amended at 25 Ill. Reg. 14957, effective November 1, 2001; emergency amendment at 25 Ill. Reg. 16127, effective November 28, 2001, for a maximum of 150 days; emergency amendment at 25 Ill. Reg. 16292, effective December 3, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 514,

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effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 663, effective January 7, 2002; amended at 26 Ill. Reg. 4781, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 5984, effective April 15, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 7285, effective April 29, 2002; emergency amendment at 26 Ill. Reg. 8594, effective June 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 11259, effective July 1, 2002, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 12461, effective July 29, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16593, effective October 22, 2002; emergency amendment at 26 Ill. Reg. 12772, effective August 12, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 13641, effective September 3, 2002; amended at 26 Ill. Reg. 14789, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 15076, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16303, effective October 25, 2002; amended at 26 Ill. Reg. 17751, effective November 27, 2002; amended at 27 Ill. Reg. 768, effective January 3, 2003; amended at 27 Ill. Reg. 3041, effective February 10, 2003; amended at 27 Ill. Reg. 4364, effective February 24, 2003; amended at 27 Ill. Reg. 7823, effective May 1, 2003; amended at 27 Ill. Reg. 9157, effective June 2, 2003; emergency amendment at 27 Ill. Reg. 10813, effective July 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 13784, effective August 1, 2003; amended at 27 Ill. Reg. 14799, effective September 5, 2003; emergency amendment at 27 Ill. Reg. 15584, effective September 20, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16161, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18629, effective November 26, 2003; amended at 28 Ill. Reg. 2744, effective February 1, 2004; amended at 28 Ill. Reg. 4958, effective March 3, 2004; emergency amendment at 28 Ill. Reg. 6622, effective April 19, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7081, effective May 3, 2004; emergency amendment at 28 Ill. Reg. 8108, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9640, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10135, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 11161, effective August 1, 2004; emergency amendment at 28 Ill. Reg. 12198, effective August 11, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 13775, effective October 1, 2004; amended at 28 Ill. Reg. 14804, effective October 27, 2004; amended at 28 Ill. Reg. 15513, effective November 24, 2004; amended at 29 Ill. Reg. 831, effective January 1, 2005; amended at 29 Ill. Reg. 6945, effective May 1, 2005; emergency amendment at 29 Ill. Reg. 8509, effective June 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12534, effective August 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 14957, effective September 30, 2005; emergency amendment at 29 Ill. Reg. 15064, effective October 1, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 15985, effective October 5, 2005, for the remainder of the maximum 150 days; emergency amendment at 29 Ill. Reg. 15610, effective October 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 16515, effective October 5, 2005, for a maximum of 150 days; amended at 30 Ill. Reg. 349, effective December 28, 2005; emergency amendment at 30 Ill.

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Reg. 573, effective January 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 796, effective January 1, 2006; amended at 30 Ill. Reg. 2802, effective February 24, 2006; amended at 30 Ill. Reg. 10370, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 12376, effective July 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 13909, effective August 2, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 14280, effective August 18, 2006; expedited correction at 31 Ill. Reg. 1745, effective August 18, 2006; emergency amendment at 30 Ill. Reg. 17970, effective November 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18648, effective November 27, 2006; emergency amendment at 30 Ill. Reg. 19400, effective December 1, 2006, for a maximum of 150 days; amended at 31 Ill. Reg. 388, effective December 29, 2006; emergency amendment at 31 Ill. Reg. 1580, effective January 1, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 2413, effective January 19, 2007; amended at 31 Ill. Reg. 5561, effective March 30, 2007; amended at 31 Ill. Reg. 6930, effective April 29, 2007; amended at 31 Ill. Reg. 8485, effective May 30, 2007.

SUBPART B: MEDICAL PROVIDER PARTICIPATION

Section 140.12 Participation Requirements for Medical Providers

The provider shall agree to:

- a) Verify eligibility of recipients prior to providing each service;
- b) Allow recipients the choice of accepting or rejecting medical or surgical care or treatment;
- c) Provide supplies and services in full compliance with all applicable provisions of State and federal laws and regulations pertaining to nondiscrimination and equal employment opportunity including but not limited to:
 - 1) Full compliance with Title VI of the Civil Rights Act of 1964, which prohibits discrimination on the basis of race, color or national origin;
 - 2) Full compliance with Section 504 of the Rehabilitation Act of 1973 and 45 CFR 84, which prohibit discrimination on the basis of handicap; and
 - 3) Without discrimination on the basis of religious belief, political affiliation, sex, age or disability;
- d) Comply with the requirements of applicable federal and State laws and not engage

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in practices prohibited by such laws;

- e) Provide, and upon demand present documentation of, education of employees, contractors and agents regarding the federal False Claims Act (31 USC 3729-3733) that complies with all requirements of 42 USC 1396a(a)(68). Providers subject to this requirement include a governmental agency, organization, unit, corporation, partnership, or other business arrangement (including any Medicaid managed care organization, irrespective of the form of business structure or arrangement by which it exists), whether for-profit or not-for-profit, that receives or makes payments totaling at least \$5 million annually;
- fe) Hold confidential, and use for authorized program purposes only, all Medical Assistance information regarding recipients;
- gf) Furnish to the Department, in the form and manner requested by it, any information it requests regarding payments for providing goods or services, or in connection with the rendering of goods or services or supplies to recipients by the provider, his agent, employer or employee;
- hg) Make charges for the provision of services and supplies to recipients in amounts not to exceed the provider's usual and customary charges and in the same quality and mode of delivery as are provided to the general public;
- ih) Accept as payment in full the amounts established by the Department.
 - 1) If a provider accepts an individual eligible for medical assistance from the Department as a Medicaid recipient, such provider shall not bill, demand or otherwise seek reimbursement from that individual or from a financially responsible relative or representative of the individual for any service for which reimbursement would have been available from the Department if the provider had timely and properly billed the Department. For purposes of this subsection, "accepts" shall be deemed to include:
 - A) an affirmative representation to an individual that payment for services will be sought from the Department;
 - B) an individual presents the provider with his or her medical card and the provider does not indicate that other payment arrangements will be necessary; or

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- C) billing the Department for the covered medical service provided an eligible individual.
- 2) If an eligible individual is entitled to medical assistance with respect to a service for which a third party is liable for payment, the provider furnishing the service may not seek to collect from the individual payment for that service if the total liability of the third party for that service is at least equal to the amount payable for that service by the Department.
- ji) Accept assignment of Medicare benefits for public aid recipients eligible for Medicare, when payment for services to such persons is sought from the Department;
- kj) Complete an MCH (Maternal and Child Health) Primary Care Provider Agreement in order to participate in the Maternal and Child Health Program (see Section 140.924(a)(1)(D)); and
- kk) In the case of long term care providers, assume liability for repayment to the Department of any overpayment made to a facility regardless of whether the overpayment was incurred by a current owner or operator or by a previous owner or operator. Liability of current and previous providers to the Department shall be joint and several. Recoveries by the Department under this Section may be made pursuant to Sections 140.15 and 140.25. A current or previous owner or lessee may request from the Department a list of all known outstanding liabilities due the Department by the facility and of any known pending Department actions against a facility that may result in further liability. For purposes of this Section, "overpayment" shall include, but not be limited to:
- 1) Amounts established by final administrative decisions pursuant to 89 Ill. Adm. Code 104;
 - 2) Overpayments resulting from advance C-13 payments made pursuant to Section 140.71;
 - 3) Liabilities resulting from nonpayment or delinquent payment of assessments pursuant to Sections 140.82, 140.84 and 140.94; and
 - 4) Amounts identified during past, pending or future audits that pertain to

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audit periods prior to a change in ownership and are conducted pursuant to Sections 140.30 and 140.590. Liability of current owners or operators for amounts identified during such audits shall be as follows:

- A) For past audits (audits completed before changes in ownership), liability shall be the amount established by final administrative decision.
- B) For pending audits (audits initiated, but not completed prior to the change in ownership), liability shall be limited to the lesser of the amounts established by final administrative decision or two months of service revenue. Two months of service revenue is defined as the most recent two months of Medicaid patient days multiplied by the total Medicaid rate in effect on the date the new owner or operator is enrolled in the Program as a provider by the Department. The Medicaid rate in effect on the date of enrollment shall be used even if that rate is subsequently changed.
- C) For future audits (audits initiated after the change in ownership but pertaining to an audit period prior to a change in ownership), liability shall be limited as described in subsection (k)(4)(B) of this Section.

(Source: Amended at 31 Ill. Reg. 8485, effective May 30, 2007)

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- 1) Heading of the Part: Hospital Services
- 2) Code Citation: 89 Ill. Adm. Code 148
- 3) Section Number: 148.210 Adopted Action: Amendment
- 4) Statutory Authority: Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-13]
- 5) Effective Date of Amendment: June 1, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any materials 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: August 18, 2006; 30 Ill. Reg. 13636
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences Between Proposal and Final Version: There are no differences between the proposal and final version.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other amendments pending on this Part? Yes

<u>Section:</u>	<u>Proposed Action:</u>	<u>Illinois Register Citation:</u>
148.270	Amendment	31 Ill. Reg. 4308; March 16, 2007
- 15) Summary and Purpose of Amendment: The amendment corrects an error made during an earlier rulemaking for this Part in Section 148.210(d), which became effective June 1, 2004. That rulemaking referenced 89 Ill. Adm. Code 140.80 hospital assessment fees as

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a non-allowable Medicaid cost. The reference to this Section is being stricken because hospital assessment fees are, in fact, an allowable cost.

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

Tamara Tanzillo Hoffman
Chief of Staff
Illinois Department of Healthcare and Family Services
201 South Grand Avenue East, Third Floor
Springfield, Illinois 62763-0002

217/ 557-7157

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

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TITLE 89: SOCIAL SERVICES

CHAPTER I: DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

SUBCHAPTER d: MEDICAL PROGRAMS

PART 148

HOSPITAL SERVICES

SUBPART A: GENERAL PROVISIONS

Section

148.10	Hospital Services
148.20	Participation
148.25	Definitions and Applicability
148.30	General Requirements
148.40	Special Requirements
148.50	Covered Hospital Services
148.60	Services Not Covered as Hospital Services
148.70	Limitation On Hospital Services

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section

148.80	Organ Transplants Services Covered Under Medicaid (Repealed)
148.82	Organ Transplant Services
148.85	Supplemental Tertiary Care Adjustment Payments
148.90	Medicaid Inpatient Utilization Rate (MIUR) Adjustment Payments
148.95	Medicaid Outpatient Utilization Rate (MOUR) Adjustment Payments
148.100	Outpatient Rural Hospital Adjustment Payments
148.103	Outpatient Service Adjustment Payments
148.105	Psychiatric Adjustment Payments
148.110	Psychiatric Base Rate Adjustment Payments
148.112	High Volume Adjustment Payments
148.115	Rural Adjustment Payments
148.117	Outpatient Assistance Adjustment Payments
148.120	Disproportionate Share Hospital (DSH) Adjustments
148.122	Medicaid Percentage Adjustments
148.126	Safety Net Adjustment Payments
148.130	Outlier Adjustments for Exceptionally Costly Stays
148.140	Hospital Outpatient and Clinic Services

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- 148.150 Public Law 103-66 Requirements
- 148.160 Payment Methodology for County-Owned Hospitals in an Illinois County with a Population of Over Three Million
- 148.170 Payment Methodology for Hospitals Organized Under the University of Illinois Hospital Act
- 148.175 Supplemental Disproportionate Share Payment Methodology for Hospitals Organized Under the Town Hospital Act
- 148.180 Payment for Pre-operative Days, Patient Specific Orders, and Services Which Can Be Performed in an Outpatient Setting
- 148.190 Copayments
- 148.200 Alternate Reimbursement Systems
- 148.210 Filing Cost Reports
- 148.220 Pre September 1, 1991, Admissions
- 148.230 Admissions Occurring on or after September 1, 1991
- 148.240 Utilization Review and Furnishing of Inpatient Hospital Services Directly or Under Arrangements
- 148.250 Determination of Alternate Payment Rates to Certain Exempt Hospitals
- 148.260 Calculation and Definitions of Inpatient Per Diem Rates
- 148.270 Determination of Alternate Cost Per Diem Rates For All Hospitals; Payment Rates for Certain Exempt Hospital Units; and Payment Rates for Certain Other Hospitals
- 148.280 Reimbursement Methodologies for Children's Hospitals and Hospitals Reimbursed Under Special Arrangements
- 148.285 Excellence in Academic Medicine Payments
- 148.290 Adjustments and Reductions to Total Payments
- 148.295 Critical Hospital Adjustment Payments (CHAP)
- 148.296 Tertiary Care Adjustment Payments
- 148.297 Pediatric Outpatient Adjustment Payments
- 148.298 Pediatric Inpatient Adjustment Payments
- 148.300 Payment
- 148.310 Review Procedure
- 148.320 Alternatives
- 148.330 Exemptions
- 148.340 Subacute Alcoholism and Substance Abuse Treatment Services
- 148.350 Definitions (Repealed)
- 148.360 Types of Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
- 148.368 Volume Adjustment (Repealed)
- 148.370 Payment for Subacute Alcoholism and Substance Abuse Treatment Services

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148.380	Rate Appeals for Subacute Alcoholism and Substance Abuse Treatment Services (Repealed)
148.390	Hearings
148.400	Special Hospital Reporting Requirements
148.402	Medicaid Eligibility Payments
148.404	Medicaid High Volume Adjustment Payments
148.406	Intensive Care Adjustment Payments
148.408	Trauma Center Adjustment Payments
148.410	Psychiatric Rate Adjustment Payments
148.412	Rehabilitation Adjustment Payments
148.414	Supplemental Tertiary Care Adjustment Payments
148.416	Crossover Percentage Adjustment Payments
148.418	Long Term Acute Care Hospital Adjustment Payments
148.420	Obstetrical Care Adjustment Payments
148.422	Outpatient Access Payments
148.424	Outpatient Utilization Payments
148.426	Outpatient Complexity of Care Adjustment Payments
148.428	Rehabilitation Hospital Adjustment Payments
148.430	Perinatal Outpatient Adjustment Payments
148.432	Supplemental Psychiatric Adjustment Payments
148.434	Outpatient Community Access Adjustment Payments

SUBPART C: SEXUAL ASSAULT EMERGENCY TREATMENT PROGRAM

Section	
148.500	Definitions
148.510	Reimbursement

SUBPART D: STATE CHRONIC RENAL DISEASE PROGRAM

Section	
148.600	Definitions
148.610	Scope of the Program
148.620	Assistance Level and Reimbursement
148.630	Criteria and Information Required to Establish Eligibility
148.640	Covered Services

148.TABLE A	Renal Participation Fee Worksheet
148.TABLE B	Bureau of Labor Statistics Equivalence

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148.TABLE C List of Metropolitan Counties by SMSA Definition

AUTHORITY: Implementing and authorized by Articles III, IV, V and VI and Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/Arts. III, IV, V, VI and 12-13].

SOURCE: Sections 148.10 thru 148.390 recodified from 89 Ill. Adm. Code 140.94 thru 140.398 at 13 Ill. Reg. 9572; Section 148.120 recodified from 89 Ill. Adm. Code 140.110 at 13 Ill. Reg. 12118; amended at 14 Ill. Reg. 2553, effective February 9, 1990; emergency amendment at 14 Ill. Reg. 11392, effective July 1, 1990, for a maximum of 150 days; amended at 14 Ill. Reg. 15358, effective September 13, 1990; amended at 14 Ill. Reg. 16998, effective October 4, 1990; amended at 14 Ill. Reg. 18293, effective October 30, 1990; amended at 14 Ill. Reg. 18499, effective November 8, 1990; emergency amendment at 15 Ill. Reg. 10502, effective July 1, 1991, for a maximum of 150 days; emergency expired October 29, 1991; emergency amendment at 15 Ill. Reg. 12005, effective August 9, 1991, for a maximum of 150 days; emergency expired January 6, 1992; emergency amendment at 15 Ill. Reg. 16166, effective November 1, 1991, for a maximum of 150 days; amended at 15 Ill. Reg. 18684, effective December 23, 1991; amended at 16 Ill. Reg. 6255, effective March 27, 1992; emergency amendment at 16 Ill. Reg. 11335, effective June 30, 1992, for a maximum of 150 days; emergency expired November 27, 1992; emergency amendment at 16 Ill. Reg. 11942, effective July 10, 1992, for a maximum of 150 days; emergency amendment at 16 Ill. Reg. 14778, effective October 1, 1992, for a maximum of 150 days; amended at 16 Ill. Reg. 19873, effective December 7, 1992; amended at 17 Ill. Reg. 131, effective December 21, 1992; amended at 17 Ill. Reg. 3296, effective March 1, 1993; amended at 17 Ill. Reg. 6649, effective April 21, 1993; amended at 17 Ill. Reg. 14643, effective August 30, 1993; emergency amendment at 17 Ill. Reg. 17323, effective October 1, 1993, for a maximum of 150 days; amended at 18 Ill. Reg. 3450, effective February 28, 1994; emergency amendment at 18 Ill. Reg. 12853, effective August 2, 1994, for a maximum of 150 days; amended at 18 Ill. Reg. 14117, effective September 1, 1994; amended at 18 Ill. Reg. 17648, effective November 29, 1994; amended at 19 Ill. Reg. 1067, effective January 20, 1995; emergency amendment at 19 Ill. Reg. 3510, effective March 1, 1995, for a maximum of 150 days; emergency expired July 29, 1995; emergency amendment at 19 Ill. Reg. 6709, effective May 12, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 10060, effective June 29, 1995; emergency amendment at 19 Ill. Reg. 10752, effective July 1, 1995, for a maximum of 150 days; amended at 19 Ill. Reg. 13009, effective September 5, 1995; amended at 19 Ill. Reg. 16630, effective November 28, 1995; amended at 20 Ill. Reg. 872, effective December 29, 1995; amended at 20 Ill. Reg. 7912, effective May 31, 1996; emergency amendment at 20 Ill. Reg. 9281, effective July 1, 1996, for a maximum of 150 days; emergency amendment at 20 Ill. Reg. 12510, effective September 1, 1996, for a maximum of 150 days; amended at 20 Ill. Reg. 15722, effective November 27, 1996; amended at 21 Ill. Reg. 607, effective January 2, 1997; amended at 21 Ill. Reg. 8386, effective June 23, 1997; emergency amendment at 21 Ill. Reg. 9552,

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effective July 1, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 9822, effective July 2, 1997, for a maximum of 150 days; emergency amendment at 21 Ill. Reg. 10147, effective August 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 13349, effective September 23, 1997; emergency amendment at 21 Ill. Reg. 13675, effective September 27, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 16161, effective November 26, 1997; amended at 22 Ill. Reg. 1408, effective December 29, 1997; amended at 22 Ill. Reg. 3083, effective January 26, 1998; amended at 22 Ill. Reg. 11514, effective June 22, 1998; emergency amendment at 22 Ill. Reg. 13070, effective July 1, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 15027, effective August 1, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 16273, effective August 28, 1998; amended at 22 Ill. Reg. 21490, effective November 25, 1998; amended at 23 Ill. Reg. 5784, effective April 30, 1999; amended at 23 Ill. Reg. 7115, effective June 1, 1999; amended at 23 Ill. Reg. 7908, effective June 30, 1999; emergency amendment at 23 Ill. Reg. 8213, effective July 1, 1999, for a maximum of 150 days; emergency amendment at 23 Ill. Reg. 12772, effective October 1, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 13621, effective November 1, 1999; amended at 24 Ill. Reg. 2400, effective February 1, 2000; amended at 24 Ill. Reg. 3845, effective February 25, 2000; emergency amendment at 24 Ill. Reg. 10386, effective July 1, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 11846, effective August 1, 2000; amended at 24 Ill. Reg. 16067, effective October 16, 2000; amended at 24 Ill. Reg. 17146, effective November 1, 2000; amended at 24 Ill. Reg. 18293, effective December 1, 2000; amended at 25 Ill. Reg. 5359, effective April 1, 2001; emergency amendment at 25 Ill. Reg. 5432, effective April 1, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 6959, effective June 1, 2001; emergency amendment at 25 Ill. Reg. 9974, effective July 23, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 10513, effective August 2, 2001; emergency amendment at 25 Ill. Reg. 12870, effective October 1, 2001, for a maximum of 150 days; emergency expired February 27, 2002; amended at 25 Ill. Reg. 16087, effective December 1, 2001; emergency amendment at 26 Ill. Reg. 536, effective December 31, 2001, for a maximum of 150 days; emergency amendment at 26 Ill. Reg. 680, effective January 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 4825, effective March 15, 2002; emergency amendment at 26 Ill. Reg. 4953, effective March 18, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 7786, effective July 1, 2002; emergency amendment at 26 Ill. Reg. 7340, effective April 30, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 8395, effective May 28, 2002; emergency amendment at 26 Ill. Reg. 11040, effective July 1, 2002, for a maximum of 150 days; emergency amendment repealed at 26 Ill. Reg. 16612, effective October 22, 2002; amended at 26 Ill. Reg. 12322, effective July 26, 2002; amended at 26 Ill. Reg. 13661, effective September 3, 2002; amended at 26 Ill. Reg. 14808, effective September 26, 2002; emergency amendment at 26 Ill. Reg. 14887, effective October 1, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 17775, effective November 27, 2002; emergency amendment at 27 Ill. Reg. 580, effective January 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 866,

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effective January 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 4386, effective February 24, 2003; emergency amendment at 27 Ill. Reg. 8320, effective April 28, 2003, for a maximum of 150 days; emergency amendment repealed at 27 Ill. Reg. 12121, effective July 10, 2003; amended at 27 Ill. Reg. 9178, effective May 28, 2003; emergency amendment at 27 Ill. Reg. 11041, effective July 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16185, effective October 1, 2003, for a maximum of 150 days; emergency amendment at 27 Ill. Reg. 16268, effective October 1, 2003, for a maximum of 150 days; amended at 27 Ill. Reg. 18843, effective November 26, 2003; emergency amendment at 28 Ill. Reg. 1418, effective January 8, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 1766, effective January 10, 2004, for a maximum of 150 days; emergency expired June 7, 2004; amended at 28 Ill. Reg. 2770, effective February 1, 2004; emergency amendment at 28 Ill. Reg. 5902, effective April 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 7101, effective May 3, 2004; amended at 28 Ill. Reg. 8072, effective June 1, 2004; emergency amendment at 28 Ill. Reg. 8167, effective June 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 9661, effective July 1, 2004; emergency amendment at 28 Ill. Reg. 10157, effective July 1, 2004, for a maximum of 150 days; emergency amendment at 28 Ill. Reg. 12036, effective August 3, 2004, for a maximum of 150 days; emergency expired December 30, 2004; emergency amendment at 28 Ill. Reg. 12227, effective August 6, 2004, for a maximum of 150 days; emergency expired January 2, 2005; amended at 28 Ill. Reg. 14557, effective October 27, 2004; amended at 28 Ill. Reg. 15536, effective November 24, 2004; amended at 29 Ill. Reg. 861, effective January 1, 2005; emergency amendment at 29 Ill. Reg. 2026, effective January 21, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 5514, effective April 1, 2005; emergency amendment at 29 Ill. Reg. 5756, effective April 8, 2005, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 29 Ill. Reg. 11622, effective July 5, 2005, for the remainder of the 150 days; amended at 29 Ill. Reg. 8363, effective June 1, 2005; emergency amendment at 29 Ill. Reg. 10275, effective July 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 12568, effective August 1, 2005, for a maximum of 150 days; emergency amendment at 29 Ill. Reg. 15629, effective October 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 19973, effective November 23, 2005; amended at 30 Ill. Reg. 383, effective December 28, 2005; emergency amendment at 30 Ill. Reg. 596, effective January 1, 2006, for a maximum of 150 days; emergency amendment at 30 Ill. Reg. 955, effective January 9, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 2827, effective February 24, 2006; emergency amendment at 30 Ill. Reg. 7786, effective April 10, 2006, for a maximum of 150 days; emergency amendment repealed by emergency rulemaking at 30 Ill. Reg. 12400, effective July 1, 2006, for the remainder of the 150 days; emergency expired September 6, 2006; amended at 30 Ill. Reg. 8877, effective May 1, 2006; amended at 30 Ill. Reg. 10393, effective May 26, 2006; emergency amendment at 30 Ill. Reg. 11815, effective July 1, 2006, for a maximum of 150 days; amended at 30 Ill. Reg. 18672, effective November 27, 2006; emergency amendment at 31 Ill. Reg. 1602, effective January 1, 2007, for a maximum of 150 days;

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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emergency amendment at 31 Ill. Reg. 1997, effective January 15, 2007, for a maximum of 150 days; amended at 31 Ill. Reg. 5596, effective April 1, 2007; amended at 31 Ill. Reg. 8123, effective May 30, 2007; amended at 31 Ill. Reg. 8508, effective June 1, 2007.

SUBPART B: REIMBURSEMENT AND RELATED PROVISIONS

Section 148.210 Filing Cost Reports

- a) All hospitals in Illinois, those hospitals in contiguous states providing 100 or more paid acute inpatient days of care to Illinois Medicaid Program participants, and all hospitals located in states contiguous to Illinois that elect to be reimbursed under the methodology described in 89 Ill. Adm. Code 149 (the Diagnosis Related Grouping (DRG) Prospective Payment System (PPS)), shall be required to file Medicaid and Medicare cost reports within 150 days after the close of that provider's fiscal year.
 - 1) Any hospital certified in the Medicare Program (Title XVIII) and electing, for the first time, to be reimbursed under the DRG PPS must include a copy of the two most recently audited Medicare cost reports at the time of enrollment.
 - 2) Any hospital accredited by the Joint Commission on the Accreditation of Healthcare Organizations (JCAHO) not eligible for or subject to Medicare certification shall be required to file financial statements, a statement of revenues and expenses by program, and census logs by program and financial class. The Office of Health Finance may request an audit of the financial statements by an independent Certified Public Accountant (CPA) firm if the financial statements are to be used as the base year for rate analysis. Should the hospital elect not to comply with the audit request, or the financial statements are given other than an unqualified opinion, the hospital will receive an alternate rate as described in Section 148.270.
- b) No extension of the Medicaid cost report due date will be granted by the Department unless the Centers for Medicare and Medicaid Services (CMS) grants an extension of the due date for the Medicare cost report. Should CMS extend the Medicare cost report due date, the Department will extend the Medicaid and Medicare cost reports due date by an equivalent period of time.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

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- c) If the hospital has not filed the required Medicaid cost reports within 150 days after the close of the hospital's fiscal year, the Department shall suspend payment for covered medical services until the Department receives the required information.
- d) The assessment or license fees described in 89 Ill. Adm. Code ~~140.80~~, 140.82, 140.84, 140.94 and 140.95, may not be reported as allowable Medicaid costs on the Medicaid cost report.

(Source: Amended at 31 Ill. Reg. 8508, effective June 1, 2007)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Trifecta
- 2) Code Citation: 11 Ill. Adm. Code 306
- 3) Section Number: 306.20 Adopted Action:
Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: June 1, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 2850; February 16, 2007
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any other rulemakings pending in this Part? No
- 15) Summary and purpose of rulemaking: This rulemaking requires one race entry, coupled or uncoupled, to have at least 6 betting interests at the start of the race. In the event of a scratch, betting on a race with 5 interests is permitted as long as no entries are uncoupled. It also decreases from \$200,000 to \$100,000 the minimum purse required for stakes races in which common owner entries, coupled or uncoupled, are allowed.
- 16) Information and questions regarding this adopted amendment shall be directed to:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601
Attn: Mickey Ezzo, 312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULES

PART 306
TRIFECTA

Section	
306.10	Definition
306.20	Entries
306.30	Minimum Fields
306.40	Pool Distribution
306.50	Dead Heats
306.60	Scratches

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 19 Ill. Reg. 15225, effective November 1, 1995; amended at 24 Ill. Reg. 7397, effective May 1, 2000; amended at 26 Ill. Reg. 4900, effective March 20, 2002; amended at 26 Ill. Reg. 12355, effective August 1, 2002; amended at 27 Ill. Reg. 5024, effective March 7, 2003; amended at 30 Ill. Reg. 2651, effective February 21, 2006; amended at 30 Ill. Reg. 10459, effective June 1, 2006; amended at 31 Ill. Reg. 8518, effective June 1, 2007.

Section 306.20 Entries

- a) Entries, either coupled or uncoupled, shall be allowed in a trifecta race under the following conditions:
- 1) one entry requires at least six betting interests at the start of the race, except, in the event of a scratch, Section 306.30(a) applies.
 - 2) two entries requires at least eight betting interests at the start of the race.
 - 3) more than two entries shall require approval from the Stewards.

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- b) For stakes races with a minimum purse of \$20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- c) For stakes races with a minimum purse of ~~\$100,000~~\$200,000, common owner entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- d) This Section shall not apply to races that are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)] or for uncoupled entries permitted in 11 Ill. Adm. Code 1413.114(c) when there are thoroughbred stakes races with purses of \$250,000 or more.

(Source: Amended at 31 Ill. Reg. 8518, effective June 1, 2007)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

- 1) Heading of the Part: Superfecta
- 2) Code Citation: 11 Ill. Adm. Code 311
- 3) Section Number: 311.40 Adopted Action:
Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: June 1, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 2854; February 16, 2007
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of rulemaking: This rulemaking requires one race entry, coupled or uncoupled, to have at least 7 betting interests at the start of the race. In the event of a scratch, betting on a race with 6 interests is permitted as long as no entries are uncoupled. It also decreases from \$200,000 to \$100,000 the minimum purse required for stakes races in which common owner entries, coupled or uncoupled, are allowed.
- 16) Information and questions regarding this rulemaking shall be directed to:

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601
Attn: Mickey Ezzo, 312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER a: GENERAL RULESPART 311
SUPERFECTA

Section	
311.10	Superfecta
311.20	Pool Distribution
311.25	Scratches
311.30	Dead Heats
311.35	Minimum Fields
311.40	Entries

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Adopted at 18 Ill. Reg. 7440, effective May 8, 1994; amended at 19 Ill. Reg. 6663, effective May 1, 1995; amended at 26 Ill. Reg. 4903, effective March 20, 2002; amended at 26 Ill. Reg. 12357, effective August 1, 2002; emergency amendment at 26 Ill. Reg. 14702, effective September 16, 2002, for a maximum of 150 days; emergency expired February 12, 2003; emergency amendment at 26 Ill. Reg. 16854, effective November 15, 2002, for a maximum of 150 days; emergency expired April 13, 2003; amended at 28 Ill. Reg. 7121, effective May 10, 2004; amended at 29 Ill. Reg. 14024, effective September 1, 2005; amended at 30 Ill. Reg. 2654, effective February 21, 2006; amended at 30 Ill. Reg. 10463, effective June 1, 2006; amended at 31 Ill. Reg. 8522, effective June 1, 2007.

Section 311.40 Entries

- a) Entries, either coupled or uncoupled, shall be allowed in a superfecta race under the following conditions:
 - 1) one entry requires at least seven betting interests at the start of the race, except, in the event of a scratch, Section 311.35(a) applies.
 - 2) two entries require at least eight betting interests at the start of the race.

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- 3) more than two entries shall require approval from the Stewards.
- b) For stakes races with a minimum purse of \$20,000, entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- c) For stakes races with a minimum purse of ~~\$100,000~~\$200,000, common owner entries, either coupled or uncoupled, shall be allowed and there shall be no restrictions on minimum betting interests.
- d) This Section shall not apply to races that are permitted for simulcasting under Section 26(g) of the Act [230 ILCS 5/26(g)] or for uncoupled entries permitted in 11 Ill. Adm. Code 1413.114(c) when there are thoroughbred stakes races with purses of \$250,000 or more.

(Source: Amended at 31 Ill. Reg. 8522, effective June 1, 2007)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

100 West Randolph, Suite 7-701
Chicago, Illinois 60601

Attn: Mickey Ezzo,
312/814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER f: RULES AND REGULATIONS OF HARNESS RACINGPART 1312
ENTRIES AND DECLARATIONS

Section	
1312.10	Entries
1312.20	Penalties
1312.30	Sale of Horse With Entrance Due
1312.40	Receipt of Entries
1312.50	Postage Meter
1312.60	Deviation From Published Conditions
1312.70	When Ineligible Horse Races
1312.80	Transfer of Ineligible Horse
1312.90	Withholding Purse When Ineligible Horse Races
1312.100	Early Closing and Late Closing Events
1312.110	Subsequent Payments
1312.120	Trust Funds
1312.130	Stable Space
1312.140	Limitation on Conditions
1312.150	Penalties
1312.160	Excess Entry Fees
1312.170	Entries and Starters Required
1312.180	Elimination Heats
1312.190	Elimination Plans
1312.200	Overnight Events
1312.210	Entry Box and Drawing of Horses
1312.220	Substitute Races
1312.230	Drivers
1312.240	Declaration and Withdrawing
1312.250	Qualifying Races
1312.260	Entry or Coupling
1312.265	Uncoupled Entries
1312.270	Husband-Wife Entries
1312.280	Also Eligibles
1312.290	Preference

ILLINOIS RACING BOARD

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- 1312.300 Stewards' List
1312.310 Medical Reasons for Ineligibility

AUTHORITY: Implementing and authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Published in Rules and Regulations of Harness Racing (original date not cited in publication); amended July 12, 1974, filed July 22, 1974; amended February 13, 1976, filed March 1, 1976; amended September 19, 1975, filed October 2, 1975; amended at 4 Ill. Reg. 9, p. 251, effective February 20, 1980; amended at 4 Ill. Reg. 21, p. 85, effective May 9, 1980; amended at 5 Ill. Reg. 1498, effective February 2, 1981; codified at 5 Ill. Reg. 10934; amended at 15 Ill. Reg. 2727, effective February 5, 1991; amended at 24 Ill. Reg. 7390, effective May 1, 2000; amended at 25 Ill. Reg. 6390, effective May 1, 2001; amended at 27 Ill. Reg. 5030, effective March 7, 2003; amended at 31 Ill. Reg. 8526, effective June 1, 2007.

Section 1312.260 Entry or Coupling

When starters in a race include two or more horses owned or trained by the same stable or by the same management, or same person, they shall be coupled as an "entry", and a wager on one horse in the "entry" shall be a wager on all horses in the "entry". However, the uncoupling of entries with common owners shall be permitted in stakes races with purses of ~~\$100,000~~~~\$200,000~~ or more. If a race is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions, but the divisions in which they compete and their post positions shall be drawn by lot.

(Source: Amended at 31 Ill. Reg. 8526, effective June 1, 2007)

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Entries, Subscriptions, and Declarations
- 2) Code Citation: 11 Ill. Adm. Code 1413
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1413.114	Amendment
1413.140	Amendment
- 4) Statutory Authority: 230 ILCS 5/9(b)
- 5) Effective Date of Rulemaking: June 1, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's central office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: 31 Ill. Reg. 2862; February 16, 2007.
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: None
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the letter issued by JCAR? No agreements were necessary.
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any other proposed amendments pending in this Part? No
- 15) Summary and purpose of Rulemaking: This rulemaking uncouples same owner entries in stakes races with a purse of \$100,000 or more. The uncoupling of entries will increase the number of betting opportunities and make the race more appealing to the betting public, which results in increased handle and purses. It also increases the number of runners per race day by reducing the number of scratches and decreasing the amount of changes once the race program has been printed.

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

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

Illinois Racing Board
100 West Randolph, Suite 7-701
Chicago, Illinois 60601
Attn: Mickey Ezzo, (312) 814-5017

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

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY
SUBTITLE B: HORSE RACING
CHAPTER I: ILLINOIS RACING BOARD
SUBCHAPTER g: RULES AND REGULATIONS OF HORSE RACING
(THOROUGHBRED)

PART 1413

ENTRIES, SUBSCRIPTIONS, AND DECLARATIONS

Section

1413.10	Registration with Jockey Club
1413.20	Registration Rules
1413.30	Eligibility
1413.40	How Entries are Made
1413.42	Number of Entries
1413.44	48- or 72-Hour Entries
1413.46	Also Eligibles Under 48- or 72-Hour Rule
1413.48	Uncoupled Entries
1413.50	Racing Secretary Receives Entries
1413.60	Supervision of Entries
1413.70	When Entries Close
1413.75	Limitation on Purse Reductions
1413.80	Closing in Absence of Conditions
1413.90	Entry by Telegraph
1413.100	List of Entries
1413.110	Limitations on Entries
1413.114	Coupled Couples As Entry
1413.118	Further Definition of Coupling (Repealed)
1413.120	Riders Designated
1413.130	Carding Purse and Handicap Races
1413.134	Race Fails to Fill
1413.138	Substitute and Extra Races
1413.140	Right to Declare Out
1413.150	Number of Entries
1413.160	Fee to Enter
1413.170	Refunds
1413.180	Error in Entry
1413.190	Irrevocable Declaration
1413.200	Notice of Declaration

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NOTICE OF ADOPTED AMENDMENTS

1413.210	Entry of Unfit Horse
1413.220	Refusal for Inconsistency
1413.230	Horse Ineligible
1413.240	Who May Enter
1413.250	Medical Reasons for Ineligibility
1413.260	Sweepstakes Entries
1413.265	Receipt for Nomination
1413.270	Previous Engagements
1413.280	Transfer of Engagements
1413.290	Transfer of Sweepstakes Engagements
1413.300	Jockey Club Certificates
1413.305	Transfer of Jockey Club Certificate
1413.310	Number of Races in a Day

AUTHORITY: Authorized by Section 9(b) of the Illinois Horse Racing Act of 1975 [230 ILCS 5/9(b)].

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); passed July 11, 1972; amended April 11, 1974, filed and effective April 30, 1974; passed June 11, 1974; amended July 12, 1974, filed July 22, 1974; amended August 13, 1974, filed August 19, 1974; amended August 15, 1975, filed August 20, 1975; amended September 19, 1975, filed October 2, 1975; amended June 19, 1976; amended July 16, 1976, filed July 23, 1976; amended August 21, 1976, filed August 30, 1976; amended April 26, 1977, filed May 6, 1977; amended at 4 Ill. Reg. 9, p. 251, effective February 20, 1980; amended at 5 Ill. Reg. 8911, effective August 25, 1981; codified at 5 Ill. Reg. 10981; amended at 15 Ill. Reg. 2730, effective February 5, 1991; amended at 17 Ill. Reg. 1628, effective January 26, 1993; amended at 17 Ill. Reg. 21848, effective December 3, 1993; amended at 18 Ill. Reg. 11612, effective July 7, 1994; amended at 18 Ill. Reg. 17749, effective November 28, 1994; amended at 24 Ill. Reg. 7394, effective May 1, 2000; amended at 24 Ill. Reg. 12725, effective August 1, 2000; amended at 25 Ill. Reg. 178, effective January 1, 2001; amended at 25 Ill. Reg. 15608, effective December 1, 2001; amended at 26 Ill. Reg. 12367, effective August 1, 2002; amended at 31 Ill. Reg. 8530, effective June 1, 2007.

Section 1413.114 Coupled As Entry

Entry shall mean:

- a) A horse made eligible to run in a race; or

ILLINOIS RACING BOARD

NOTICE OF ADOPTED AMENDMENTS

- b) When starters in a race include two or more horses owned by the same person, or by the same management, they shall be coupled as an "entry", except as provided in 11 Ill. Adm. Code 1413.114(c). A wager on one horse in the "entry" shall be a wager on all horses in the "entry". If a race is split in two or more divisions, horses in an "entry" shall be seeded in separate divisions, but the divisions in which they compete and their post positions shall be drawn by lot.
- c) The uncoupling of entries, with common owners, shall be permitted in stakes races with purses of ~~\$100,000~~\$250,000 or more with permission of the owner or trainer.

(Source: Amended at 31 Ill. Reg. 8530, effective June 1, 2007)

Section 1413.140 Right to Declare Out

- a) In purse races and overnight handicaps with more than ~~nine~~eight interests, owners shall have the right to declare out to that number before the time stipulated by the regulations of the operator on the day of the race. When more than one owner expresses the desire to declare out, the ~~such~~ right to declare out shall be determined by lot ~~when necessary~~. Declarations below ~~nine~~eight interests may only be made by permission of the ~~Stewards~~stewards. The also eligibles shall have the preference to scratch over regularly carded horses. In purse races and overnight handicaps moved off the turf with more than eight interests, owners shall have the right to declare out to that number before the time stipulated by the regulations of the operator on the day of the race. When more than one owner expresses the desire to declare out, the right to declare out shall be determined by lot. Declarations below eight interests may only be made by permission of the Stewards.
- b) Horses may be scratched out of stake races not later than 45 minutes before post time of the race.

(Source: Amended at 31 Ill. Reg. 8530, effective June 1, 2007)

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Informal Conference Board
- 2) Code Citation: 86 Ill. Adm. Code 215
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
215.100	Amendment
215.105	Amendment
215.110	Amendment
215.115	Amendment
215.120	Amendment
215.125	Amendment
215.130	Amendment
215.135	New Section
- 4) Statutory Authority: 20 ILCS 2505/2505-510 and 2505-795
- 5) Effective Date of Amendments: June 1, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: June 23, 2006; 30 Ill. Reg. 11062
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: The following changes were made based upon comments received during the First Notice period.

In Section 215.105(d), before "procedures", struck "and" and changed "day and the day" to "day to day".

In Section 215.110, after the first occurrence of the word "Department", added: "or must file a copy of a previously submitted executed Power of Attorney on a form prescribed by the Department.".

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In Section 215.115(b), changed "statue" to "statute".

In Section 215.115(f), the following changes were made:

After the word "Furthermore," added: "should the ICB matter impact future audit periods,".

Deleted the word "Should" and replaced it with "If the ICB matter impacts later audit periods and".

Replaced the word "fail" with "fails".

Changed "where" to "when".

Added a new sentence: "For purposes of this Part, an impact on future audit periods includes, but is not limited to, the following situations: the same issues are involved in both audit periods; the subsequent audit period is a mandatory audit due to the amount of liability proposed in the ICB matter; or the amounts shown on a return subject to review by the ICB may be carried to a subsequent year's return.".

Changed "rule" to "Part".

In Section 215.120(d), deleted "interest and penalty excluded".

In Section 215.120(f), changed "The ICB may establish procedures for processing requests for review which involve proposed liabilities, deficiencies or claim denials in an amount of \$5,000 or less, interest and penalty excluded." to "The ICB may expedite the processing of requests for review that involve proposed liabilities, deficiencies or claim denials in an amount of \$5,000 or less. In determining whether a request should be expedited, the ICB administrator will consider such factors as whether the amount at issue exceeds \$5,000, or whether the issue is one of first impression or controversial. The ICB administrator will notify the taxpayer in writing if it is determined that the matter should be expedited. The expedited process would mean that only the conferee assigned to the matter will attend the in-person conference, if one is requested. In addition, an Action Decision issued in an expedited matter shall be issued upon the approval of one member of the ICB panel. The Action Decision is final and binding on the".

In Section 215.135(a), before the word "When", added "Effective with respect to a Notice of Proposed Liability, Notice of Proposed Deficiency, or Notice of Proposed

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Claim Denial issued on or after May 31, 2007," and changed "When" to "when" immediately following.

- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency amendments currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: The proposed amendments to 86 Ill. Adm. Code Secs. 215.100 through 215.130 address procedural issues that need to be clarified to improve the operations of the Informal Conference Board. The revision allows the Director of Revenue to appoint at least three additional Board members and provides that the Board members will be assigned to panels consisting of three members.

The new Section 86 Ill. Adm. Code 215.135 implicates a policy issue since this proposed rule restricts a taxpayer's ability to request informal review within the Office of Administrative Hearings if the taxpayer has received an Informal Conference Board Decision that addresses the merits of the proposed audit adjustments.

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

Louise Calvert
Administrator
Informal Conference Board
Illinois Department of Revenue
100 West Randolph Street
Chicago, Illinois 60601

312/814-1722

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

DEPARTMENT OF REVENUE

NOTICE OF ADOPTED AMENDMENTS

TITLE 86: REVENUE

CHAPTER I: DEPARTMENT OF REVENUE

PART 215

INFORMAL CONFERENCE BOARD

Section

215.100	Informal Conference Board
215.105	Composition of the Informal Conference Board
215.110	Representation of the Taxpayer Before the Informal Conference Board
215.115	Procedure for Requesting Review by the Informal Conference Board
215.120	Review of Requests by the Informal Conference Board
215.125	Disposition of Proposed Assessments
215.130	In-Person Conferences
<u>215.135</u>	<u>Informal Review in Administrative Hearings Not Available</u>

AUTHORITY: Implementing Section 2505-510, and authorized by Section 2505-795, of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-510 and 2505-795].

SOURCE: Adopted at 25 Ill. Reg. 5390, effective April 2, 2001; amended at 31 Ill. Reg. 8535, effective June 1, 2007.

Section 215.100 Informal Conference Board

The Director of Revenue shall establish an Informal Conference Board (ICB) for the purpose of reviewing proposed adjustments to tax returns ~~generated~~recommended by auditors of the Department of Revenue's Audit Bureau prior to~~Revenue examiners or auditors before~~ the issuance of a Notice of Tax Liability, Notice of Deficiency or Notice of Claim Denial. The ICB shall have the authority to recommend an appropriate ~~resolution~~conclusion to any such matter when, following a review, circumstances warrant such action~~involving such proposed liabilities or claim denials~~. This informal review process affords taxpayers an opportunity to resolve disagreements with the Department after a liability, deficiency, or claim denial has been proposed, but before commencement of the formal protest and administrative hearing process. It is the goal of the Informal Conference Board to ensure that the Department's proposed audit adjustments that are disputed by the taxpayer are correct and to resolve disputes with taxpayers concerning their tax liability at the earliest opportunity possible in the administrative process. The, and the ICB will liberally exercise its discretion in all areas provided for in this Part with this goal in mind.

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(Source: Amended at 31 Ill. Reg. 8535, effective June 1, 2007)

Section 215.105 Composition of the Informal Conference Board

- a) The members of the ICB shall be:
- 1) the General Counsel for the Department ;
 - 2) the Chairman of the Board of Appeals ; ~~and~~
 - 3) the Manager of the Audit Bureau; and
 - 4) ~~3) at least three employees~~an employee of the Department, other than the ICB Administrator, who have experience in state and local tax and procedure or a person under the direct supervision of the General Counsel or the Chairman of the Board of Appeals, to be designated by the Director of Revenue.
- b) The Board members will serve on panels consisting of three members each. The assignment of Board members to a panel will be handled by the ICB Administrator. The ICB Administrator shall assign cases to the panels at his or her discretion.
- c) ~~b) The ICB members~~member designated by the Director under subsection (a)(4) shall serve for ~~an initial term~~term of one year upon appointment and thereafter shall serve at the pleasure of the Director. Each ICB member may delegate his or her function on the ~~Board~~ICB to one or more qualified staff members who may represent the ~~Board member~~ICB at any informal ~~taxpayer~~ conferences. However, but each ICB member shall remain personally responsible for approving final actions of the ICB panel. In the event a Board member recuses himself or herself due to a conflict of interest, the Board member may designate a replacement who will be responsible for approving final actions of the ICB panel.
- d) ~~e) The ICB Administrator shall be an individual with extensive experience in state and local tax~~audit or legal practice and procedures and shall be appointed by the Director of Revenue. The ICB Administrator shall be under the direct supervision ~~of the Director of Revenue~~ and ~~shall~~ serve at the pleasure of the Director. The ICB Administrator shall be responsible for the day-to-day operation of the ICB and shall maintain a record of the cases considered and the activities and

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decisions of the Board. The ICB Administrator shall supervise the conferees and support staff of the ICB and. ~~The ICB Administrator shall~~ ensure that the work of the ICB is completed in a timely manner.

- e)d) The ICB shall be a separate and distinct division of the Department of Revenue and shall not be a unit or division of the Audit Bureau, the Office of Administrative Hearings ~~Division~~, the Board of Appeals or the Office of Legal Services ~~Office of the Department~~. If a ~~No~~ member of the Office of Administrative Hearings ~~Division~~ or Special Assistant Attorney General assigned who acts as a litigator within the Department, except in the Administrative Hearings Division, with the exception of the General Counsel, participates may participate in the informal conference process as a board member, representative of a board member, or conferee, that employee shall be barred from later involvement with the case as an administrative law judge or as a litigator, should the taxpayer subsequently file a protest with the Office of Administrative Hearings or in Circuit Court regarding the matter.

(Source: Amended at 31 Ill. Reg. 8535, effective June 1, 2007)

Section 215.110 Representation of the Taxpayer Before the Informal Conference Board

A taxpayer may represent himself ~~him~~ or herself or may be represented by any person of the taxpayer's ~~his~~ choice during the informal conference process. A taxpayer's chosen representative before the ICB need not be an attorney. However, any person purporting to act in a representative capacity must file a duly executed Power of Attorney on a form prescribed by the Department, or must file a copy of a previously submitted executed Power of Attorney on a form prescribed by the Department, before that person will be allowed to represent the taxpayer before the ICB. Powers of Attorney filed as part of the informal conference process shall be good for that function only and shall not authorize representation or require Department notice for any other purpose following service of a final decision by the ICB. Any Power of Attorney filed by a non-attorney shall be sufficient for participation in the informal review provided by this Part.

(Source: Amended at 31 Ill. Reg. 8535, effective June 1, 2007)

Section 215.115 Procedure for Requesting Review by the Informal Conference Board

- a) Notice ~~Letter~~ of Proposed Audit Adjustments ~~Liability~~. Once the auditor has conducted the audit and made an ~~At the conclusion of an audit or~~ examination of the taxpayer's books and records provided during the audit process ~~in all cases~~

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~~where the Department asserts a deficiency in the amount of tax due or proposes to deny all or some portion of a refund amount claimed, the Department shall issue a written notice to the taxpayer in cases in which a liability or deficiency is asserted or a refund claimed is denied in whole or in part as a result of the audit, proposing the tax liability or proposed denial of the claim for refund. Such letter shall hereinafter be referred to as a "Notice of Proposed Liability", Notice of Proposed Deficiency, or "Notice of Proposed Claim Denial". The notice shall state the amount of the proposed liability, deficiency or claim denial. The Department's proposed liability or claim denial notices shall state the specific grounds for the proposed deficiency or claim denial and inform the taxpayer of his or her right to an informal review by the Informal Conference Board, or in person conference. The taxpayer shall have 60 days after the date the Notice of Proposed Liability, Notice of Proposed Deficiency, or Notice of Proposed Claim Denial is issued to file a request with the Informal Conference Board for review of the proposed audit adjustment assessment. The 60-day period for filing a request commences with the date the notice is hand delivered to the taxpayer, or with the mailing date of the notice. Notice of Proposed Liability or Notice of Proposed Claim Denial. The mailing date of mailing shall be the date that appears on the face of the notice or the postmark date, if later than the date shown on the notice. A request for review shall be deemed to be timely filed if it is either received by the ICB or is postmarked within the 60-day period.~~

- b) Situations When the Taxpayer Will Not Be Issued a Notice of Proposed Audit Adjustment. The Department will not issue a Notice of Proposed Liability, Notice of Proposed Deficiency or Notice of Proposed Claim Denial when a taxpayer has agreed to an audit by signing the EDA-105 or IL-870, or by making a payment of tax deemed assessed under ITA Section 903(a)(4). By signing the EDA-105 or IL-870, or making such a payment, the taxpayer has waived his or her right to seek review by the Informal Conference Board. The Department will also not issue a Notice of Proposed Liability, Notice of Proposed Deficiency, or Notice of Proposed Claim Denial when the taxpayer refuses to extend the statute of limitations when those statutes will expire prior to the expiration of the 60-day period for seeking Informal Conference Board review.
- c) Requirements of a Request for Review. A written request to the ICB will commence the informal review process. The ICB that will examine the basis for the proposed audit adjustments that are being disputed and review the reasons why the taxpayer disagrees with the proposed adjustments, along with all Notice of Proposed Deficiency or Notice of Proposed Claim Denial issued by the

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~~Department, along with a review of the taxpayer's request, all~~ supporting documentation and any additional information that the taxpayer may wish to submit in support of his or her position. The request to the ICB for review of the proposed audit adjustments shall be on a form prescribed by the Department. The form~~assessment or claim denial shall be in writing, or the Department may provide a specific form for filing the request, which~~ shall include at least the following ~~identifying~~ information:

- 1) The name of the taxpayer or taxpayers;
- 2) the taxpayer's identifying numbers (Social Security number of individuals or ~~IBT number, which is~~ the Illinois Business Tax number issued by the Department for registration purposes, or federal identification number for entities, such as corporations, estates and trusts, or partnerships);
- 3) the current address of the taxpayer ~~and~~ the taxpayer's representative to which correspondence concerning the request should be directed;
- 4) the amount of the proposed liability, deficiency~~assessment~~ or claim denial that is the subject of the request;
- 5) the audit period ~~years~~ at issue to which the request is directed; and
- 6) the identifying numbers that appear on the Notice of Proposed Liability~~Deficiency~~, Notice of Proposed Deficiency~~Tax Liability~~ or Notice of Proposed Claim Denial. The request must be dated and signed by the taxpayer or by an authorized representative of the taxpayer. If the taxpayer fails, unless for good cause shown, to provide all information required by the Department's form and instructions, the Board may refuse to take jurisdiction of the request or dismiss the request.

~~d)~~e) In-Person Conference Request. An in-person conference with the ICB panel members or their representatives must be requested at the time that the request for review is filed with the ICB. See Section 215.130 for additional detail relating to in-person conferences.

~~e)~~d) Grounds for Request. A request to the ICB must~~may~~ raise objections to the proposed audit adjustments. The assessment and the request may be supplemented up until 30 days before the in-person conference, if one is requested, or within 30

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~~days after the filing of the request if an in-person conference is not requested. at any time prior to final action by the ICB.~~ The request shall state the taxpayer's specific reasons for the disagreement with the proposed ~~adjustments~~ ~~assessment or denial of claim for refund~~ and show why the ~~Department's proposed tax adjustment~~ calculation of the tax proposed to be assessed by the Department is incorrect. The request should reference any information relied upon by the taxpayer.

- f) The filing of a Request for Review by a taxpayer or authorized representative under this Part shall act as a waiver of the applicable statute of limitation that would otherwise prevent the Department from the issuance of a Notice of Tax Liability, Notice of Deficiency, or Notice of Claim Denial following the completion of an audit. In such instance, any applicable limitations period shall be tolled from the date the Request for Review is accepted by the ICB up to and including 180 days following the date of the final decision or memorandum issued by the ICB. Futhermore, should the ICB matter impact future audit periods, the taxpayer will execute all necessary waivers for later audit periods when requested to do so by the Audit Bureau while the matter is pending at the ICB. If the ICB matter impacts later audit periods and the taxpayer fails to execute all necessary waivers for later audit periods when requested to do so by the Audit Bureau, the Audit Bureau will notify the ICB of the non-compliance and the ICB may dismiss the taxpayer's case. For purposes of this Part, an impact on future audit periods includes, but is not limited to, the following situations: the same issues are involved in both audit periods; the subsequent audit period is a mandatory audit due to the amount of liability proposed in the ICB matter; or the amounts shown on a return subject to review by the ICB may be carried to a subsequent year's return.
- g)e) Proposals for Disposition. A taxpayer may submit a formal request to settle the tax dispute with the Department as a part of the initial request to the ICB or at any point during ICB review prior to the issuance of an Action Decision. Procedures for proposals are outlined in Section 215.125.
- h)f) Offers in Compromise. The ICB will not accept or negotiate offers in compromise. If a taxpayer is only seeking relief from the further obligation to pay an undisputed tax liability based on an inability to pay, the taxpayer should contact the Department's Board of Appeals after a final assessment of the tax.

(Source: Amended at 31 Ill. Reg. 8535, effective June 1, 2007)

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Section 215.120 Review of Requests by the Informal Conference Board

- a) The informal conference process is the first step in ~~attempting to resolve~~resolving a tax dispute with the Department. It provides an opportunity for the ICB and the taxpayer to review and discuss the issues relating to the proposed audit adjustments brought into question. ~~assessment or claim denial.~~ The informal conference process is not subject to the requirements of the Illinois Administrative Procedure Act [5 ILCS 100] and ~~any~~ the final action taken~~Action Decisions made~~ by the ICB ~~is~~are not subject to administrative review.
- b) In order to make its determination with respect to a written request, the ICB may request additional relevant information regarding the grounds raised in the taxpayer's request for ICB review. Requests for information by the ICB are limited to information or documents related to issues raised during the audit that are reflected in the reasons for, and/or the computations supporting, any proposed audit adjustments. ~~the notice of proposed assessment.~~ A request for additional information may also be made by the ICB either in writing or orally during the course of an in-person conference, ~~if requested by the taxpayer.~~ The taxpayer, or the taxpayer's representative, has a duty to respond to any requests for additional information within 30 days from the date of the request, unless otherwise agreed. ~~both the taxpayer or taxpayer's representative and the ICB representative agree to another time period.~~ Failure to respond in a timely and complete manner may result in the request for an in-person conference and/or relief being denied. A written statement by the taxpayer that information requested does not or did not exist, or cannot be assembled or collated in a reasonable amount of time, will be considered a complete response. However, a failure to provide the information requested because it cannot be assembled or collated in a reasonable amount of time may be the basis of an ICB decision to deny an in-person conference and/or the relief requested by the taxpayer.
- c) Documentation or information submitted to the ICB in writing or as part of an informal conference, other than offers of disposition, may~~does not~~ become part of the Department's audit file or may be reviewed by the Audit Bureau. If a taxpayer submits information to the conferee, the information may be given to the auditor to review and make any revisions to the proposed audit adjustments before an ICB conference is held or before a recommendation is made by the conferee. In the situation where information is returned to the auditor for review, the ICB will retain jurisdiction over the matter. Documentation or information submitted to

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the ICB does not become part of any formal record and cannot be forwarded to any other agency administrative or judicial body for purposes of that body making a determination on the merits of any case. Both the taxpayer and the Department must present all evidence directly to those judicial adjudicative bodies in accordance with the rules of those bodies that body if they wish the such evidence to be considered.

- d) Requests for review submitted to the ICB and all accompanying information provided thereafter are part of the pre-assessment administrative process of the Department. All, and all such information is covered by the confidentiality provisions of the various tax laws.
- e) Recommendations, notes, memoranda and other records of the ICB with respect to issues raised in pending ICB matters are not subject to disclosure and do not become part of the audit file.
- f) The ICB is charged with the responsibility of making a determination of whether the amount of the proposed audit adjustment assessment is accurate. After a complete review of the request, accompanying information and any evidence and arguments submitted on behalf of the taxpayer at an in-person conference, if requested, the ICB shall issue an Action Decision. Whenever possible, the The Action Decision shall be issued within 12090 days after receipt of the taxpayer's request. An Action Decision shall be issued only upon and requires the approval of no fewer less than 2 of the 3 members of the ICB panel assigned to the matter. The ICB may expedite the processing of requests for review that involve proposed liabilities, deficiencies or claim denials in an amount of \$5,000 or less. In determining whether a request should be expedited, the ICB administrator will consider such factors as whether the amount at issue exceeds \$5,000, or whether the issue is one of first impression or controversial. The ICB administrator will notify the taxpayer in writing if it is determined that the matter should be expedited. The expedited process would mean that only the conferee assigned to the matter will attend the in-person conference, if one is requested. In addition, an Action Decision issued in an expedited matter shall be issued upon the approval of one member of the ICB panel. The Action Decision is final and binding on the Department except where there is a misrepresentation of material fact or a clerical or mathematical error made by the taxpayer, the ICB or a member of the ICB staff. In such situations, the Board may amend or vacate the Action Decision. Action Decisions and must be implemented by those areas of the Department to which they are it is directed. The taxpayer and its representative

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will be provided with a written notice of the Action Decision. ~~The 90-day period may be extended by mutual agreement of both parties, in writing, prior to the expiration of the original 90-day period.~~

(Source: Amended at 31 Ill. Reg. 8535, effective June 1, 2007)

Section 215.125 Disposition of Proposed Assessments

- a) Offers of disposition of a proposed ~~audit adjustment assessment or claim denial~~ may be proposed to the ICB or by the ICB. The ICB shall consider disposing of the matter ~~in a~~ controversy in all instances where, having made a reasonable evaluation of such matters, the ICB determines that there is uncertainty as to the correctness of the proposed audit adjustments and it is not in the best interest of the Department to issue an assessment or claim denial with respect to the issue.
- b) Offers of disposition shall be tendered in writing to the ICB on a form prescribed by the Department. Disposition offers may be submitted with the initial request to the ICB or at any point during ICB review prior to the issuance of an Action Decision. The offer shall include specific proposed net dollar amounts, identification of issues to be conceded, in whole or in part, by either party, and the supporting rationale for acceptance of the offer. The ICB may also consider a request for penalty waiver as part of the offer. Any offer received may be accepted, rejected or countered by the ICB and the taxpayer or its representative shall be notified ~~in writing~~ of the ICB's decision with regard to the offer as part of the Action Decision.
- c) Statements made by a taxpayer in the written offer of disposition will be considered to be made in the course of good faith negotiations and will not be admissible against the taxpayer in any further proceedings with regard to the matter in controversy.
- d) When a ~~decision tentative agreement~~ has been reached ~~by between a taxpayer and the ICB staff, an Action Decision a written agreement~~ setting forth the terms and conditions of the proposed disposition shall be ~~issued~~ prepared. As with all other Action Decisions issued by the ICB after informal review or in-person conference, the Action Decision must be approved by agreement becomes effective upon approval of no fewer less than 2 of the 3 members of the ICB panel assigned to the matter.

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- e) An approved Action Decision setting forth the conditions of the proposed disposition submitted in accordance with this Section becomes effective when executed by the taxpayer or its representative.

(Source: Amended at 31 Ill. Reg. 8535, effective June 1, 2007)

Section 215.130 In-Person Conferences

- a) Taxpayers shall be given ~~may request~~ an in-person conference if requested in the taxpayer's initial application for review with ICB ~~in their request to the ICB~~. The ICB may also request an in-person conference. There is no requirement that an in-person conference be held, except as requested by the taxpayer. However, failure of a taxpayer to agree to an ICB ~~a~~ requested in-person conference may result in denial of the relief sought due to ~~because of~~ a lack of sufficient information having been supplied to ~~by~~ the ICB.
- b) The purpose of the in-person conference is to allow the ICB members or their representatives and the taxpayer or taxpayer's representative, to explore the issues raised by the proposed audit adjustment assessment, develop the factual basis of the request, and ~~to~~ consider information relevant to the determination of the request.
- c) The ICB shall mail a written notice of the time, date and location of the in-person conference to the taxpayer or taxpayer's representative, at the address provided on the request to the ICB. The address provided in the original request shall be presumed to be the correct address for all purposes unless the taxpayer or taxpayer's representative notifies the ICB of a change of address in writing. Failure to notify the ICB of a change in address is grounds for dismissal of the taxpayer's request for review by the ICB.
- d) An in-person conference will be scheduled within 45 days after receipt of the request from the taxpayer whenever possible, and may ~~shall~~ be established by mutual agreement of the taxpayer, the taxpayer's representative and the ICB members or staff representatives conducting the conference. Failure of the taxpayer or the taxpayer's representative to cooperate with setting a conference date constitutes grounds for denial of an in-person conference. At least 2 of the 3 ~~Each ICB panel members member~~ or their ~~his or her~~ representatives ~~representative~~ shall participate in the in-person conference. In cases in which the amount of proposed liability, deficiency or claim denial at issue is \$5,000 or less,

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then only one ICB member or his or her representative is required to participate in the in-person conference.

- e) A taxpayer or a taxpayer's representative who does not appear at the scheduled conference shall be deemed to have waived his or her right to an in-person conference unless ~~the taxpayer or taxpayer's representative can show~~ good cause for failing to attend can be shown. Good cause shall include, but not be limited to, illness of the taxpayer or his or her representative ~~or, and~~ weather conditions or catastrophes, natural or otherwise, other acts of God that preclude attendance by any party to the conference.
- f) Formal rules of evidence do not apply at an in-person conference.
- g) Upon conclusion of the in-person conference ~~before the 3 member ICB or representatives of the board members~~, the ICB panel will issue a final Action Decision to the taxpayer and/or the taxpayer's representative and to the Audit Bureau, where the terms of the final Action Decision shall be implemented.

(Source: Amended at 31 Ill. Reg. 8535, effective June 1, 2007)

Section 215.135 Informal Review in Administrative Hearings Not Available

- a) Effective with respect to a Notice of Proposed Liability, Notice of Proposed Deficiency, or Notice of Proposed Claim denial issued on or after May 31, 2007, when the Informal Conference Board has issued an Action Decision that addresses the merits of the audit adjustments, a taxpayer that files a protest of any subsequent Notice of Tax Liability, Notice of Deficiency, of Notice of Claim Denial with the Office of Administrative Hearings cannot request informal review as provided by 86 Ill. Adm. Code 200.135
- b) See 86 Ill. Adm. Code 200.135 for further guidance.

(Source: Added at 31 Ill. Reg. 8535, effective June 1, 2007)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: General Not For Profit Corporations
- 2) Code Citation: 14 Ill. Adm. Code 160
- 3)

<u>Section Numbers</u> :	<u>Adopted Action</u> :
160.19	New
160.20	New
- 4) Statutory Authority: Implementing and authorized by The General Not For Profit Corporation Act of 1986 (805 ILCS 105)
- 5) Effective Date of Amendments: June 15, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: February 16, 2007; 31 Ill. Reg. 2878
- 10) Has JCAR issued a Statement of Objection to this rule making? No
- 11) Differences between proposal and final version: Grammatical and punctuation changes were made as agreed upon with JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No
- 15) Summary and Purpose of Amendments: New Rule 160.19. Establishes rules for filing Statement of Correction.

New Rule 160.20. Establishes rules for amending a previously filed annual report.

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

Department of Business Services
Robert Durchholz
350 Howlett Building
Springfield, IL 62756

217/782-4909

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 160
GENERAL NOT FOR PROFIT CORPORATIONS

Section	
160.10	Definitions
160.11	Office Location and Business Hours
160.12	Sale of Information
160.13	Fees
160.14	Abstracts and Records
160.15	Hearings
160.16	Names
160.17	Service of Process
160.18	Electronic Filing
160.19	Errors or Defects
160.20	Amended Annual Report

AUTHORITY: Implementing and authorized by the General Not for Profit Corporation Act of 1986 [805 ILCS 105].

SOURCE: Adopted at 11 Ill. Reg. 10309, effective June 1, 1987; amended at 20 Ill. Reg. 7045, effective May 8, 1996; amended at 30 Ill. Reg. 12966, effective July 11, 2006; amended at 31 Ill. Reg. 8549, effective June 15, 2007.

Section 160.19 Errors or Defects

- a) Matters deemed "errors" or "defects" for which a statement of correction may be filed are facts that have been misreported in a document filed with the Secretary of State's Office and do not include any other matter that, in retrospect, is considered a mistake or that, as to the action reported, reflects a subsequent event.

- b) Matters deemed errors or defects in original articles of incorporation are: typographical errors in the names of the first board of directors (but not such as to substitute or delete a person or part). Any other matters shall not be the subject of a statement of correction but, in an appropriate case, shall be dealt with by articles of amendment.

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- c) Matters deemed errors or defects in an application for an original or amended authority of a foreign corporation and for which a statement of correction may be filed are: typographical errors in the corporate name that result in the name differing from the name shown on the certified copy; errors in the names or addresses of the directors, the officers, or the principal office.
- d) Matters deemed errors or defects for which a statement of correction may be filed in a reservation of transfer of corporate name, an application to adopt, change or cancel an assumed corporate name, an application for registration or renewal of corporate name (foreign), a statement of change or notice of resignation of registered agent/office, or an application for reinstatement not including the corporate name or assumed corporate name are those in the personal names or addresses reported in the documents, but not those alleged errors that would substitute or delete a person or party or address.

(Source: Added at 31 Ill. Reg. 8549, effective June 15, 2007)

Section 160.20 Amended Annual Report

- a) A corporation may amend its most recently filed annual report to denote any subsequent changes in the names and addresses of its officers and directors, principal place of business and/or status as a Condominium Association, Homeowner's Association or Cooperative Housing Corporation. The amended annual report must set forth the information required in Section 114.05 of the General Not For Profit Corporation Act of 1986 (the Act).
- b) An amended annual report shall not take the place of any document, statement or report otherwise required to be filed by the Act.
- c) The filing fee for an amended annual report will be the amount set forth in Section 115.10(m) of the Act.

(Source: Added at 31 Ill. Reg. 8549, effective June 15, 2007)

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NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Limited Liability Company Act
- 2) Code Citation: 14 Ill. Adm. Code 178
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
178.135	Amended
178.140	Amended
178.145	Amended
- 4) Statutory Authority: Implementing and authorized by the Limited Liability Company Act [805 ILCS 180]
- 5) Effective Date of Amendment: June 15, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: February 16; 2007 31 Ill. Reg. 2882
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: In Section 178.140(i), language was added defining new policy on distinguishability of names. In Section 178.145(b) and (c), substantive language was restored. Grammatical, punctuation or technical changes were made as agreed upon with JCAR.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

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NOTICE OF ADOPTED AMENDMENTS

- 15) Summary and Purpose of Amendments: Amendment to Rule 178.135. Removes subjective criteria from definition of "distinguishable", bringing the rule into conformity with Section 1-10 of the Limited Liability Company Act [805 ILCS 180/1-10].

Amendment to Rule 178.140. Better recognizes the requirement of Section 1-10 of the Limited Liability Company Act [805 ILCS 180/1-10] that a limited liability company name must be distinguishable from corporate names as well as from the names of other limited liability companies.

Amendment to Rule 178.145. Allows the "distinguishable" requirement appearing in Section 1-10 of the Limited Liability Company Act [805 ILCS 180/1-10].

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

Chuck Moles, Administrator
Department of Business Services
Limited Liability Division
359 Howlett Building
Springfield, IL 62756

217/782-4875

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 178
LIMITED LIABILITY COMPANY ACT

SUBPART A: RIGHTS AND REQUIREMENTS

Section	
178.10	Definitions
178.15	Applicability
178.20	Filing Requirements
178.25	Additional Requirements for Forms
178.30	Filing Location
178.35	Business Hours
178.40	Sales of Information
178.45	Right to Counsel
178.50	Service of Process
178.55	Payment of Fees
178.60	Refunds
178.65	New Practices and Technologies

SUBPART B: NAMES

Section	
178.100	Availability of Names: Statutory Requirements
178.105	Preliminary Determination of Availability
178.110	Final Determination of Availability
178.115	Response as to Basis of Unavailability
178.120	Reconsideration Procedure
178.125	Effect of Final Determination
178.130	Standards – Conflicting Names
178.135	Distinguishable – Defined
178.140	Matters Not Considered
178.145	Significant Differences
178.150	Surnames
178.155	Alphabet Names
178.160	Government Affiliation

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178.165	Restricted and Professional Words
178.170	Acceptable Characters of Print
178.175	Invalidity
178.180	Assumed Names
178.185	Foreign LLC with Prohibited Name
178.190	Improper Names

AUTHORITY: Implementing and authorized by the Limited Liability Company Act [805 ILCS 180].

SOURCE: Adopted at 17 Ill. Reg. 22055, effective January 1, 1994; amended at 20 Ill. Reg. 7050, effective May 8, 1996; amended at 21 Ill. Reg. 16178, effective December 1, 1997; amended at 27 Ill. Reg. 8884, effective May 19, 2003; amended at 28 Ill. Reg. 3509, effective February 3, 2004; amended at 29 Ill. Reg. 19699, effective November 28, 2005; amended at 30 Ill. Reg. 12969, effective July 11, 2006; amended at 31 Ill. Reg. 8553, effective June 15, 2007.

SUBPART B: NAMES

Section 178.135 Distinguishable – Defined

A limited liability company name is distinguishable ~~first, when not substantially the same as a name on record, and second,~~ when containing a ~~significant~~ difference from other names on the record. A ~~significant~~ difference exists when the limited liability company name distinguishability is ~~plainly~~ recognizable by the Secretary of State or his/her designee ~~by means of sight and sound.~~

(Source: Amended at 31 Ill. Reg. 8553, effective June 15, 2007)

Section 178.140 Matters Not Considered

Only the proposed name and the names of active limited liability companies ~~or corporations~~ (limited liability companies ~~in good standing~~ or ~~corporations that~~ ~~which~~ have not been dissolved or revoked) are considered in determining name availability. Among the matters not considered are:

- a) the purpose, location or relative size of the business;
- b) the intent of the applicant;

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- c) any consent by a limited liability company or corporation bearing a similar title;
- d) the names of other unincorporated entities;
- e) the common law or statutory law of unfair competition, unfair trade practices, trade marks, trade names, service marks, service names, copyrights or any other right to the exclusive use of names or symbols;
- f) the names of limited liability companies or corporations not on record with the Secretary of State;
- g) whether the public may be likely to be deceived or misled by the resemblance of the proposed name to the name of other limited liability companies or corporations;
- h) whether an existing limited liability company or corporation may possibly be injured by a resemblance of the proposed name;
- i) any criteria of sound, including, but not limited to, phonetics derived from deliberate misspelling or otherwise.

(Source: Amended at 31 Ill. Reg. 8553, effective June 15, 2007)

Section 178.145 ~~Significant~~ Differences

Limited liability company names are deemed not to be distinguishable when a comparison of the names reveals no difference except for:

- a) one or more of the following: limited liability company, LLC, L.L.C., corporation, company, incorporated, limited, or an abbreviation thereof, regardless of where in the name such may appear;
- b) the inclusion or omission of punctuation, articles of speech, conjunctions, contractions (or symbols thereof), prepositions, or a letter or letters;
- c) an abbreviation versus a spelling out of a word_; a different tense of a word_; or the use of the singular as opposed to the plural of a word_;
- d) ~~the spacing of words, the combination of commonly used two-word terms~~

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~~(including points of the compass), the misspelling, phonetic spelling or any other deviation or derivation of substantially the same base word, abbreviation or symbol;~~

- e) ~~the presence or absence of multiple letters within a word.~~

(Source: Amended at 31 Ill. Reg. 8553, effective June 15, 2007)

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- 1) Heading of the Part: Uniform Commercial Code
- 2) Code Citation: 14 Ill. Adm. Code 180
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
180.11	Amended
180.12	Amended
180.15	Amended
180.17	Amended
180.18	Amended
180.19	New
- 4) Statutory Authority: Implementing and authorized by Section 9-512, 9-519, 9-523 and 9-526 of the Illinois Uniform Commercial Code Act [810 ILCS 5/9-512 9-519, 9-523 and 9-526]
- 5) Effective Date of Amendments: June 15, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rulemaking, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in the Illinois Register: February 16, 2007; 31 Ill. Reg. 2888
- 10) Has JCAR issued a Statement of Objection to this rule making? No
- 11) Differences between proposal and final version: Grammatical and punctuation changes were made as agreed upon with JCAR
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemakings currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Amendments: Amendment to Rule 180.11 (b). Changes the name of the International Association of Corporation Administrators.

Amendment to Rule 180.12. Changes the name of the International Association of Corporation Administrators.

Amendment to Rule 18 (b)(4). Changes the name of the International Association of Corporation Administrators.

Amendment to Rule 180.15 (b)(1). Provides clarification for the last day for filing a continuation.

Amendment to Rule 180.17 (d). Adds a time limit for correction of documents.

New Rule 180.19. Provides rules establishing standards for the acceptance of XML online filing documents.

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

Dennis L. Hankins, Administrator
Department of Business Services
Uniform Commercial Code Division
501 South Second St.
Howlett Building, Room 350 West
Springfield, IL 62756

Telephone: 217/524-3356
Fax: 217/557-4430
Email: dhankins@ilsos.net

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

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NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE
SUBTITLE A: REGULATION OF BUSINESS
CHAPTER I: SECRETARY OF STATEPART 180
UNIFORM COMMERCIAL CODE

Section	
180.10	Definitions
180.11	Tender of UCC Records for Filing/Search Request Delivery
180.12	Forms
180.13	Filing Fees/Methods of Payment/Overpayment and Underpayment Policies
180.14	Public Record Services
180.15	Acceptance and Refusal of Records
180.16	UCC Information Management System
180.17	Filing and Data Entry Procedures
180.18	Search Requests and Reports
<u>180.19</u>	<u>XML Documents</u>

AUTHORITY: Implementing and authorized by Article 9 of the Uniform Commercial Code [810 ILCS 5/Art. 9].

SOURCE: Adopted at 12 Ill. Reg. 17431, effective November 1, 1988; amended at 18 Ill. Reg. 2101, effective February 1, 1994; amended at 20 Ill. Reg. 7064, effective May 8, 1996; emergency amendment at 25 Ill. Reg. 9984, effective July 23, 2001, for a maximum of 150 days; emergency expired December 19, 2001; amended at 26 Ill. Reg. 7448, effective May 2, 2002; amended at 29 Ill. Reg. 19704, effective November 28, 2005; amended at 30 Ill. Reg. 12977, effective July 11, 2006; amended at 31 Ill. Reg. 8559, effective June 15, 2007.

Section 180.11 Tender of UCC Records for Filing/Search Request Delivery

- a) UCC records may be tendered for filing at the UCC Division as follows:
 - 1) Personal delivery, at the UCC Division's street address. The file time for a UCC record delivered by this method is when delivery of the UCC record is accepted by the filing office (even though the UCC record may not yet have been accepted for filing and subsequently may be rejected). The date and time of receipt are stamped on the document or otherwise permanently

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associated with the record maintained for a UCC document in the UCC information management system.

- 2) Courier delivery, at the UCC Division's street address. The file time for a UCC record delivered by this method is, notwithstanding the time of delivery, the next close of business following the time of delivery (even though the UCC record may not yet have been accepted for filing and may be subsequently rejected). The date and time of receipt are stamped on the document or otherwise permanently associated with the record maintained for a UCC document in the UCC information management system. A UCC record delivered after regular business hours or on a day the filing office is not open for business, if not examined for processing sooner, will have a filing time of the close of business on the next day the filing office is open for business.
- 3) Postal service delivery, to the filing office's mailing address. The file time for a UCC record delivered by this method is the next close of business following the time of delivery (even though the UCC record may not yet have been accepted for filing and may be subsequently rejected). The date and time of receipt are stamped on the document or otherwise permanently associated with the record maintained for a UCC document in the UCC information management system. A UCC record delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business.
- 4) The Secretary of State offers online information and electronic filing and search services through the website of the Secretary of State at www.cyberdriveillinois.com. The file time for a UCC document delivered by this method is the time that the Secretary of State's system analyzes the relevant transmission and determines that all the required elements of the transmission have been received in a required format and are machine-readable.
- 5) The UCC Division filing office hours.
 - A) The UCC Division business hours for personal delivery, courier delivery and postal service delivery are 8:00 a.m. to 4:30 p.m., Monday through Friday, except holidays, in Springfield only.

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- B) Electronic filing and search services are available 24 hours per day, 365 days per year, except for scheduled maintenance and unscheduled interruptions of service.
- 6) The office address is Howlett Building, Room 350 West, 501 South Second Street, Springfield IL 62756. All incorporated materials and forms referenced in this Part are available to the public for inspection and copying at this address.
 - b) UCC search requests may be delivered to the filing office by any of the means by which UCC records may be delivered to the filing office. A search request for a debtor named on an initial financing statement may not be made on the initial financing statement form, even if the form has a space for that request. Search requests must be made on the UCC-11 form approved by the International Association of ~~Commercial~~Corporation Administrators, as incorporated by reference in Section 180.12 of this Part.

(Source: Amended at 31 Ill. Reg. 8559, effective June 15, 2007)

Section 180.12 Forms

The forms prescribed by Section 9-521 of the UCC [810 ILCS 5/9-521] shall be accepted by the filing office. Forms approved by the International Association of ~~Commercial~~Corporation Administrators (IACA) on or prior to July 1, 2006 and forms approved by the UCC Division shall be accepted. Copies of the forms approved by IACA as of July 1, 2006 are available on the Secretary of State's website at www.cyberdriveillinois.com, on IACA's website at www.iaca.org and at IACA, 3851 Essen Lane, Baton Rouge LA 70816. The incorporations of forms in this Section do not include any later amendments or editions.

- a) In order to insure the legibility after records are scanned into the imaging system of the UCC Division, the information on each record submitted shall be typewritten or computer generated typeface. The names and addresses of the debtor and the secured party shall be in capital letters with a font size of at least 12 in Times New Roman style.
- b) The remitter shall submit two copies of each record, along with a self-addressed stamped envelope. The UCC Division shall retain one copy for its records and return one copy to the remitter as an acknowledgement. If only one copy is

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submitted, it will be stamped "No Acknowledgement Received" and the UCC Division will retain that copy for its records. There will be no acknowledgement copy returned to the remitter.

- c) All UCC records must contain the full legal name of the debtor and indicate whether the debtor is an individual or an organization. If the debtor is an organization, the record must include the type of organization, the jurisdiction of the organization, and the organizational identification number of the debtor. Records that do not contain this information will not be accepted for filing. The disclosure on the records of the social security number or tax identification number of the debtor is voluntary only, and records will be accepted for filing without the number. The disclosure on the records of the social security number or tax identification number of the debtor is non-required information and, due to the sensitive nature of the information, it will be redacted from the record.
- d) When submitting a UCC-3 Amendment to delete more than a single debtor name, a separate UCC-3 Amendment form must, pursuant to Section 9-512 of the UCC, be completed for each debtor name to be deleted. A separate fee must also be tendered for each UCC-3 Amendment form submitted.
- e) When submitting a UCC-3 Amendment pursuant to Section 9-512 of the UCC, only one UCC-3 Amendment type per form will be permitted. A separate fee must also be tendered for each UCC-3 Amendment form submitted.

(Source: Amended at 31 Ill. Reg. 8559, effective June 15, 2007)

Section 180.15 Acceptance and Refusal of Records

- a) Role of Secretary. The duties and responsibilities of the Secretary with respect to the administration of the UCC are ministerial. In accepting for filing or refusing to file a UCC record, the Secretary does none of the following:
 - 1) Determine the legal sufficiency or insufficiency of a record.
 - 2) Determine that a security interest in collateral exists or does not exist.
 - 3) Determine that information in the record is correct or incorrect, in whole or in part.

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- 4) Create a presumption that information in the record is correct or incorrect, in whole or in part.
- b) Grounds for refusal. In addition to the grounds listed in Section 9-516 of the UCC [810 ILCS 5/9-516], allowing the filing officer to refuse a UCC record, the filing officer shall refuse a UCC record if the record contains more than one secured party or assignee name or address and some names or addresses are missing or illegible, or no address is given in the address field. As used in this Section, address is deemed to include street address, city, state and postal code.
- 1) Deadline for filing a continuation statement. The first day on which a continuation statement may be filed is the date corresponding to the date upon which the financing statement would lapse, six months preceding the month in which the financing statement would lapse. If there is no such corresponding date, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse.
 - 2) Last day permitted. The last day on which a continuation may be filed is the last business day preceding the date upon which the financing statement lapses.
- c) Procedure upon refusal. Except as provided in Section 180.13 of this Part, if the filing officer finds grounds to refuse a UCC record, the filing officer shall return the record to the remitter and shall return the filing fee.
- d) Notification of defects. Nothing in this Section prevents a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC record, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so and may not, in fact, have the resources to do so, or to identify such defects. The responsibility for the legal effectiveness of filing rests with filers and remitters and the filing office bears no responsibility for legal effectiveness.
- e) Refusal errors. If a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC record that was refused for filing should not have been, the filing officer will file the UCC record with a filing date and time assigned when the filing occurs. The filing officer will also file a filing officer statement that states the effective date and time of filing, which shall be the date

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and time the UCC record was originally tendered for filing.

(Source: Amended at 31 Ill. Reg. 8559, effective June 15, 2007)

Section 180.17 Filing and Data Entry Procedures

- a) Errors of the filing office. The filing officer may correct the errors of filing office personnel in the UCC information management system at any time. If the correction occurs after the filing officer has issued a certification date, the filing officer shall file a filing officer correction statement in the UCC information management system identifying the record to which it relates and the date of the correction and explaining the nature of the corrective action taken. The record shall be preserved as long as the record of the initial financing statement is preserved in the UCC information management system.
 - 1) In the case of a data entry error that caused the record in the UCC information management system to be different from the originally submitted document, the record indexed in the management system will be corrected to correspond with the originally submitted record.
 - 2) In the case of an error on the part of the filer that is noticed after a certification date has been issued, the filing office is under no obligation to make the corrections. It is the responsibility of the filer to correct any errors pursuant to Sections 9-511, 9-512 and 9-518 of the UCC [810 ILCS 5/9-511, 9-512 and 9-518].
- b) Data entry of names – designated fields. A filing should designate whether a name is a name of an individual or an organization. If the name is that of an individual, the first, middle and last names and any suffix shall be given.
 - 1) Organization names. Organization names are entered into the UCC information management system exactly as set forth in the UCC record, even if it appears that multiple names are set forth in the record, or if it appears that the name of an individual has been included in the field designated for an organization name.
 - 2) Individual names. On a form that designates separate fields for first, middle, and last names and any suffix, the filing officer enters the names into the field, last name first, then first name, middle name, and any suffix

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in the UCC information management system exactly as set forth on the form.

- 3) Designated fields encouraged. The filing office encourages the use of forms that designate separate fields for individual and organization names and separate fields for first, middle, and last names and any suffix. Such forms diminish the possibility of filing office error and help assure that filers' expectations are met. However, filers should be aware that the inclusion of names in an incorrect field or failure to transmit names accurately to the filing office may cause filings to be ineffective.
- c) Notice of bankruptcy. The filing officer shall take no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system.

(Source: Amended at 31 Ill. Reg. 8559, effective June 15, 2007)

Section 180.18 Search Requests and Reports

General requirements. The filing officer maintains for public inspection a searchable index for all records of UCC documents. The index shall provide for the retrieval of a record by the name of the debtor and by the file number of the initial financing statement of each filed UCC record relating to the initial financing statement.

- a) Search requests. Search requests shall contain the following information:
 - 1) Name searched. A search request should set forth the name of the debtor to be searched and must specify whether the debtor is an individual or an organization. A search request will be processed using the name in the exact form it is submitted. Each search request shall be limited to one debtor name.
 - 2) Requesting party. The name and address of the person to whom the search report is to be sent.
 - 3) Fee. The appropriate fee shall be enclosed, payable by a method described in Section 180.13 of this Part.

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- 4) Search request with filing. If a filer requests a search at the time a UCC record is filed, a UCC-11 form designating the exact debtor name from the initial financing statement shall be submitted. The requesting party shall be the name and address to whom the search report should be sent, and the search request shall be deemed to request a search that would retrieve all financing statements filed on or prior to the date the UCC record is filed. The filer shall submit the search request on a UCC-11 form.
- b) Rules applied to search requests. Search results are produced by the application of standardized search logic to the name presented to the filing officer. Human judgment does not play a role in determining the results of the search. The following rules apply to searches:
- 1) There is no limit to the number of matches that may be returned in response to the search criteria.
 - 2) No distinction is made between upper and lower case letters.
 - 3) Punctuation marks and accents are disregarded.
 - 4) Words and abbreviations at the end of a name that indicate the existence or nature of an organization as set forth in the "Ending Noise Words" list as promulgated and adopted by the International Association of ~~Commercial Corporation~~ Administrators are disregarded. Such words include, but are not limited to, the following:

Agency	Incorporated	PLCC
Trustee	LC	Prof Assn
Assc	Limited	Prof Corp
Assn	Limited Liability	Professional
Assoc	Company	Association
Associates	Limited Liability	Professional
Association	Partnership	Corporation
Attorneys at Law	Limited	Professional
Bank	Partnership	Limited
Business Trust	LLC	Liability
Charter	LLLP	Company
Chartered	LLP	Real Estate
Co	LP	Investment Trust

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Company	Ltd.	Registered
Corp	Ltd. Partnership	Limited
Corporation	MDPA	Liability
Credit Union	MDPC	Partnership
CU	Medical Doctors	REIT
FCU	Professional	RLLP
Federal Credit	Association	SA
Union	Medical Doctors	Savings
Federal Savings	Professional	Association
Bank	Corporation	Sole
FSB	NA	Proprietorship
Gen Part	National	SP
General	Association	SPA
Partnership	National Bank	Trust
GP	PA	Trustee
Inc	Partners	

- 5) The word "the" if used anyplace in the search criteria is disregarded.
 - 6) All spaces are disregarded.
 - 7) For first and middle names of individuals, initials are treated as the logical equivalent of all names that begin with such initials, and first name and no middle name or initial is equated with all middle names and initials. For example, a search request for "John A. Smith" would cause the search to retrieve all filings against all individual debtors with "John" or the initial "J" as the first name, "Smith" as the last name, and with the initial "A" or any name beginning with "A" in the middle name field. If the search were for "John Smith" (first and last names with no designation in the middle name field), the search would retrieve all filings against individual debtors with "John" or the initial "J" as the first name, "Smith" as the last name and with any name or initial or no name or initial in the middle name field.
 - 8) After using the preceding rules to modify the name to be searched, the search will reveal only names of debtors that are contained in unlapsed financing statements and exactly match the name requested, as modified.
- c) Optional information. A UCC search request may contain any of the following information:

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- 1) The request may limit the records requested by limiting them by the address of the debtor, the city of the debtor, the date of filing (or a range of filing dates) on the financing statements. A report created by the filing officer in response to such a request shall contain the statement "A limited search may not reveal all filings against the debtor searched and the searcher bears the risk of relying on such a search".
 - 2) The request may ask for copies of UCC records identified on the primary search response.
 - 3) Instructions on the mode of delivery desired, if other than by ordinary mail, which will be honored if the requested mode is available to the filing office.
- d) Search responses. Reports created in response to a search request shall include the following:
- 1) Filing officer. Identification of the filing officer and the certification of the filing officer required by law.
 - 2) Report date. The date the report was generated.
 - 3) Name searched. Identification of the name searched.
 - 4) Certification date. The certification date and time for which the search is effective.
 - 5) Identification of initial financing statements. Identification of each unexpired initial financing statement filed on or prior to the certification date and time corresponding to the search criteria, by name of debtor, by identification number, and by file date and file time.
 - 6) History of financing statement. For each initial financing statement on the report, a listing of all related UCC records filed by the filing officer on or prior to the certification date.
 - 7) Copies. Copies of all UCC records revealed by the search and requested by the searcher.

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(Source: Amended at 31 Ill. Reg. 8559, effective June 15, 2007)

Section 180.19 XML Documents

- a) IACA standard adopted. The XML Format as adopted by the International Association of Commercial Administrators shall be adopted in Illinois for electronic transmission of UCC records. An E-filing account must be created before submitting an XML filing. The electronic filing shall pass verification to the DTD (Document Type Definition). Failure to pass this verification shall result in rejection of the record pursuant to Section 9-516 of the UCC [810 ILCS 5/9-516].
- b) Implementation guide. The filing office shall publish an implementation guide that prescribes the use of the XML Format. The guide shall be available to the public upon request.
- c) Direct on-line data entry procedures. Upon application and approval of an E-filing account, the remitter shall receive direct on-line data entry procedures to file UCC records on-line. Persons interested in filing records in this manner shall contact the UCC Division at the address listed in Section 180.11 of this Part.

(Source: Added at 31 Ill. Reg. 8559, effective June 15, 2007)

STATE RECORDS COMMISSION

NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: State Records Commission
- 2) Code Citation: 44 Ill. Adm. Code 4400
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
4400.10	Amend
4400.20	Amend
4400.22	New
4400.25	Amend
4400.30	Amend
4400.50	Amend
4400.60	Amend
4400.70	New
- 4) Statutory Authority: Implementing and authorized by the State Records Act [5 ILCS 160]
- 5) Effective Date of Rulemaking: June 4, 2007
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Notice of Proposal Published in Illinois Register: November 13, 2006; 30 Ill. Reg. 17732
- 10) Has JCAR issued a Statement of Objection to these amendments? No
- 11) Differences between proposal and final version: At 4400.50 (i), "One of the following methods is a suitable means of inspection:" has been added.
- 12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 14) Are there any amendments pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: To create standards to allow for the digital reproduction of hard copy records so the original records may be destroyed. The amendments also reflect changes in microfilm standards of quality as well as reflect changes in and ensure conformance with amendments to the State Records Act [5 ILCS 160].
- 16) Information and questions regarding these adopted amendments shall be directed to:

David A. Joens, Chairman
State Records Commission
Illinois State Archives
Springfield, IL 62756

217/782-3492

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

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TITLE 44: GOVERNMENT CONTRACTS, PROCUREMENT
AND PROPERTY MANAGEMENT
SUBTITLE C: GOVERNMENTAL RECORDS
CHAPTER IV: STATE RECORDS COMMISSIONPART 4400
STATE RECORDS COMMISSION

Section	
4400.10	General
4400.20	Definitions
4400.22	Incorporations by Reference
4400.25	Record Management
4400.30	Procedures for Compiling and Submitting Lists and Schedules of Records of Disposal
4400.40	Procedures for the Physical Destruction or Other Disposition of Records Proposed for Disposal
4400.50	Standards for the Reproduction of Records by Microphotographic and Electronic Microimaging Processes with a View to the Disposal of the Original Records
4400.60	Minimum Standards of Quality for Permanent Record Photographic Original Microfilm Intended for Retention Periods in Excess of 10 Years
4400.70	Digital Reproduction
4400.APPENDIX A	Limits for Residual Thiosulfate Inventory Work Sheet (Repealed)
4400.APPENDIX B	Records Retention Schedule (Application for Authority to Dispose of State Records)
4400.APPENDIX C	Records Disposal Certificate
4400.APPENDIX D	Archives Records Transfer Sheet

AUTHORITY: Implementing and authorized by the State Records Act [5 ILCS 160].

SOURCE: Amended May 28, 1976; codified at 8 Ill. Reg. 8927; recodified from 44 Ill. Adm. Code 4100 (Secretary of State) to 44 Ill. Adm. Code 4400 (State Records Commission) at 9 Ill. Reg. 15547; amended at 10 Ill. Reg. 1965, effective January 8, 1986; amended at 13 Ill. Reg. 7444, effective May 1, 1989; amended at 31 Ill. Reg. 8572, effective June 4, 2007.

Section 4400.10 General

- a) *The State Records Commission shall consist of [the following State officials or their authorized representatives](#): the Secretary of State ~~or his representative~~, who*

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shall act as chairman; the State Historian, who shall ~~serve as~~ secretary; the State Treasurer, ~~or his authorized representative~~; the Director of Central Management Services, ~~or his authorized representative~~; the Attorney General, ~~or his authorized representative~~; and the State Comptroller, ~~or his authorized representative~~.

- b) *The Commission shall meet whenever called by the ~~chairman~~ Chairman, who shall have no vote on matters considered by the Commission.*
- c) All meetings of the Commission shall be open to the public and will be held in the conference room of the Margaret Cross Norton State Archives Building, unless otherwise stated in the call for the meeting.
- d) *It is the duty of the Commission to determine what records no longer have administrative, legal, fiscal, research, or historical value and should be destroyed or disposed of otherwise. [5 ILCS 160/16] ~~The State archivist may retain any records which the Commission has authorized to be destroyed, where they have a historical value, and may deposit them in the State Library or State historical museum or with a historical society, museum or library.~~*
- e) *No record shall be disposed of by any agency of the State, unless approval of the State Records Commission is first obtained. [5 ILCS 160/17] This includes original source documents that have been reproduced to another format via scanning, electronic microimaging or microfilming, as well as the reproductions themselves when they serve as the official record.*
- f) The Commission reserves the right to review, modify, or revoke approved records schedules if any changes occur in the records' administrative, legal, fiscal, research or historical value after initial scheduling for destruction. Reviews, modifications and revocations of existing records schedules may only take place after the head of each agency involved receives written notice two weeks prior to the Commission meeting stating time, date, and place of meeting and the reason for the proposed review. Commission meeting date, times and locations will be posted in the Margaret Cross Norton Building ~~Illinois State Archives~~ two weeks prior to each meeting and will be publicized in accordance with the Open Meetings Act [5 ILCS 120]. ~~(Ill. Rev. Stat. 1983, ch. 102, pars. 41 et seq.)~~
- g) *"Agency" means all parts, boards, and commissions of the executive branch of the State government including but not limited to all departments established by the*

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Civil Administrative Code of Illinois, (Ill. Rev. Stat. 1983, ch. 127, pars. 1 et seq.) as heretofore or hereafter amended. [5 ILCS 160/2]

- h) The head of each agency shall provide for compliance with provisions of this Part ~~these rules~~.

(Source: Amended at 31 Ill. Reg. 8572, effective June 4, 2007)

Section 4400.20 Definitions

Act - The State Records Act [5 ILCS 160].

Administrative Value – Those aspects of records containing facts concerning an agency's administrative decisions that an agency needs for its immediate day-to-day function. This value almost always diminishes and is lost over time.

Commission or SRC - The State Records Commission created by Section 16 of the State Records Act to determine what State agency records no longer have any administrative, fiscal, legal, research or historical value and should no longer be retained.

Digital Surrogate – A reproduction of the original record when the record has been scanned, photographed, encoded, or otherwise converted to a digital photocopy that, when printed, viewed or played, retains the look, sound or feel of the original record.

Digitization Process – The methods, tools and procedures by which a digital surrogate is created for an original record. Examples include scanning and encoding of audio/video signals into digital data.

Electronic Microimaging - Any process in which source documents are scanned into a digital format and then converted to permanent record microfilm.

Electronic Record - A record generated, communicated, received or stored by electronic means Electronic records are contained in various storage media.

Electronic Storage Media - Storage devices in computers (hard drives) and any removable/transportable digital storage medium, such as magnetic tape or disk, optical disk, or digital storage device.

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Field Representative - A representative in the State Records Unit of the Office of the Secretary of State.

Fiscal Value – Those aspects of records containing monetary information that accounts for the receipt or expenditure of funds.

Illinois State Archives – Department of the Archives and Records, Office of the Secretary of State, established pursuant to the State Records Act [5 ILCS 160].

Legal Value – Records that contain evidence of legally enforceable rights or obligations of the State, such as legal decisions and opinions; fiscal documents representing agreements, such as leases, titles and contracts; and records of actions in particular cases, such as claim papers and legal dockets.

b) "Nonrecord Material - material" means:

1) Material not filed as evidence of administrative activity or for its the informational content ~~thereof~~.

2) Extra copies of documents preserved only for convenience of reference.

3) Stocks of printed or reproduced documents kept for supply purposes, where file copies have been retained for record purposes.

4) Books, periodicals, newspapers, posters, and other library and museum materials made or acquired and preserved solely for reference or exhibition purposes.

5) Private materials neither made nor received by a State state-agency pursuant to State state-law or in connection with the transaction of public business.

6) Perforated, magnetized and photographically coded cards and tapes, provided that documents containing the same information have been filed in the same office and such cards and tapes were not prepared as evidence of administrative decisions or transactions subject to audit.

e) Whenever doubt arises whether certain papers are nonrecord materials, it

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should be presumed that they are records. ~~d~~) Nonrecord materials may be destroyed at any time by the agency in possession of the such-materials without the prior approval of the State Records Commission.

Open Format – A published specification for storing digital data, usually maintained by a non-proprietary standards organization and free of legal restrictions on use. A non-exclusive list of open formats includes txt, rtf, tiff, jpeg and PDF-A.

Permanent – To be retained forever.

e) Permanent Record Film - A record film is a photographic camera original, or an exact copy of ~~such~~-an original film, so composed and treated that the image and support will have maximum keeping quality under archival room storage conditions of ~~temperature 65-70° degrees~~-F. and 30-40% humidity ~~30-40%~~.

~~f~~) Raw Stock - Sensitized stock. Raw stock is sensitized-photographic material that has not undergone the process of development.

a) "Records - All Records" means all books, papers, digitized electronic material, maps, photographs, databases, or other official documentary materials, regardless of physical form or characteristics, made, produced, executed, or received by any agency in the State in pursuance of State state-law or in connection with the transaction of public business and preserved or appropriate for preservation by that agency or its successor as evidence of the organization, functions, policies, decisions, procedures, operations, or other activities of the State or of the State Government, or because of the informational data contained therein. [\[5 ILCS 160/2\]](#)

Records Retention Schedule – The document stating the official retention, maintenance and disposition requirements for a record series, or type of record, based on administrative, fiscal, legal or archival values for the scheduled records. The schedule is of no force unless approved by the State Records Commission (see Section 17 of the State Records Act).

Records Series – A group of identical or related documents (either as to form or content) that is arranged under a single filing system or kept together as a unit because they consist of the same form, relate to the same subject, result from the same activity, or have certain common physical characteristics (i.e., maps,

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blueprints, etc.). A series may contain both forms and correspondence.

Research, Historical or Archival Value – Records that document a specific State program, a unique program, a departure from previous State policy, formation of public policy, the activities of an important government official, or a trend or movement by the citizenry.

Secretary – The Illinois Secretary of State.

(Source: Amended at 31 Ill. Reg. 8572, effective June 4, 2007)

Section 4400.22 Incorporations by Reference

a) No incorporation by reference in this Part includes any amendment or edition later than the date specified.

b) The following materials are incorporated in this Part:

The American National Standards Institute/Association for Information and Image Management

1819 L Street, NW
Suite 600
Washington, DC 20036

- 1) ANSI/AIIM MS23 (1998) - Standard Recommended Practice - Production, Inspection, and Quality Assurance of First-Generation, Silver Microforms of Documents
- 2) ANSI/AIIM MS44 (1993) - Recommended Practice for Quality Control of Image Scanners
- 3) ANSI/AIIM MS49 (1993) - Recommended Practice for Monitoring Image Quality of Roll Microfilm and Microfiche Scanners
- 4) ANSI/AIIM MS62 (1999) - Recommended Practice for COM Recording System Having an Internal Electronic Forms Generating System - Operational Practices for Inspection & Quality Control

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- 5) [ANSI/AIIM TR34 \(1996\) - Sampling Procedures for Inspection by Attributes of Images in Electronic Image Management \(EIM\) & Micrographics Systems](#)

(Source: Added at 31 Ill. Reg. 8572, effective June 4, 2007)

Section 4400.25 Record Management

- a) ~~For purposes of this Section, the following definitions shall apply:~~

~~"Administrative Value"—Refers to those aspects of records which contain facts concerning an agency's administrative decisions which an agency needs for its immediate day to day function. This value almost always diminishes and is lost over time.~~

~~"Fiscal Value"—Refers to those aspects of records which contain monetary information which accounts for the expenditure of funds.~~

~~"Illinois State Archives"—Means the Department of the Archives and Records, Office of the Secretary of State established pursuant to the State Records Act (Ill. Rev. Stat. 1987, ch. 116, pars. 43.4 et seq.).~~

~~"Legal Value"—Refers to records which contain evidence of legally enforceable rights or obligations of the State such as legal decisions and opinions; fiscal documents representing agreements, such as leases, titles and contracts; and records of actions in particular cases, such as claim papers and legal dockets.~~

~~"Permanent"—To be retained forever (as long as the data stored on the particular medium is retrievable).~~

~~"Records Retention Schedule"—The document stating the official retention, maintenance and disposition requirements for a record series, or type of record, based on administrative, fiscal, legal or archival values for the scheduled records. The schedule is of no force unless approved by the State Records Commission (see Section 8 of the State Records Act (Ill. Rev. Stat. 1987, ch. 116, par. 43.11)).~~

~~Record Series"—A group of identical or related documents (either as to~~

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~~form or content) which is arranged under a single filing system, or kept together as a unit because they consist of the same form, relate to the same subject, result from the same activity, or have certain common physical characteristics (i.e., maps, blueprints, etc.). A series may contain both forms and correspondence.~~

~~"Research, Historical or Archival Value"—Refers to records which document a specific state program, document a unique program, document a departure from previous state policy, document formation of public policy, document the activities of an important government official, and document a trend or movement by the citizenry.~~

~~"Secretary"—Secretary of State of Illinois.~~

- ~~ab)~~ The ~~State Records~~ Act [5 ILCS 160]~~(Ill. Rev. Stat. 1987, ch. 116, par. 43.4 et seq.)~~ places with the Secretary of State the responsibility to provide the expertise and technical assistance necessary for State agencies to properly manage their records. The Secretary provides this service through the Illinois State Archives - Records Management Section.
- ~~be)~~ The ~~State Records~~ Act places three major responsibilities on State agencies:
- 1) No record shall be disposed of by any State ~~agency of State~~, unless the approval of the State Records Commission ~~(hereinafter referred to as the Commission)~~ is first obtained.
 - 2) The head of each agency shall establish and maintain an active, continuing program for the economical and efficient management of records of the agency.
 - 3) The head of each agency shall submit to the Commission, lists or schedules of records in his or her custody that are not needed in the transaction of public business and do not warrant further preservation. Any person who agency that knowingly and without lawful authority alters, destroys, defaces, removes, or conceals any public record is guilty of a Class 4 felony as provided in Section 11 of the Act and Section 32-8 of the Criminal Code [720 ILCS 5/32-8]~~Section 32-8 of the Criminal Code of 1961 (Ill. Rev. Stat. 1987, ch. 38, par. 32-8).~~

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- c) When requested by authorized State agency officials, the State Archives~~Records Unit~~ field representatives ~~(hereinafter referred to as field representatives)~~ present the records management program to the agency and provide guidance in the implementation of records management practices. The field representatives personally contact the State agencies for the purposes of:
- 1) providing for the economical and efficient management of the records of an agency;
 - 2) analyzing, developing, promoting, coordinating, and promulgating standards, procedures, and techniques designed to improve the management of records;
 - 3) establishing retention policies ~~retentions~~ for an agency's records;
 - 4) facilitating the segregation, storage, and disposal of records with temporary value; and
 - 5) insuring the maintenance and security of records deemed for permanent preservation.
- d) The ~~State Records~~ Commission has set standards for the reproduction of public records by micrographic, digital and electronic microimaging processes ~~process~~. Standards regarding the quality of film, preparation and identification of records, and proper certification of copies are provided in Sections 4400.50 and 4400.60. Standards for the reproduction of records using digital formats are provided in Section 4400.70.
- e) The field representative will complete a records inventory for the State agency. The inventory serves as the basis ~~for~~ determining the records program required. The records inventory worksheet (see Appendix A) shall contain the following information:
- 1) the date the worksheet was completed;
 - 2) the number of the ~~inventory~~ worksheet;
 - 3) the records series title;

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- 4) the beginning date of the series or an estimated date for records no longer created or required;
 - 5) the total ~~record number of cubic feet of the records~~ series in existence at the time of the inventory;
 - 6) the accumulation, ~~in cubic feet,~~ of the record series for the most recent year;
 - 7) the physical measurements of the documents or a description of the documents;
 - 8) whether the series is arranged chronologically, alphabetically or, numerically, or by status (active, inactive, or closed);
 - 9) the official designation of the State agency and the division and/or subdivision if appropriate;
 - 10) the location of the office of the person having responsibility for the records;
 - 11) the name, title, and phone number of the person responsible for the records;
 - 12) a description of the index or finding aid for the records;
 - 13) a detailed and accurate description of each record series; and
 - 14) the recommendation regarding retention of records in terms of years or months.
- fg) The values considered by the State Archives Records Management Section in appraising records for retention purposes are as follows:
- 1) the administrative value;
 - 2) the legal value;
 - 3) the fiscal value; and

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- 4) the research, historical, or archival value.
- gh) The ~~State Archives~~~~Records Management Section~~ will examine the records in light of the values listed in subsection (~~fg~~) to determine if the records should be retained by the agency, transferred to the State Archives, or destroyed.
- hi) If the agency's approved Record Retention Schedule (see Appendix B, ~~Application for Authority to Dispose of State Records~~) authorized the destruction of records ~~which are~~ stored in the agency's own ~~offices~~~~office(s)~~, the State Records Disposal Certificate (see Appendix C) shall be completed and approved by the Chairman of the ~~State Records~~ Commission prior to the physical destruction of the agency's files. The Disposal Certificate shall be submitted to the Commission ~~30~~~~thirty (30)~~ days prior to the date of the proposed destruction unless the waiting period has been waived by the Chairman.
- ij) If the agency's approved Records Retention Schedule provides for the transfer of agency files to the State Archives after retention in the office, Form ARD-50 (~~Archives Records Transfer Sheet, see Appendix D~~) shall be completed and included with the records ~~Records~~ when they are transferred to the Archives.

(Source: Amended at 31 Ill. Reg. 8572, effective June 4, 2007)

Section 4400.30 Procedures for Compiling and Submitting Lists and Schedules of Records of Disposal

- a) The head of each agency shall submit to the Commission lists or schedules or records in his or her custody that are not needed in the transaction of current business and that do not have sufficient administrative, legal, or fiscal value to warrant their further preservation.
- 1) Lists are applications for authority to destroy records that have accumulated.
 - 2) Schedules are applications for continuing authority to destroy records after specified periods of time or the occurrence of specified events.
- b) New lists or schedules are required whenever the informational contents of a records ~~record~~-series are changed.

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- c) An application for authority to dispose of State records ~~original and two copies of all applications for authority to destroy records~~ shall be submitted to the Commission on forms available from the State Records Commission, Margaret Cross Norton Archives Building, Springfield, Illinois, 62756.
- d) ~~An application~~ Application for authority to dispose of ~~destroy~~ records may ~~shall~~ be accompanied by samples of each records ~~record~~ series proposed for destruction, ~~which will be filed as permanent records of the State Records Commission~~. Blank forms and explanatory statements may be submitted in lieu of confidential records.

(Source: Amended at 31 Ill. Reg. 8572, effective June 4, 2007)

Section 4400.50 Standards for the Reproduction of Records by Microphotographic and Electronic Microimaging Processes with a View to the Disposal of the Original Records

- a) Records proposed for microfilming or electronic microimaging with a view to dispose of the original records must be on a list or retention schedule approved by the State Records Commission.
- b) In submitting lists or schedules of records for which microfilm copies are to be substituted, the head of each agency shall certify that microfilm copies, made in accordance with standards of the ~~State Records~~ Commission, will be adequate substitutes for the original records.
- c) Computer Output Microfilm (COM) of born digital data is to be considered an original record and not a copy of an original record. Therefore, authentication requirements for source document microfilm as found in Section Sections 4400.50(f) and (g) do not apply to COM. COM of scanned (electronic microimaging) digital images must include resolution charts as recommended in ANSI/AIIM MS62.
- d) Quality of the ~~Film Used~~ film used. The film stock used must be silver halide, and the processing of the film thereof, shall comply with the minimum standards of quality required by the ~~State Records~~ Commission as set forth in Section 4400.60 ~~of these rules~~.

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- e) Preparation of the ~~Records records~~ for ~~Filming filming~~ or ~~Electronic Microimaging~~. All documents in the file shall be microfilmed or ~~scanned~~, unless their size or physical form prevents microfilming ~~or scanning~~, in which case an explanation of their omission shall be microfilmed ~~or scanned~~ at the appropriate point on the roll of film and be worded substantially as follows:

" _____ (Item Description) _____ was omitted from this roll of film because _____
It may be located _____."

Any records not filmed shall be maintained by the agency or transferred to the Archives under terms specified on the approved records disposition schedule.

- f) Integrity of the ~~Original Recordsoriginal records~~.
- 1) The integrity of the original records shall be preserved through a photographic ~~or electronic microimaging~~ process ~~so such~~ that the ~~image on film-camera original~~, or exact duplicates ~~of the image thereof~~, will be adequate substitutes for the original records in that they will serve the purposes for which ~~the such~~ records were created or maintained and that ~~the such~~ copies will contain all significant record detail needed for probable future reference ~~and will not permit additions, deletions or changes to the reproductions of the original images~~.
 - 2) Prior to microfilming ~~or scanning~~, the original documents shall be ~~so~~ prepared, arranged, classified and indexed ~~as~~ to readily permit the subsequent location, examination and reproduction of the photographs ~~thereof~~. Any significant characteristics of the records ~~that which~~ would not reflect photographically (e.g., that the record is indistinct or that certain figures are of a color not suited to recording on microfilm) shall be indicated by means of an explanatory target inserted to guide the user. Any notations on the face or reverse side of any document shall be photographed and identified as forming an integral part of the original document. A significant characteristic is any part of the record necessary for its interpretation, including all words, numbers and illustrations.
 - A) Each film roll, camera negative, or sheet (including 105 ~~mmMM~~ continuous fiche rolls, but not COM) shall be identified by or contain the following targets:

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- i) A technical target for measuring ~~resolution~~Resolution.
 - ii) A film density target (8½" x 11" bond paper).
 - iii) A roll number START target in characters that can be read without magnification.
 - iv) A TITLE target giving name of the office having custody of the records, a brief title of the record series, dates, file arrangement, and the number of the schedule approved by the ~~State Records~~Commission authorizing the project.
 - v) Listed between the START file and END file targets must be explanatory targets for omission, deletion, misfiles, retakes, or any example given in Section 4400.50(f)(2).
- B) At the end of each roll/sheet of film, after the document images, shall be targets as follow:
- i) An END target containing the number of the list or schedule approved by the ~~State Records~~Commission authorizing the project.
 - ii) Roll number.
 - iii) Brief title of the record series.
 - iv) Beginning and ending file designations.
 - v) A camera/~~electronic microimaging~~ operator's certificate as follows:

"I hereby certify that I have on this _____ day of _____, 2019

photographed ~~or electronically microimaged~~ the documents appearing on this roll of film, that they are true copies of the documents found in the record file described above, and that the integrity of the above described record file has been

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maintained on the film by microfilming or electronic microimaging each document in the exact order in which it was found in the file. Reproductions designed to serve as permanent records comply with the regulations and standards of the State Records Commission."

- vi) Signature of camera operator.
 - vii) A film density target (8½" x 11" bond paper).
 - viii) A technical target for measuring resolution~~Resolution~~.
- g) Security microfilm shall have no breaks, cuts or splices in the body of the film, which shall be the area following the START target and preceding the Camera/Electronic Microimaging Operator's Certificate. However, a retake of a length of film may be spliced ahead of the START target or after the Camera/Electronic Microimaging Operator's Certificate, providing that the retake be given its own START target and Camera/Electronic Microimaging Operator's Certificate. This shall be done in such a manner as not to overload a reel or cartridge. Exceptions to this rule are:
- 1) If the trailing end of a reel shall be fogged or unreadable, the camera or electronic microimaging operator shall rephotograph the original documents or obtain the corresponding electronically microimaged documents from a point 12 images in advance of the last readable image prior to the fogged or unreadable area. The retake will include a ~~(camera/electronic microimaging operator's certificate)~~ and will be spliced to the trailing end of the fogged or unreadable portion of the film.
 - 2) When a court-ordered expungement of specific records is issued and deletions are made from the roll of film, the court expungement order and a certificate of deletion, illustrated below, must be photographed or electronically microimaged and the images spliced to the beginning of the film.

CERTIFICATE OF DELETION

This is to certify the deletion of microfilm images on this roll of microfilm, occurred due to Court Order # _____, date _____

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_____, signed by Judge _____ . No other images other than those listed in this order were deleted.

Signature of Officer

- h) The camera or microimaging system used to microfilm the records shall be one that accurately reproduces the content of the original records with sufficient photographic contrast and resolution to be readable through three generations of reproduction.
- i) Each roll of original film or camera negative must be inspected after processing and before duplicate copies are made. The inspection must be conducted in such a manner as to reveal defects such as improper density, poor resolution, blurred or obscured images, improper document sequence, or improper identification targets. If a defect prohibits a clear, legible, hard copy print from the files, the original records must be re-photographed. One of the following methods is a suitable means of inspection:
- 1) randomly sampling the film, making sure that the samples include the beginning, middle, and end of the roll or microform. (It is suggested that this be done on all film as a minimum quality control.)
 - 2) visually inspecting the film by passing each image through a reader and checking for overlapping, double or folded images, or other types of problems that would impair retrieving any information on the microimages.
 - 3) performing all of the requirements of subsection (i)(2) plus, counting the number of microimages on the film and comparing that against the number of documents that were to be microfilmed. (If the numbers coincide, the conclusion is made that every document has been microfilmed.)
 - 4) individually comparing each document with each microimage that was actually created. (This visual verification provides the highest assurance that every document has been properly filmed.)
- j) If more than 1% one percent of the original images needs need to be refilmed

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(approximately 30 images per roll), the entire roll must be refilmed.

- k) Updateable Microfiche Systems:
- An agency considering using an updateable microfiche ~~such a~~ system should first contact the State Records Unit to review the proposed application. The application will be approved if the updateable microfiche meets the following specifications:
- 1) each microfiche must have the specified targets at the beginning and end of each fiche as required called for by subsection Section 4400.50(f)(2)(A) and (B).
 - 2) each time a microfiche is updated, either a camera operator's certificate must be inserted at the end of the added documents or annotated reference to the original camera operator's certificate must appear on each added image.
 - 3) only records bearing retention periods of 10 ~~ten~~ years or less may be placed on updateable microforms.
 - 4) if a court ordered expungement is necessary, a certificate of deletion must appear at the place of the deleted image.
- l) Prior to the destruction of records microfilmed under the authority of approved records schedules, the agency shall file with the ~~State Records~~ Commission a statement of compliance with its standards governing the microfilming of records. The statement shall include:
- 1) Agency having custody of the records.
 - 2) Date.
 - 3) Title and inclusive dates of the record series.
 - 4) The number of the list or schedule approved by the ~~State Records~~ Commission authorizing the project.
 - 5) The following statement:

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"I hereby certify that the film on which the records were reproduced complies with the standards given in Section 4400.60 of the rules of the State Records Commission."

- 6) Signature of the microfilm project supervisor.
- m) Each film carton shall be identified by a label or exterior marking indicating:
 - 1) Roll number.
 - 2) Name of office.
 - 3) Title of the record series.
 - 4) Names of the file units at the start of the roll, at space targets, and at the end of the roll.
 - 5) The number of the application authorizing the microfilming of the record/record series.
- n) Inspection
Security or ~~master~~ Master films of permanent record microforms, and records microfilmed to dispose of the original record, shall be inspected every 2 years during their scheduled life. The inspection shall be made using a 1% ~~percent~~ randomly selected sample in the following categories: 70% ~~percent~~ – microforms not previously tested, 20% ~~percent~~ – microforms tested in the last inspection, and 10% ~~percent~~ – control group. The control group shall represent samples of microforms from the oldest microforms filmed through the most current.

(Source: Amended at 31 Ill. Reg. 8572, effective June 4, 2007)

Section 4400.60 Minimum Standards of Quality for Permanent Record Photographic Original Microfilm Intended for Retention Periods in Excess of 10 Years

- a) These standards are concerned with both raw stock for permanent record films and with the processed films ready for storage. They are not restricted to microfilm but apply equally to motion picture films, roll films, and sheet films. ~~They reflect incorporations listed in Section 4400.22. No incorporation by reference in Section 4400.60 includes any later amendments or editions.~~

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- b) All such film stock shall be of approved permanent type polyester based film that includes an anti-halation dye system that such as meets the minimum specifications of ~~the American National Standards Institute (ANSI) as found in ANSI/AIIM MS23, 4.12.:~~

~~PH 1.25—1976~~

~~PH 1.28—1981~~

~~PH 1.41—1981~~

- c) Each frame of microfilm shall be exposed and processed so that every line and character on the document appears on the microfilm with sufficient clarity to permit reproducibility through three successive generations of reproduction. With regard to operational procedures, inspection, and quality control of silver gelatin microfilm, ANSI/~~AIIM~~NMA MS23~~1983~~, ~~PH 1.25—1976, PH 1.28—1981, PH 1.41—1981 and PH 4.8—1978~~ shall apply.

- d) The background photographic densities must be appropriate to the type of documents being filmed. Appropriate background densities are as follows:

Classification	Description of Documents	Background Density
Group 1	High-quality, <u>high-contrast</u> printed books, and periodicals; <u>black type face; fine-line originals; black opaque pencil writing; and documents with small, high-contrast print. and dense typing</u>	<u>1.00 to 1.30</u> <u>1.30-1.50</u>
	<u>Pencil and ink drawings; faded and very small print (for example, footnotes at the bottom of a printed page); scenic checks; documents with printed pictorial images; and newspapers. Fine-line originals, letters typed with a worn ribbon, pencil writing with a soft lead, and documents with small printing</u>	<u>0.90 to 1.10</u> <u>1.15-1.40</u>

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Group 3	<u>Low-contrast manuscripts and drawings; graph paper with pale, fine-colored lines; letters typed with a worn ribbon; poorly printed, faint documents. Pencil drawings, faded printing, graph paper with pale, fine colored lines, and very small printing such as footnotes</u>	0.80 to 1.00 (1:24 reduction or less) 1.00-1.20
Group 4	<u>Very low-contrast (worse case) documents can require extremely low background density. Very weak pencil manuscripts and drawings, and poorly printed, faint documents.....</u>	0.75 to 0.85 (1:24 reduction or less).90-1.10
Group 5	COM.....	1.50-2.00

(Source: Amended at 31 Ill. Reg. 8572, effective June 4, 2007)

Section 4400.70 Digital Reproduction

- a) Original records may not be destroyed in favor of digital surrogates unless the digital surrogates are produced in compliance with this Section and unless done pursuant to a list or retention schedule approved by the Commission.
- b) In submitting lists or schedules of original records for which digital surrogates are to be substituted, the head of each agency shall certify that the copies will be made in accordance with the standards of the Commission and will be adequate substitutes for the original records.
- c) File Integrity – The integrity and authenticity of the original records shall be preserved through the digitization process so that the images or surrogates will be adequate substitutes for the original records. They must serve the purposes for which the original records were created or maintained and the copies must contain all significant record detail needed for probable future reference.
- d) File formats
 - 1) Digital surrogates must be created in an open file format.

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- 2) Meta-data or indexing information for digital surrogates must be stored in SQL (structured query language) compliant databases or in XML (extensible markup language) format.
- e) Access – The digital surrogates shall be prepared, arranged, classified and indexed to readily permit their subsequent location, examination, and reproduction. Hardware, software and documentation must be maintained to allow ready access to each file.
- f) Technical standards for digital surrogates:
 - 1) Quality Control – Prior to production, an agency shall assemble a sample set of source documents or records equivalent in characteristics to the source documents for the purposes of evaluating scanner results. Scanner quality must be evaluated based on the standard procedures in ANSI/AIIM MS44 and MS49.
 - 2) Quality Assurance – Before production, an agency shall develop written quality assurance procedures based upon the results of the pre-production quality sample. Before the original documents are destroyed, quality assurance must be conducted in accordance with ANSI/AIIM TR34.
 - 3) Scanning Resolution – Scanning resolution must be adequate to ensure that no information is lost. A scanning resolution with a minimum of 200 dots per inch is required for recording documents that contain no type font smaller than six point. A scanning density with a minimum of 300 dots per inch is required for engineering drawings, maps and other documents with a type font smaller than six point or with background detail. The selected scanning density must be validated with tests on actual source documents.
- g) External Vendors – Contracts for the storage of digital surrogates by external vendors must allow for the return of all electronic data files and indexing information to the agency at the expiration of the contract, in a format complying with the requirements of subsections (h) through (n).
- h) Media – Digital surrogates may be stored on a hard disk, networked server, magnetic tapes, or optical disks. Floppy disks may not be used. Data maintained on magnetic tape must be recopied onto a new tape a minimum of once every five years.

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- i) Backup copies - All digital surrogates of original records must be stored in duplicate copy on a second hard disk, magnetic tape, optical disk, or storage network. If possible, the second copy must be stored in a different building than the first copy.
- j) Access – Each digital surrogate must be individually accessible. System tapes used for data backup or disaster recovery, unless indexed for individual accessibility, do not satisfy records retention requirements.
- k) Additions, Deletions, Erasure – Systems used to store and access digital surrogates must not permit additions, deletions, or changes to the digital images or surrogates substituting for the original record.
- l) Labeling – External labels for magnetic tapes or optical disks used to store digital images or surrogates shall provide unique identification of each reel/cartridge or disk, including the name of the office responsible for the data, system title, and security classification, if applicable.
- m) Maintenance
 - 1) Each agency shall ensure that hardware, software, and documentation (including maintenance documentation) required to retrieve and read the digital surrogate are retained for the entire period mandated under the approved retention period for the digital surrogates.
 - 2) If hardware, software, and/or documentation are replaced, or if the digital surrogates are migrated to a new information system, the agency must ensure that the replacement hardware, software and/or documentation meets all requirements mandated in the approved records schedule and in [this Section](#).
- n) Long-Term Retention - Whenever a record series proposed for conversion to a digital surrogate has been scheduled for a retention period in excess of 10 years, it must be maintained additionally either in its original format or in a microfilm format that complies with Sections 4400.50 and 4400.60 of this Part.

(Source: Added at 31 Ill. Reg. 8572, effective June 4, 2007)

DEPARTMENT OF MILITARY AFFAIRS

JULY 2007 REGULATORY AGENDA

- a) Part(s) (Heading and Code Citation): Rental of National Guard Armories, 71 Ill. Adm. Code 1510
- 1) Rulemaking: Amendment to existing rules; sections 1510.100 through 1510.350 and appendices.
- A) Description: Use of National Guard Facilities. Illinois National Guard facilities will no longer be normally made available for non-military or non-governmental activities due to security concerns, the high operational tempo of the Illinois National Guard, and a change in Federal support for facilities which places restrictions on the use of federally supported military facilities and the funds generated from civilian rentals. Illinois Department of Military Affairs/Illinois National Guard facilities may only be used by external entities under the limited circumstances described herein.
- B) Statutory Authority: Implementing and authorized by Section 22-8 of the Military Code of Illinois (20 ILCS 1805/22-8).
- C) Scheduled meeting/hearing dates: None scheduled at this time.
- D) Date agency anticipates First Notice: June 28, 2007 (NOTE: This proposed rule was published at 31 Ill. Reg. 6509, in the May 4, 2007, *Illinois Register*.)
- E) Effect on small businesses, small municipalities or not for profit corporations: None anticipated.
- F) Agency contact person for information:

Illinois Department of Military Affairs
Attn; Legislative Liaison
Camp Lincoln, 1301 North MacArthur Blvd
Springfield, IL 62702
217-761-3601
- G) Related rulemakings and other pertinent information:
Last previous rulemaking related to this matter was undertaken in March 1989.

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

JULY 2007 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): The Administration and Operation of the Teachers' Retirement System, 80 Ill. Adm. Code 1650

1) Rulemaking:

A) Description: The System will enact Americans With Disabilities Act Grievance Procedure rules. In the event new pension legislation is passed, the System may need to enact rules to implement such legislation.

B) Statutory Authority: Implementing and authorized by Article 16 of the Illinois Pension Code [40 ILCS 5/Art. 16]

C) Scheduled meeting/hearing dates: There is no proposed schedule of dates for meetings/hearings at this time.

D) Date agency anticipates First Notice: Unknown

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Sandy Cochran
Teachers' Retirement System
Office of the General Counsel
P.O. Box 19253
2815 West Washington
Springfield, Illinois 62794-9253

217/753-0375

G) Related rulemakings and other pertinent information: None

ILLINOIS WORKERS' COMPENSATION COMMISSION

JULY 2007 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Pre-arbitration, 50 Ill. Adm. Code 7020 and Review, 50 Ill. Adm. Code 7040

1) Rulemaking:

A) Description: The rulemaking would amend the Commission's arbitration and review procedures, including procedures relating to expedited hearings under Section 19(b) of the Workers' Compensation Act.

B) Statutory Authority: 820 ILCS 305/16 and 19

C) Scheduled meeting/hearing dates: No dates have been set.

D) Date agency anticipates First Notice: No date has been set.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601

312/814-6559

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): Arbitration, 50 Ill. Adm. Code 7030

1) Rulemaking:

A) Description: The rulemaking would amend the Commission's arbitration procedures, including procedures relating to requesting arbitration decisions which include findings of fact and conclusions of law under Section 19(b) of the Workers' Compensation Act.

ILLINOIS WORKERS' COMPENSATION COMMISSION

JULY 2007 REGULATORY AGENDA

- B) Statutory Authority: 820 ILCS 305/16 and 19
- C) Scheduled meeting/hearing dates: No dates have been set.
- D) Date agency anticipates First Notice: No date has been set.
- E) Effect on small businesses, small municipalities or not for profit corporations: None
- F) Agency contact person for information:

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601

312/814-6559

- G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Miscellaneous, 50 Ill. Adm. Code 7110

1) Rulemaking:

- A) Description: The rulemaking would amend the Commission's workers' compensation medical fee schedule and procedures and establish requirements for certification of vocational rehabilitation counselors in accordance with Section 8(a) of the Act.
- B) Statutory Authority: 820 ILCS 305/8(a), 8.2, 16 and 19
- C) Scheduled meeting/hearing dates: No dates have been set.
- D) Date agency anticipates First Notice: No dates have been set.

ILLINOIS WORKERS' COMPENSATION COMMISSION

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E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street
Suite 8-272
Chicago, IL 60601

312/814-6559

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Insurance Regulations, 50 Ill. Adm. Code 7100

1) Rulemaking:

A) Description: The rulemaking would amend the Commission's insurance procedures, including procedures relating to insurance compliance under Section 4 of the Workers' Compensation Act.

B) Statutory Authority: 820 ILCS 305/4, 16 and 19

C) Scheduled meeting/hearing dates: No dates have been set.

D) Date agency anticipates First Notice: No date has been set.

E) Effect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:

Kathryn A. Kelley
Counsel
Illinois Workers' Compensation Commission
100 West Randolph Street

ILLINOIS WORKERS' COMPENSATION COMMISSION

JULY 2007 REGULATORY AGENDA

Suite 8-272
Chicago, IL 60601

312/814-6559

- G) Related rulemakings and other pertinent information: None

EXECUTIVE ETHICS COMMISSION

NOTICE OF PUBLIC HEARING ON PROPOSED AMENDMENTS

- 1) Heading of the Part: Organization, Information, Rulemaking and Hearings
- 2) Code Citation: 2 Ill. Adm. Code 1620
- 3) Register Citation to Notice of Proposed Amendments: 31 Ill. Reg. 6754; May 11, 2007
- 4) Date, Time and Location of Public Hearing: July 18, 2007, 10:00 a.m., Room 10-401, James R. Thompson Center, 100 W. Randolph, Chicago, Illinois 60601
- 5) Other Pertinent Information: One person per organization may give oral testimony. Oral testimony is limited to 10 minutes per person. Each person providing oral testimony shall also submit comments in writing.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

SECOND NOTICES RECEIVED

The following second notices were received by the Joint Committee on Administrative Rules during the period of May 29, 2007 through June 4, 2007 and have been scheduled for review by the Committee at its July 10, 2007 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
7/13/07	<u>Department of Natural Resources</u> , Squirrel Hunting (17 Ill. Adm. Code 690)	4/6/07 31 Ill. Reg. 5398	7/10/07
7/13/07	<u>Department of Natural Resources</u> , The Taking of Wild Turkeys – Fall Gun Season (17 Ill. Adm. Code 715)	4/6/07 31 Ill. Reg. 5409	7/10/07
7/13/07	<u>Department of Natural Resources</u> , The Taking of Wild Turkeys – Fall Archery Season (17 Ill. Adm. Code 720)	4/6/07 31 Ill. Reg. 5421	7/10/07
7/13/07	<u>Department of Natural Resources</u> , Dove Hunting (17 Ill. Adm. Code 730)	4/6/07 31 Ill. Reg. 5436	7/10/07
7/14/07	<u>Department of Human Rights</u> , Procedures of the Department of Human Rights (56 Ill. Adm. Code 2520)	4/13/07 31 Ill. Reg. 5721	7/10/07
7/15/07	<u>Board of Higher Education</u> , Appropriation Transfers (23 Ill. Adm. Code 1060)	4/13/07 31 Ill. Reg. 5700	7/10/07

ILLINOIS ADMINISTRATIVE CODE Issue Index - With Effective Dates

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