

2007

ILLINOIS

REGISTER

RULES
OF GOVERNMENTAL
AGENCIES



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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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<u>Issue #</u>	<u>Rules Due Date</u>	<u>Date of Issue</u>
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
8	February 13, 2007	February 23, 2007
9	February 20, 2007	March 2, 2007
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33	August 6, 2007	August 17, 2007
34	August 13, 2007	August 24, 2007
35	August 20, 2007	August 31, 2007
36	August 27, 2007	September 7, 2007
37	September 4, 2007	September 14, 2007
38	September 10, 2007	September 21, 2007
39	September 17, 2007	September 28, 2007
40	September 24, 2007	October 5, 2007
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48	November 19, 2007	November 30, 2007
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 remind you that the next filing period for your Regulatory Agenda will occur from October 1, 2007 to January 2, 2008 by 4:30 pm, as January 1st is a holiday and the office will be closed.

ILLINOIS COUNCIL ON DEVELOPMENTAL DISABILITIES

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Americans With Disabilities Act Grievance Procedure
- 2) Code Citation: 4 Ill. Adm. Code 800
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
800.10	Amend
800.20	Amend
800.30	Repeal
800.40	Amend
800.50	Amend
800.60	Amend
800.80	Amend
800.APPENDIX A	Amend
- 4) Statutory Authority: Title II, Subtitle A of the Americans with Disabilities Act of 1990 (42 USC 12131-12134)
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking clarifies grievance procedure and expands the number of days that the ADA Coordinator and Council Director have to respond to complaints.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this proposed rulemaking replace an 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking does not affect units of local government.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days after the date of publication to:

ILLINOIS COUNCIL ON DEVELOPMENTAL DISABILITIES

NOTICE OF PROPOSED AMENDMENTS

Kerry Flynn
Il Council on Developmental Disabilities
830 South Spring Street
Springfield, Illinois 62704

217/782-9696

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of Professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2007

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

ILLINOIS COUNCIL ON DEVELOPMENTAL DISABILITIES

NOTICE OF PROPOSED AMENDMENTS

TITLE 4: DISCRIMINATION PROCEDURES
CHAPTER XXIX: ILLINOIS ~~PLANNING~~-COUNCIL ON
DEVELOPMENTAL DISABILITIESPART 800
AMERICANS WITH DISABILITIES ACT GRIEVANCE PROCEDURE

Section

800.10	Purposes <u>Purpose</u>
800.20	Definitions
800.30	Grievances (Repealed)
800.40	Procedure <u>Manner of Filing</u>
800.50	Designated Coordinator Level <u>Initial Response</u>
800.60	Final Level <u>Review</u>
800.70	Accessibility
800.80	Case-by-Case Resolution
800.APPENDIX A	Grievance Form

AUTHORITY: Implementing Title II, Subtitle A of the Americans With Disabilities Act of 1990 (42 USC 12131-12134) and authorized by Section 2006 of the Illinois Council on Developmental Disabilities Law [20 ILCS 4010/2006].

SOURCE: Adopted at 17 Ill. Reg. 11143, effective July 1, 1993; amended at 32 Ill. Reg. _____, effective _____.

Section 800.10 ~~Purposes~~Purpose

- a) ~~This grievance procedure is established~~This Part establishes an Americans With Disabilities Act Grievance Procedure pursuant to the Americans With Disabilities Act of 1990 (42 ~~USC U.S.C.~~ 12101 et seq.) (ADA), and specifically Section 35.107 of the Title II regulations (28 CFR 35.107) requiring that a grievance procedure be established to resolve grievances asserted by qualified individuals with disabilities. Should any individual desire to review the ADA or its regulations to understand the rights, privileges and remedies afforded by it, please contact the ~~Designated Coordinator~~designated coordinator.
- b) In general, the ADA requires that each program, service and activity offered by the Illinois ~~Planning~~-Council on Developmental Disabilities (~~Council~~), when viewed in its entirety, be readily accessible to and usable by qualified individuals

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with disabilities.

- c) It is the intention of the Council to foster open communication with all individuals requesting readily accessible programs, services and activities. The Council encourages supervisors of programs, services and activities to respond to requests for modifications before they become grievances.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 800.20 Definitions

"Act" or "ADA" means the Americans With Disabilities Act of 1990 (42 USC 12101 et seq.).

"Complainant"~~A "complainant"~~ is an individual with a disability who files a grievance on the form set out in Appendix A ~~or this Part.~~

"Council" means the Illinois Council on Developmental Disabilities created by 20 ILCS 4010/2006.

"Designated Coordinator"~~The "designated coordinator"~~ is the person appointed by the Director of the Council who is responsible for ~~the~~ coordination of efforts of the Council to comply with and carry out its responsibilities under Title II of the ADA, including the investigation of grievances filed by complainants. The Designated Coordinator~~designated coordinator~~ for the Council can be contacted at the Illinois ~~Planning~~ Council on Developmental Disabilities, 830 South Spring, Springfield, Illinois 62704, (217)782-9696 (voice) or (888)261-2717 (TTY)(312)814-7151 (TDD). (See 28 CFR 35.107.)

"Director" means the Director of the Illinois ~~Planning~~ Council on Developmental Disabilities.

"Disabilities" shall have the meaning set forth in the Americans With Disabilities Act.

"Grievance"~~A "grievance"~~ is any complaint under the ADA that is reduced in writing by an individual with a disability who meets the essential eligibility requirements for participation in, or receipt of, the benefits of a program, activity or service offered by the Council, and believes he or she has been excluded from

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participation in, or denied the benefits of, any program, service or activity of the Council or has been subject to discrimination by the Council ~~on the basis of his or her disability.~~

"Grievance Form" means the form set out in Appendix A. The Grievance Form is prescribed for the purpose of filing a grievance under this Part and includes information such as name, address, phone number, nature of the grievance, with specificity, including date of incident, time place and witnesses if applicable.

"Qualified individual with a disability" means an individual with a disability who, with or without reasonable modifications to rules, policies or practices, the removal of architectural, communication or transportation barriers, or the provision of auxiliary aids and services, meets the essential eligibility requirements for the receipt of services or the participation in programs or activities provided by the Council.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 800.30 Grievances (Repealed)

- a) ~~The Council will endeavor to respond to and resolve grievances without the need to resort to the formal grievance procedure established by this Part. A person who wishes to avail himself or herself of the formal procedure, however, may do so only by filing a grievance within 180 calendar days after the alleged discrimination in the form and manner prescribed in Section 800.40 of this Part.~~
- b) ~~The Council shall provide a copy of the grievance procedure and required complaint form to anyone who requests it or expresses a desire to file a formal grievance.~~

(Source: Repealed at 32 Ill. Reg. _____, effective _____)

Section 800.40 Procedure ~~Manner of Filing~~

- a) Grievances must be submitted in accordance with procedures established in Sections 800.50 and 800.60. It is mutually desirable and beneficial that grievances be satisfactorily resolved in a prompt manner. Time limits established in this procedure are in calendar days, unless otherwise stated, and may be extended by mutual agreement, in writing, by the complainant and the reviewer,

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~~at the Designated Coordinator and/or Final Level described in Sections 800.50 and 800.60. The filing of a grievance is accomplished by the complainant's submission of a grievance in writing to the designated coordinator on the prescribed form. (See Appendix A of this Part)~~

- b) ~~A complainant's failure to submit a grievance, or to submit or appeal it to the next level of procedure within the specified time limits, shall mean that the complainant has withdrawn the grievance or has accepted the last response from the Designated Coordinator given in the grievance procedure. In order to be deemed filed and to receive proper consideration by the designated coordinator, the grievance form must be completed in full except as otherwise indicated on the form. The designated coordinator will notify the complainant within ten business days after the receipt of the form if the filing is not complete. The Council will assist with completion of the grievance form upon request.~~
- c) ~~The Council shall, upon being informed of an individual's desire to file a formal grievance, instruct the individual how to receive a copy of this procedure and the Grievance Form.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 800.50 Designated Coordinator Level ~~Initial Response~~

- a) ~~If an individual desires to file a grievance, the individual shall promptly, but no later than 180 days after the alleged discrimination, submit the grievance to the Designated Coordinator in writing on the Grievance Form. The Grievance Form must be completed in full in order to receive proper consideration by the Designated Coordinator.~~
- b) ~~Upon request, assistance in completing the Grievance Form shall be provided by the Council.~~
- c) ~~The Designated Coordinator~~designated coordinator, or his/her representative, shall investigate the grievance and, ~~if the grievance is found to be valid,~~ shall make reasonable efforts to resolve it. The ~~Designated Coordinator~~designated coordinator shall provide a written response to the complainant and the Director within ~~15 ten (10)~~-business days after receipt of the ~~Grievance Form~~grievance form.

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(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 800.60 Final LevelReview

- a) If the grievance ~~is has not been~~ resolved at the Designated Coordinator Level by the designated coordinator to the satisfaction of the complainant, the complainant may submit a copy of the Grievance Form grievance form and Designated Coordinator's designated coordinator's response to the Director for final review. The complainant shall submit these documents to the Director, together with a short written statement explaining the reasons reason(s) for dissatisfaction with the Designated Coordinator's designated coordinator's written response, within 15 days after receipt by the complainant of the Designated Coordinator's response. ~~The Director will extend the period for submitting the review request and supporting documents for up to ten (10) additional days upon complainant's request.~~
- b) Within 15 business days, the ~~The~~ Director shall appoint a three-~~member (3)~~ member panel to review the grievance at the Final Level. One member ~~so~~ appointed shall be designated chairman. The panel shall schedule a review of the grievance, which shall commence no later than 15 business days after the last member of the panel is appointed.
- c) Complainant ~~The complainant~~ shall be afforded an opportunity to appear before the panel. Complainant shall have a right to appoint a representative to appear on his/her behalf. The panel shall review the Designated Coordinator's designated coordinator's written response and may conduct interviews and seek advice as it deems appropriate.
- d) Upon agreement of at least two of the panel members, but not later than 15 business days after the review described in subsection (b), the ~~The~~ panel shall make recommendations in writing to the Director as to the proper resolution of the grievance. All recommendations shall include reasons for such recommendations and shall bear the signatures of the concurring panel members. A dissenting member of the panel may ~~also~~ make a signed, written recommendation to the Director in writing and shall sign the recommendation.
- e) Within 15 business days after receipt of recommendations from a panel, Upon receipt of recommendations from a panel, the Director or designee shall approve, disapprove or modify the panel recommendations; ~~;~~ shall render a decision on

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~~those recommendations thereon~~ in writing; shall state the basis for his or her decision;therefor, and shall cause a copy of the decision to be served on the parties. The Director's decision shall be final. If the Director disapproves or modifies the panel's recommendations, the Director ~~may shall~~ include written reasons for ~~that such~~ disapproval or modification.

- f) The Grievance Form, the Designated Coordinator's response, the statement of the reasons for dissatisfaction, the recommendations of the panel, and the decision of the Director shall be maintained in accordance with the State Records Act [5 ILCS 160] or as otherwise required by law. A complainant's failure to appeal the designated coordinator's response for review by the Director within the specified time limits shall mean that the complainant has withdrawn the grievance or has accepted the last response given by the coordinator.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 800.80 Case-by-Case Resolution

Each grievance involves a unique set of factors that includes but is not limited to: the specific nature of the disability; the essential eligibility requirements, ~~for~~, the benefits to be derived, ~~from~~, and the nature of the service, program or activity at issue; the health and safety of others; and whether an accommodation would constitute a fundamental alteration to the program, service or activity or undue hardship on the Council. Accordingly, termination of a grievance at any level, whether through the granting of relief or otherwise, shall not constitute a precedent on which any other complainants should rely.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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Section 800.APPENDIX A Grievance Form

Grievance
Discrimination Based on Disability

It is the policy of the Illinois ~~Planning~~ Council on Developmental Disabilities to provide assistance in filling out this form. If assistance is needed, please ask:

ADA Coordinator - Illinois ~~Planning~~ Council on Developmental Disabilities
830 South Spring Street
Springfield, Illinois 62704
(217) 782-9696 (Voice)
(888) 261-2717 (TTY)~~(312) 814-7151 (TDD)~~

Name: _____

Address: _____

City, State and Zip Code: _____

Telephone No.: _____

The Best Means and Time for Contacting: _____

Program, Service, or Activity to which Access was Denied or in which Alleged
Discrimination Occurred: _____

Nature of Alleged Discrimination: _____

(Attach additional sheets, if necessary. If the grievance is based on a denial of requested reasonable modification, please fill out the back of this form.)

I certify that I am qualified or otherwise eligible to participate in the program, service or activity and the above statements are true to the best of my knowledge and belief.

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Signature

Date

Please give to the ADA Coordinator at the address listed above.

For Office Use Only

Date Received: _____ By: _____

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(BACK OF FORM)

Please fill out this part of the form if this grievance is based upon the denial of a requested reasonable modification. A reasonable modification will be made to make programs, services, and activities accessible. Reasonable modifications could include such things as providing auxiliary aides and devices and changing some policies and requirements to allow an individual with a disability to participate. This portion of the form should be filled in to the extent you know the answers. The form may be submitted even if this portion is incomplete.

Reasonable Modification Requested:

The Date the Reasonable Modification was Requested:

The Person to whom the Request was made:

The Reason for Denial:

Estimated Cost of Modification (If an Assistive Device, such as a ~~TTY~~ or optical reader, or Commodity or Service to which a Cost is Readily Known):

Why is the requested modification necessary to use or participate in the program, service, or activity?

Alternative modifications which may provide accessibility:

Any other information you believe will aid in a fair resolution of this grievance.

ELEVATOR SAFETY REVIEW BOARD

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- 1) Heading of the Part: Illinois Elevator Safety Rules
- 2) Code Citation: 41 Ill. Adm. Code 1000
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1000.10	Amendment
1000.20	Amendment
1000.30	Amendment
1000.50	Amendment
1000.60	Amendment
1000.80	Amendment
1000.100	Amendment
1000.120	Amendment
1000.130	Amendment
1000.140	Amendment
1000.170	Amendment
1000.180	Amendment
- 4) Statutory Authority: Authorized by and implementing Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking reflects recent amendments to the Elevator Safety and Regulation Act in PA 95-573.
- 6) Published Studies or Reports, and sources of underlying data used to compose this rulemaking: The sources of underlying data used to compose this rulemaking consists of statutes and rules currently in effect in other states that have active elevator safety programs most notably the States of Florida, Washington and Missouri. The agency also used the input from prior public hearings convened as a result of the proposal to adopt rules in 2005.
- 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 proposed rulemaking contain incorporations by reference? Yes
- 10) Are there any other proposed rulemakings pending on this Part? None

ELEVATOR SAFETY REVIEW BOARD

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- 11) Statement of Statewide Policy Objectives: This proposed rulemaking does not create or enlarge a State mandate, as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b) (2004)].
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may comment in writing to the following:

John J. Fennell, Jr.
General Counsel's Office
Office of the State Fire Marshal
1035 Stevenson Dr.
Springfield, IL 62703-4259

Facsimile: 217/558-1320
- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not for profit corporations affected:
 - i) Any small business that installs, repairs or maintains regulated conveyance.
 - ii) Municipalities that inspect regulated conveyances
 - iii) Not for profit corporations will be affected only to the extent that they have buildings with regulated conveyances that are installed, repaired or inspected.
 - B) Reporting, bookkeeping or other procedures required for compliance:
 - i) Individuals and companies that install, inspect, repair or maintain regulated conveyances are required to maintain records on license, applications and individual regulated conveyance inspection, repair or maintenance
 - ii) Units of local government that permit and/or inspect regulated conveyances are required to maintain records on such activity.

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- iii) Building owners in which regulated conveyances are located are required to keep records of inspection, repair, maintenance and new installations in those buildings.
- C) Types of professional skills necessary for compliance: Individuals prove competence to inspect, install, repair and maintain regulated conveyances by either experience, education or testing which demonstrated conformance to national standards published for the particular type of conveyance the individual seeks to be licensed to perform inspections, repairs, maintenance or installation.
- 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 need for this rulemaking was not anticipated during the time the two most recent Regulatory Agendas were compiled.

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

ELEVATOR SAFETY REVIEW BOARD

NOTICE OF PROPOSED AMENDMENTS

TITLE 41: FIRE PROTECTION
CHAPTER II: ELEVATOR SAFETY REVIEW BOARDPART 1000
ILLINOIS ELEVATOR SAFETY RULES

Section	
1000.10	Purpose of this Part
1000.20	Applicability
1000.30	Definitions
1000.40	Local Regulation
1000.50	Elevator Safety Review Board
1000.60	Adoption of Nationally Recognized Safety Codes
1000.70	Variance and Reconsideration
1000.80	Licensure and Registration Requirements
1000.90	Application for License or Registration
1000.100	License and Registration Fees
1000.110	Renewal of License
1000.120	Registration of Conveyances
1000.130	Permits
1000.140	Conveyance Inspection
1000.150	Certificate of Operation
1000.160	Administrative Hearing
1000.170	Administrative Procedures Penalties
1000.180	Implementation Schedule

AUTHORITY: Implementing and authorized by Section 35 of the Elevator Safety and Regulation Act [225 ILCS 312/35].

SOURCE: Adopted by emergency rule at 30 Ill. Reg. 13186, effective July 21, 2006, for a maximum of 150 days; emergency expired December 17, 2006; adopted at 31 Ill. Reg. 7043, effective April 24, 2007; amended at 32 Ill. Reg. _____, effective _____.

Section 1000.10 Purpose of this Part

The purpose of this Part is to assure that conveyances are correctly and safely installed and operated within the State by regulating the ~~design~~, installation, construction, operation, inspection, testing, maintenance, alteration, and repair of elevators, dumbwaiters, escalators,

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moving sidewalks, platform lifts, stairway chairlifts, and automated people movers, and by licensing personnel and businesses that work on these conveyances.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.20 Applicability

- a) *This Part applies to the ~~design~~, construction, operation, inspection, testing, maintenance, alteration and repair of the following equipment, its associated parts, and its hoistways (except as exempted in subsection (c) of this Section):*
- 1) *Hoisting and lowering mechanisms equipped with a car or platform, which move between 2 or more landings and include, but is not limited to, elevators, platform lifts and stairway chairlifts;*
 - 2) *Power driven stairways and walkways for carrying persons between landings. This equipment includes, but is not limited to, escalators and moving walkways;*
 - 3) *Hoisting and lowering mechanisms equipped with a car, which serve 2 or more landings and are restricted to the carrying of material by their limited size or limited access to the car and include, but are not limited to, dumbwaiters or material lifts and dumbwaiters with automatic transfer devices;*
 - 4) *Automatic guided transit vehicles on guide ways with an exclusive right-of-way. This equipment includes, but is not limited to, automated people movers. [225 ILCS 312/10(a) and (b)]*
- b) *This Part does not apply to a municipality with a population over 500,000 [225 ILCS 312/10(d)].*
- c) *This Part does not apply to the following equipment: material hoists within the scope of ANSI 10.5; ~~belt~~ manlifts within the scope of ASME A90.1; mobile scaffolds, towers, and platforms within the scope of ANSI A92, ~~except those covered by ANSI A10.4~~; powered platforms and equipment for exterior and interior maintenance within the scope of ANSI 120.1 ~~maintenance~~; conveyors and related equipment within the scope of ASME B20.1; cranes, derricks, hoists, hooks, jacks, and slings within the scope of ASME B30; industrial trucks within*

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the scope of ASME B56; portable equipment, except for portable escalators that are covered by ANSI 17.1; tiering or piling machines used to move materials to and from storage located and operating entirely within one story; equipment for feeding or positioning materials at machine tools, printing presses, etc.; skip or furnace hoists; wharf ramps; railroad car lifts or dumpers; line jacks, false cars, shafters, moving platforms, and similar equipment used for installing an elevator by a contractor licensed in this State; ~~railway and transit systems~~; conveyances located in a private residence not accessible to the public; ~~special purpose personnel elevators~~. [225 ILCS 312/10(c)]

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.30 Definitions

For the purposes of this Part, the definitions of terms in Section 15 of the Act and in this Section shall apply.

"Acceptance Inspection" means an inspection performed at the completion of the initial installation or alteration of equipment in accordance with applicable standards.

"Act" means the Elevator Safety and Regulation Act [225 ILCS 312].

"Board" means the Elevator Safety Review Board created by Section 25 of the Act [225 ILCS 312/15].

"Certificate of Operation" means a certificate issued by the OSFM that indicates that the conveyance has passed the required safety inspection and tests and fees have been paid. [225 ILCS 312/15]

"Code" or "State Code" means the standards and recommendations incorporated by reference in Section 1000.60.

"Contractor License Designee" means an individual designated by a licensed elevator contractor or licensed limited elevator contractor who is the holder of the elevator contractor license or limited elevator contractor license and has the responsibility to ensure that work performed by the contractor is done so in conformance with the Act. Such person shall have ownership interest, corporate officer status or managerial control over the licensed workforce of the contractor.

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"Elevator Contractor" means any person, firm, or corporation who possesses an elevator contractor license in accordance with the provisions of Sections 40 and 55 of the Act and who is engaged in the business of ~~erecting~~, constructing, installing, altering, servicing, repairing, or maintaining and performing electrical work on elevators or related conveyances covered by the Act within any building or structure, including, but not limited to, private residences. [225 ILCS 312/15]

"Elevator Helper" means an individual registered with OSFM ~~who works as an elevator helper. Elevator helpers must work~~ under the general direction~~direct supervision~~ of a licensed elevator mechanic or licensed limited elevator mechanic. Licensure is not required for an elevator helper. [225 ILCS 312/15]

"Elevator Industry Apprentice" means an individual who is enrolled in an apprenticeship program approved by the Bureau of Apprenticeship and Training of the U.S. Department of Labor and who is registered by OSFM ~~and works to perform work within the elevator industry~~ under the general direction~~direct supervision~~ of a licensed elevator mechanic or licensed limited elevator mechanic. Licensure is not required for an elevator industry apprentice. [225 ILCS 312/15]

"Elevator Inspector" means any inspector, as that term is defined in ASME QEI~~person~~ who possesses an elevator inspector license in accordance with the provisions of the Act. [225 ILCS 312/15]

"Elevator Mechanic" means any person who possesses an elevator mechanic license in accordance with the provisions of Section 45 of the Act and who is engaged in erecting, constructing, installing, altering, servicing, repairing, or maintaining elevators or related conveyances covered by the Act. [225 ILCS 312/15]

"Emergency Elevator Mechanic License" means a license issued by OSFM, under Section 45(d) of the Act and Section 1000.80(d) of this Part and based upon the certification of a licensed elevator contractor or licensed limited elevator contractor, *whenever an emergency exists in the State due to disaster or work stoppage and the number of persons in the State holding mechanic licenses is insufficient to cope with the emergency.* [225 ILCS 312/45(d)]

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"Hearing Officer" means the presiding officer or officers at the initial hearing before the Board and each continuation of that hearing. A hearing officer must be an attorney-at-law licensed to practice in Illinois.

"Inspection Company License" means a license issued by the Elevator Safety Review Board to any company that is an ASME QEI inspection company that has proven the company's qualifications and ability and has been authorized by the Elevator Safety Review Board to possess this type of license

"Limited Elevator Contractor License" means a license issued by OSFM, under Section 1000.80(g), that limits the licensee's business to platform lifts and stairway chairlifts. (See definition of Elevator Contractor's License at 225 ILCS 312/15.)

"Limited Elevator Mechanic License" means a license issued by OSFM, under Section 1000.80(a), that *authorizes the licensee to carry on a business of erecting, constructing, installing, altering, servicing, repairing or maintaining platform lifts and stairway chairlifts within any building or structure.* [225 ILCS 312/15]

"Material Alteration", as defined in the referenced standards, means any change to equipment, including its parts, components, and/or subsystems, other than maintenance, repair, or replacement.

"OSFM" means the Office of the State Fire Marshal, which is designated by the Act to be the administrator of the Illinois Elevator Safety and Regulation Program.

"Owner" means any person or authorized agent of that person who owns a device or equipment subject to regulation under the Act, or, in the event the device or equipment is leased, the lessee.

"Private Residence" means a separate dwelling or a separate apartment or condominium unit in a multiple-family dwelling that is occupied by members of a single-family unit. [225 ILCS 312/15]

"Repair", as set forth in the referenced standards, means reconditioning or renewal of parts, components, and/or subsystems necessary to keep equipment in compliance with applicable code requirements. Repair includes only such work as is necessary to maintain present equipment in a safe and serviceable condition

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and to adjust or replace defective, broken, or worn parts with parts made of equivalent material, strength, and design, and where the replacing part performs the same function as the replaced part. Section 15 of the Act exempts repairs from the Act's permit requirements.

"Temporary Certificate of Operation" means a certificate issued by the OSFM that permits the temporary use of a non-compliant conveyance by the general public for a limited time of 30 days while minor repairs are being completed, or ~~use of elevators temporarily used~~ for construction or demolition to provide transportation for construction personnel, tools, and materials only. [225 ILCS 312/15]

"Temporary Elevator Mechanic License" means a license issued by OSFM, under Section 45(e) of the Act and Section 1000.80(c) of this Part, upon the request and certification of a licensed elevator contractor or licensed limited elevator contractor, when there are no licensed personnel available to perform elevator work [225 ILCS 312/45(e)].

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.50 Elevator Safety Review Board

- a) Appointment
The Elevator Safety Review Board consists of ~~1413~~ members, ~~1140~~ of whom are appointed by the Governor and 3 of whom are appointed by the State Fire Marshal under Section 25 of the Act.
- b) Powers and Duties
Section 35 of the Act authorizes the Board to adopt rules for administration and enforcement of the Act. The rules shall establish standards and criteria consistent with the Act for licensing of elevator mechanics, limited elevator mechanics, inspectors and contractors. The Board may grant variances from the applicable standards (see Section 1000.70), establish fees and recommend changes to the Act.
- c) Contact
The Board's office is located at the Office of the Illinois State Fire Marshal, 1035 Stevenson Drive, Springfield, Illinois 62703-4259.

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(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.60 Adoption of Nationally Recognized Safety Codes

- a) All conveyances shall be designed, constructed, installed, operated, inspected, tested, maintained, altered, and repaired in accordance with the following standards and recommended practices:
- 1) American Society of Mechanical Engineers (ASME)
Three Park Avenue
New York NY 10016-5990
 - A) Safety Code for Elevators and Escalators (ASME A17.1-2007/CSA B44-07~~2005~~, and Performance-Based Safety Code for Elevators and Escalators (ASME A17.1-2007/CSA B44.7-07)~~A17.1(a) 2005, A17.1(s) 2005~~);
 - B) Guide for Inspection of Elevators, Escalators, and Moving Walks (ASME A17.2-2004);
 - C) Safety Code for Existing Elevators and Escalators (ASME A17.3-2005) (upgrades required by application of the Safety Code for Existing Elevators and Escalators must be completed no later than January 1, 2009, except that upgrades to the hydraulic cylinder system and the firefighter control system must be completed by January 1, 2011);
 - D) Safety Standard for Platform Lifts and Stairway Chairlifts (ASME A18.1-2005);
 - E) Standard for the Qualification of Elevator Inspectors (ASME QEI-1-2004).
 - 2) American National Standards Institute (ANSI)
25 West 43rd Street, 4th Floor
New York NY 10036

Safety Requirements for Personnel Hoists and Employee Elevators (ANSI A10.4-2004).

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- 3) American Society of Civil Engineers (ASCE)
1801 Alexander Bell Drive
Reston VA 20191-4400

Automated People Mover Standards (ASCE 21-2000).

- b) All the materials incorporated by reference in this Section are incorporated as of the date specified and include no later editions or amendments.
- c) *The Board shall adopt the latest editions of the standards referenced in this subsection within 6 months after the effective date of the standards. [225 ILCS 312/35(a)]*

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.80 Licensure and Registration Requirements

- a) Qualifications for Elevator Mechanic or Limited Elevator Mechanic License
- 1) Elevator Mechanic License
Section 20(a) of the Act states that *no person shall erect, construct, wire, alter, replace, maintain, remove, or dismantle any conveyance contained within buildings or structures in the jurisdiction of this State unless he or she possesses an elevator mechanic license.*
- A) *No license shall be granted to any person who has not paid the application fee required by Section 1000.100(a).*
- B) Grandfathering
A person applying for an elevator mechanic or limited elevator mechanic license by December 31, 2007 and submitting to the OSFM *acceptable proof that he or she has worked as an elevator constructor or maintenance or repair person for equipment the licensee is authorized to install shall be issued an elevator mechanic license. Acceptable proof shall consist of documentation that he or she worked without direct and immediate supervision for an elevator contractor who has worked on elevators in this State*

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*for a period of not less than 3 years immediately prior to
December 31, 2007~~July 21, 2006~~.*

- C) *No license shall be granted to any person who has not proven his or her qualifications and abilities. Applicants for an elevator mechanic license must demonstrate one of the following qualifications:*
- i) *an acceptable combination of documented experience and education credits consisting of:*
 - *not less than 3 years work experience in the elevator industry, in construction, maintenance, or ~~and~~ service ~~and~~ ~~or~~ repair, as verified by current and previous employers licensed to do business in this State or in another state if the Board deems that out-of-state experience equivalent; and*
 - *satisfactory completion of a written examination administered by the Elevator Safety Review Board or its designated provider on this Part and the State codes incorporated in Section 1000.60; or*
 - ii) *a certificate of successful completion of the mechanic examination of a nationally recognized training program for the elevator industry, such as the National Elevator Industry Educational Program or its equivalent ~~based on the codes applicable to the type of license for which the individual is applying~~; or*
 - iii) *a certificate of completion of an elevator mechanic apprenticeship program, with standards substantially equal to those of the Act, registered with the Bureau of Apprenticeship and Training, U.S. Department of Labor; or*
 - iv) *a valid license from a state having standards substantially equal to those of this State. [225 ILCS 312/45]*
- 2) Qualifications for a Limited Elevator Mechanic License

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- A) No license shall be granted to any person or firm that has not paid the application fee required by Section 1000.100(g).
 - B) Qualifications for a limited elevator mechanic license shall be the same of for an elevator mechanic license with the exception that work experience shall consist of work performed on ASME A18.1 conveyances (platform lifts and stairway chairlifts). Examinations will cover ASME A18.1 standards, the Act, and this Part.
- b) Elevator Industry Apprentice or Helper Registration
- 1) A person who is not licensed as an elevator mechanic or limited elevator mechanic may ~~not~~ work as an elevator industry apprentice or helper ~~once unless~~ he or she is registered as such by OSFM and works under the ~~general supervision~~ ~~direct supervision~~ of a licensed elevator mechanic or licensed limited elevator mechanic. ~~[225 ILCS 312/20(e)] In this instance, the term direct supervision requires that a licensed elevator mechanic or limited mechanic be on site to provide periodic review of the work of the apprentice or helper.~~
 - 2) No person shall be registered as an elevator industry apprentice or helper who has not paid the registration fee required by Section 1000.100(j).
 - 3) All elevator mechanic apprentices shall be registered with an apprenticeship or training program approved by the Bureau of Apprenticeship and Training, U.S. Department of Labor.
 - 4) Elevator industry apprentices and helpers shall register by submitting, on a form provided by the OSFM, the following information:
 - A) Name, address and telephone number of the applicant.
 - B) Whether the applicant is registering as an apprentice or as a helper.
 - C) If an apprentice, the name and contact information for the apprenticeship or training program with which the apprentice is registered.

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- 5) Upon determination that the applicant for registration meets all the requirements of the Act and this Part, OSFM will provide the applicant with an elevator industry apprentice or helper registration card.
- c) Qualifications for a Temporary Elevator Mechanic License
- 1) No license shall be granted to any person who has not paid the application fee required by Section 1000.100(e).
 - 2) *A licensed elevator contractor or licensed limited elevator contractor shall notify OSFM when there are no licensed personnel available to perform elevator work and may request that the OSFM issue temporary elevator mechanic licenses to persons certified by the contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision.*
 - 3) A person for whom a contractor requests a temporary elevator mechanic license shall show proof of competency by documenting 3 years of work experience in the elevator industry, without direct supervision, in Illinois or any other state having standards substantially equal to those of this State.
 - 4) *A temporary elevator mechanic license shall recite that it is valid for a period of 30 days from the date of issuance and while the elevator mechanic is employed by the licensed elevator contractor or licensed limited elevator contractor that certified the individual as qualified. It shall apply to such particular elevators or geographical areas as OSFM designates and shall be renewable as long as the shortage of licenseholders continues. [225 ILCS 312/45(e)]*
- d) Qualifications for Emergency Elevator Mechanic License
- 1) No application fee is required for an individual applying for an emergency elevator mechanic license or for the renewal of that license.
 - 2) *Whenever an emergency exists in the State due to disaster, act of God, or work stoppage and the number of persons in the State holding elevator mechanic licenses is insufficient to cope with the emergency, any person certified by a licensed elevator contractor or licensed limited elevator*

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contractor to have an acceptable combination of documented experience and education to perform elevator work without direct and immediate supervision shall seek an emergency elevator mechanic license from the OSFM within 5 business days after commencing work requiring a license.

- 3) *The applicant shall furnish proof of competency by submitting to the OSFM documentation of 3 years of work experience in the elevator industry, without direct supervision, in Illinois or any other state having standards substantially equal to those of this State.*
 - 4) *An emergency mechanic license is valid for 30 days from the date issued and for such particular elevators or geographical areas as the OSFM may designate. The emergency license entitles the licensee to the rights and privileges of an elevator mechanic license issued under subsection (a).*
 - 5) *OSFM shall renew an emergency elevator mechanic license during the existence of an emergency. [225 ILCS 312/45(d)]*
- e) **Qualifications for Elevator Inspector License**
- 1) *No person shall inspect any conveyance within buildings or structures, including, but not limited to, private residences, unless he or she has an inspector license [225 ILCS 312/20(b)].*
 - 2) *No elevator inspector license shall be granted to any person who has not paid the application fee required by Section 1000.100(b).*
 - 3) *No inspector's license shall be granted to any person, unless he or she proves to the satisfaction of the OSFM that he or she meets the current ASME QEI-1, Standards for the Qualifications of Elevator Inspectors. [225 ILCS 312/50]*
 - 4) *To be licensed as an elevator inspector, the applicant must have attained QEI certification (see Section 1000.60(a)(1)(E)). An elevator inspector shall notify the OSFM within 24 hours after suspension, termination or expiration of his/her QEI certification. No inspector shall perform any inspection covered by the Act without a current QEI certification and valid elevator inspector license.*

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- 5) All elevator inspector license applicants are required to submit proof of insurance as required by Section 100 of the Act and must provide notice at least 10 days in advance to the OSFM of any substantial alteration or cancellation of a policy. No work covered by the Act is to be performed without insurance required by Section 100 of the Act.
- f) **Qualifications for Elevator Contractor License**
Section 40(a) of the Act requires that any person *wishing to engage in the business of installing, altering, repairing, servicing, replacing, or maintaining elevators, dumbwaiters, escalators, or moving walks within this State* must be licensed.
- 1) *No license shall be granted to any person or firm unless the application fee required by Section 1000.100(c) is paid.*
- 2) *No license shall be granted to any person or firm who has not proven the required qualifications and abilities. An applicant must be individually licensed as an elevator mechanic under the Act, perform the work set forth in subsection (a) of Section 20 of the Act, and have proof of compliance with the insurance requirements set forth in Section 100 of the Act or, in the case of a firm, employ a person who is individually licensed as an elevator mechanic under the Act, perform the work set forth in subsection (a) of Section 20 of the Act, and have proof of compliance with the insurance requirements set forth in Section 100 of the Act.~~demonstrate one of the following qualifications:~~*
- A) *~~five years work experience in the elevator industry in construction, maintenance, and service or repair, as verified by documentation as required by the Board;~~*
- B) *~~satisfactory completion of a written examination administered by the Elevator Safety Review Board directly or through its designated provider on this Part and the State codes incorporated in Section 1000.60; or~~*
- C) *~~proof that the individual or firm holds a valid license from a state having standards substantially equal to those of this State. [225 ILCS 312/55]~~*

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- 3) All elevator contractor license applicants are required to submit proof of insurance as required by Section 100 of the Act and must provide notice at least 10 days in advance to the OSFM of any substantial alteration or cancellation of a policy. No work covered by the Act is to be performed without insurance required by Section 100 of the Act.
 - 4) *If the State of Illinois, a unit of local government, or an institution of higher education maintains in its employ licensed or limited licensed elevator mechanics who maintain only conveyances owned or leased by that entity, the employing entity is not required to be licensed as a contractor under this Section and none of the provisions of the Act concerning licensed contractors shall apply to these entities. [225 ILCS 40(a)]*
- g) Qualifications for a Limited Contractor License
- 1) No license shall be granted to any person or firm unless the application fee required by Section 1000.100(d) is paid.
 - 2) Qualifications for a limited contractor license shall be the same as for an elevator contractor license with the exception that work experience shall consist of work performed on ASME A18.1 conveyances (platform lifts and stairway chairlifts). Examinations will cover ASME A18.1 standards, the Act, and this Part.
- h) Qualifications for Elevator Inspection Company License
- 1) No company, limited liability company, corporation, not for profit corporation, partnership, limited partnership, sole proprietorship, or any other business organization authorized by law shall inspect or cause an employee to inspect any conveyance within buildings or structures, including, but not limited to, private residences, unless the company has an inspection company license.
 - 2) No elevator inspection company license shall be granted to any person who has not paid the application fee required by Section 1000.100(c). [225 ILCS 312/50]

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- 3) No inspection company license shall be granted to any company, unless the company proves to the satisfaction of the OSFM that one or more officers of the company meet the current ASME QEI-1, Standards for the Qualifications of Elevator Inspectors.
- 4) An elevator inspection company shall notify the OSFM within 24 hours after suspension, termination or expiration of the officer's QEI certification. No inspection company shall perform any inspection covered by the Act without an officer possessing a current QEI certification and the company possessing a valid elevator inspector license.
- 5) All elevator inspection company license applicants are required to submit proof of insurance as required by Section 100 of the Act and must provide notice at least 10 days in advance to the OSFM of any substantial alteration or cancellation of a policy. No work covered by the Act is to be performed without insurance required by Section 100 of the Act.

ih) Miscellaneous Requirements

- 1) No licensee shall work on non-registered or non-permitted conveyances covered by the Act, except for those conveyances exempted from registration by the Act or Section 1000.120(e)(3) of this Part and except as stated in Section 1000.120(b).
- 2) All license holders are required to report violations of the Act, this Part and the standards listed in Section 1000.60 to the OSFM.
- 3) Each licensee shall have his/her valid license, and each elevator industry apprentice or helper shall have his/her valid registration card, in his/her possession when working on conveyances covered by the Act.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.100 License and Registration Fees

License fees shall be as follows:

- a) Elevator Mechanic License (initial and renewal) \$200

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b)	Elevator Inspector License (initial and renewal)	\$400	
c)	<u>Elevator Inspection Company License (initial and renewal)</u>	<u>\$400</u>	
d)	Elevator Contractor License (initial and renewal)	\$1,000	
e)	Limited Elevator Contractor License (initial and renewal)	\$500	
f)	Temporary Elevator Mechanic License (initial and renewal)	\$50	
g)	Emergency Elevator Mechanic License (initial and renewal)	\$0	
h)	Limited Elevator Mechanic License (initial and renewal)	\$100	
i)	License Restoration	Renewal Fee+\$50	
j)	Replacement License	\$25	
k)	Elevator Industry Apprentice or Helper Registration	\$50	

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.120 Registration of Conveyances

- a) Registration of Newly Installed Conveyances
The licensed elevator contractor or limited elevator contractor installing a new conveyance shall register the conveyance with the OSFM as required by Section 95 of the Act and pay a registration fee of \$30.
- b) Registration of Existing Conveyances
Before July 1, ~~2008~~2007, owners of existing conveyances shall register the conveyance with the OSFM as required by Section 80 of the Act and pay a registration fee of \$30. Inspectors, contractors and mechanics are permitted to service an unregistered existing conveyance one time after July 1, 2007 and provide the owner with notice that the conveyance is required to be registered. The conveyance may not be serviced thereafter until it is properly registered with the OSFM.
- c) The registration shall be on a form provided by the OSFM and shall include, but is not limited to, the type, rated load and speed, manufacturer, location, purpose, and date of installation.

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- d) The OSFM shall issue for each conveyance a registration identification plate with the registration number inscribed that shall be used to identify the conveyance thereafter. The registration plate shall be permanently affixed/attached to one of the following:
- 1) Machine, pump unit or drive unit;
 - 2) Car operating station.
- e) Penalties
- 1) Conveyance Owners
Violation of the Act by a conveyance owner shall subject the owner to prosecution for a Class C misdemeanor~~The OSFM may assess a penalty in accordance with Section 110(b) of the Act not to exceed \$1,500 per violation, per day to an owner of a building other than his/her own private residence who fails to register a conveyance with the OSFM.~~
 - 2) Contractors
The OSFM may assess a penalty not to exceed \$500 for each day a contractor fails to register a new conveyance as required by Section 95(a) of the Act.
 - 3) Private Residence Owners
No fee will be charged for registration of existing private residence conveyances and no penalties will be incurred by the owner of a private residence.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.130 Permits

- a) A licensed elevator contractor or limited licensed elevator contractor shall obtain a permit from the OSFM, municipality, or county that regulates such activities prior to erecting, constructing, installing, or materially altering any conveyances covered by the Act. Permits will be required under this Section only for projects that commence after the effective date of this Part.

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- b) If the permit is issued by a local government, the governmental entity issuing the permit shall send a copy to the OSFM. The governmental entity shall be required to maintain the permit on file for a period of not less than one year from the date of issuance.
- c) Each application for a permit from the OSFM shall be on a form provided by the OSFM and shall be accompanied by the permit fee established in subsection (g) and *accurately scaled and fully dimensioned plans and shall show the location of the machinery room and the equipment to be installed, relocated, or altered, and all structural supporting members thereof, including foundations. The specifications shall include all materials to be employed and all loads to be supported or conveyed. These plans and specifications shall be sufficiently complete to illustrate all details of construction and design.* [225 ILCS 312/90(c)] All permit applications shall be signed by the Contractor License Designee.
- d) At the conclusion of the permitted activity, the licensed elevator contractor or limited elevator contractor shall arrange for a licensed elevator inspector to perform an acceptance inspection.
- e) The licensed elevator contractor or limited elevator contractor shall notify the OSFM no less than 7 days prior to the acceptance inspection being performed.
- f) The licensed elevator contractor or limited elevator contractor shall specify whether the permit is for a conveyance used for mobility-impaired or nonmobility-impaired purposes.
- g) *A permit to alter a conveyance may be issued to an entity exempted from licensure under subsection (a) of Section 40 of the Act.* [225 ILCS 90(a)]
- hg) OSFM permit fees shall be as follows:
- | | | |
|----|---------------------|-------|
| 1) | New installation | \$200 |
| 2) | Material alteration | \$100 |

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.140 Conveyance Inspection

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- a) **Acceptance Inspections**
All new conveyance installations shall be inspected and, based on that inspection, shall, prior to initial use, receive a Certificate of Operation from the OSFM. *All new conveyance installations shall be performed by a licensed elevator contractor who shall, subsequent to inspection, certify compliance with the applicable Sections of the Act and this Part.* [225 ILCS 312/95(a)]
- b) **Periodic Inspections and Tests**
- 1) *It shall be the responsibility of the owner of all new and existing conveyances located in any building or structure to have the conveyance inspected annually at intervals stated in the standards incorporated by Section 1000.60.* [225 ILCS 312/120(a)] It shall be the responsibility of the owner to insure that the inspections and tests are performed at the prescribed intervals.
 - 2) All inspections and tests shall be conducted in accordance with the State code listed in Section 1000.60 that applies to the conveyance being inspected.
 - 3) *Subsequent to inspection, the licensed elevator inspector must supply the property owner and the OSFM with a written inspection report describing any and all violations.*
 - 4) *Property owners shall have 30 days from the date of the published inspection report to be in full compliance by correcting any violations.* [225 ILCS 312/120(a)] Existing conveyances shall comply with the time limits provided in Section 1000.60(a)(1)(C). The licensed inspector will review the actions taken by the property owner and, if the corrections are adequate, will issue a follow-up inspection report indicating adequate remediation of the violations.
 - 5) *The OSFM may extend the compliance dates for good cause, provided that the violations are minor and pose no threat to public safety.* [225 ILCS 312/120(a)]
 - 5) *All tests shall be performed by a licensed elevator mechanic or licensed limited elevator mechanic who is licensed to perform work on that particular type of conveyance.* [225 ILCS 312/120(c)]

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- c) **Random Inspections**
As authorized by Section 105(a) of the Act, the OSFM may conduct random on-site inspections and tests on existing installations.
- d) **Conflict of Interest**
No individual licensed as both an elevator mechanic (regular or limited) and elevator inspector may inspect his/her own work, the work of his/her company, or the work of a company affiliated with his/her company. The Board may grant exceptions for governmental, academic, and other institutions that maintain their own personnel licensed as elevator inspectors and as elevator mechanics to allow those personnel to inspect conveyances owned or leased by the institutions as long as they are not inspecting their own work.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.170 Administrative ProceduresPenalties

- a) The OSFM may assess ~~an administrative~~ penalty against any licenseeperson who violates the Act or this Part or any of the standards listed in Section 1000.60.
- b) **Issuance of Administrative Citation**
- 1) The OSFM may issue an administrative citation in writing and shall specifically describe the nature of the violation and its location and shall include a reference to the particular Section of the Act or this Part or the specific standard alleged to have been violated. The citation shall also state the amount of the fine levied in accordance with subsection (d) and the process for appeal.
 - 2) The person alleged to have committed the violation shall have 30 days from the date of service of the notice to notify the Board in writing of any intent to appeal the citation and fine. If no notice of appeal is filed, the citation and penalty shall be deemed a final order of the OSFM.
 - 3) Administrative citations and penalties issued under this Section shall not limit the authority of the OSFM to issue orders, revoke permits, stop work on construction and/or order the electrical power to be disconnected, or take any other appropriate enforcement action.

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- c) Appeal of a Citation
- 1) A person who appeals a citation issued by the OSFM shall be entitled to a hearing before the Board or the Board's designee within 90 days after filing the notice of appeal. The 90 day time frame may be extended, with OSFM approval, if the appellant requests in writing additional time to prepare for the hearing.
 - 2) The hearing notice to the appellant shall include the following information:
 - A) A statement of the time, place, and nature of the hearing;
 - B) A statement of the legal authority and jurisdiction under which the hearing is to be held;
 - C) A reference to the Sections of the Act and this Part involved and/or the specific State code involved;
 - D) A short and plain statement of the matters at issue.
 - 3) The Board may appoint a hearing officer to hear evidence on any appeal, prepare findings, and recommend a decision.
 - 4) The appellant may appear at the hearing with counsel, present evidence, and cross-examine witnesses.
 - 5) An opportunity shall be given all parties to respond and present evidence and arguments on all issues involved.
 - 6) At the close of the evidence, the Board shall issue a written decision with findings of fact and conclusions of law determining whether a violation has occurred and the amount of any penalty to be assessed.
 - 7) Nothing in this Section shall prohibit the informal disposition of a citation by stipulation, agreed settlement, consent order, or default. Informal disposition may proceed with clear and simple documentation without complete adherence to this Section.

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d) Administrative Penalty/Fine

1) ~~Any owner or lessee who violates any of the provisions of the Act is guilty of a Class C misdemeanor. Violation of the Act by any licensee shall be subject to the following penalties under Section 65 of the Act or this Part or Any of the Standards Listed in Section 1000.60.~~

~~A) In assessing the penalty for violations, the OSFM shall consider the seriousness of the violation, whether the violation was corrected after notification of its existence, and whether the person has been fined for the same or similar violations in the past.~~

~~B) When a penalty is assessed, the fine shall be as follows:~~

~~i) The fine shall not exceed \$1,500 for each violation that poses a serious threat to life safety.~~

~~ii) The fine shall not exceed \$500 for each violation that does not pose a serious threat to life safety.~~

~~iii) Each day that a violation continues constitutes a separate violation, up to the limitations specified in subsection (d)(3).~~

~~iv) All fines must be paid within 30 days after receipt or the fine doubles, up to the limitations specified in subsection (d)(3). After 60 days, the OSFM may remove the conveyance from service until all fines are paid.~~

2) Licensure ~~or Registration~~ Violation

A) The fine shall not exceed \$2,000 for each instance for any person or business that performs elevator work without being properly licensed or registered as required by this Part.

B) The fine shall not exceed \$2,000 for each instance for any contractor that allows an individual to perform work on a

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conveyance covered by the Act who does not possess a valid license required by this Part.

- C) The OSFM may suspend or revoke any license or registration when the licensee or registrant fails to pay assessed penalties or willfully or repeatedly violates the Act or this Part.

- 3) ~~The fine shall not exceed \$1,500 per violation, per day for any owner that fails to comply with the Act.~~
- 4) ~~The fine shall not exceed \$1,500 for each instance of a licensee failing to notify the OSFM of violations of the Act.~~

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1000.180 Implementation Schedule

- a) Grandfathering. The OSFM may issue an elevator mechanic or limited elevator mechanic license, in accordance with Section 45(c)(2) of the Act (grandfathering), to a person applying by December 31, 2007.
- b) Implementation of Elevator Mechanic and Limited Elevator Mechanic Licenses. By July 1, ~~2008~~2007, any holder of a temporary elevator mechanic or temporary limited elevator mechanic license issued under Section 1000.80(c) of the emergency rules creating this Part shall acquire a permanent license under Section 1000.80(a) if he or she plans to continue to perform as an elevator mechanic or limited elevator mechanic.
- c) Initial Implementation of Elevator Inspector License. Each company that employs an elevator inspector must submit to OSFM a letter identifying the name of each inspector in its employment by June 1, ~~2008~~2007. Any of those identified inspectors must apply for Illinois inspector licensure by June 15, ~~2008~~2007 unless they have already been issued an inspector license under the Act. After July 1, ~~2008~~2007, any individual who has not been issued an elevator inspector license by OSFM is prohibited from inspecting conveyances in this State.
- d) Initial Implementation of Conveyance Registration - Existing. All conveyances that were in operation when these proposed rules were adopted shall be registered by July 1, ~~2008~~2007. Inspectors, contractors and mechanics are permitted to

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service an unregistered existing conveyance one time after July 1, ~~2008~~2007 and provide the owner with notice that the conveyance is required to be registered. The conveyance may not be serviced thereafter until it is properly registered with the OSFM.

- e) Initial Implementation of Conveyance Registration - New. All new conveyances shall be required to have a certificate of operation after ~~March 1, 2008~~July 1, 2007.
- f) Local Programs. Those municipalities and counties that intend to regulate conveyances must notify the Board of their intent by ~~March 1, 2008~~July 1, 2007.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Optometric Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1320
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1320.80	Amendment
1320.300	Amendme nt
1320.315	Amendment
1320.330	Amendment
1320.335	New Section
- 4) Statutory Authority: Optometric Practice Act of 1987 [225 ILCS 80]
- 5) A Complete Description of the Subjects and Issues Involved: PA 95-242, effective January 1, 2008, allows optometrists to utilize and prescribe oral pharmaceutical agents and requires successful completion of course of study in oral pharmaceutical agents prior to their utilization; this proposed rulemaking implements its provisions with the addition of Section 1320.335. All optometrists must complete the course prior to the March 2010 renewal of their licenses; any licensees not successfully completing such a course shall be placed in non-renewed status until the course is completed. Various other non-substantive changes are also included.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: No
- 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 Objectives: This rulemaking has no impact on local governments.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments to:

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

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing the services of optometrists.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Optometry skills are required for licensure.
- 14) Regulatory Agenda on which this rulemaking was summarized: None

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

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TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1320

OPTOMETRIC PRACTICE ACT OF 1987

SUBPART A: OPTOMETRY

Section

1320.20	Approved Programs of Optometry
1320.30	Application for Licensure
1320.35	Application for a Limited Residency License
1320.40	Examinations
1320.45	Fees (Emergency Expired)
1320.50	Endorsement
1320.55	Renewals (Renumbered)
1320.60	Inactive Status
1320.70	Restoration
1320.80	Continuing Education
1320.90	Minimum Eye Examination
1320.95	Minimum Equipment List
1320.100	Practice of Optometry
1320.110	Advertising
1320.120	Granting Variances (Renumbered)

SUBPART B: DIAGNOSTIC TOPICAL OCULAR PHARMACEUTICALS

Section

1320.200	Standards (Repealed)
1320.210	Application for Diagnostic Certification (Repealed)
1320.220	Approved Diagnostic Topical Ocular Pharmacological Training (Repealed)
1320.230	Approved Diagnostic Topical Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act (Repealed)
1320.240	Restoration of Diagnostic Certification (Repealed)
1320.250	Endorsement of Diagnostic Certification (Repealed)
1320.260	Renewal of Certification (Repealed)
1320.270	Display of Certification (Repealed)

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SUBPART C: DIAGNOSTIC AND THERAPEUTIC OCULAR
PHARMACEUTICAL AGENTS

Section

1320.300	Definitions and Standards
1320.310	Application for Therapeutic Certification (Repealed)
1320.315	Controlled Substance License Requirement
1320.320	Approved Therapeutic Ocular Training (Repealed)
1320.330	Approved Therapeutic Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act
<u>1320.335</u>	<u>Oral Pharmaceutical Agents</u>
1320.340	Restoration of Therapeutic Certification (Repealed)
1320.350	Endorsement of Therapeutic Certification (Repealed)

SUBPART D: GENERAL

Section

1320.400	Fees
1320.410	Ancillary Licenses
1320.420	Renewals
1320.430	Granting Variances

AUTHORITY: Implementing the Illinois Optometric Practice Act of 1987 [225 ILCS 80] and authorized by Section 2105-15(7) of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15(7)].

SOURCE: Adopted at 5 Ill. Reg. 5869, effective June 1, 1981; codified at 5 Ill. Reg. 11046; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; emergency amendment at 6 Ill. Reg. 2273, effective January 29, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 6 Ill. Reg. 10032, effective August 1, 1982; amended at 9 Ill. Reg. 1092, effective January 11, 1985; amended at 10 Ill. Reg. 7340, effective April 16, 1986; transferred from Chapter I, 68 Ill. Adm. Code 320 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1320 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 1821; emergency amendment at 12 Ill. Reg. 1925, effective January 1, 1988, for a maximum of 150 days; emergency expired May 30, 1988; amended at 12 Ill. Reg. 11447, effective June 27, 1988; amended at 13 Ill. Reg. 6994, effective April 25, 1989; amended at 14 Ill. Reg. 14128, effective August 15, 1990; amended at 17 Ill. Reg. 18096, effective October 4, 1993; amended at 17 Ill. Reg. 21501, effective December 1, 1993; amended at 19 Ill. Reg. 17150, effective

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December 19, 1995; amended at 20 Ill. Reg. 9068, effective July 1, 1996; amended at 21 Ill. Reg. 16040, effective November 24, 1997; amended at 23 Ill. Reg. 5744, effective April 30, 1999; amended at 24 Ill. Reg. 3656, effective February 15, 2000; amended at 27 Ill. Reg. 2677, effective January 31, 2003; amended at 28 Ill. Reg. 4945, effective March 3, 2004; amended at 28 Ill. Reg. 16247, effective December 2, 2004; amended at 29 Ill. Reg. 20616, effective December 6, 2005; amended at 31 Ill. Reg. 4339, effective March 5, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART A: OPTOMETRY

Section 1320.80 Continuing Education

- a) Continuing Education Hour Requirements
 - 1) Every renewal applicant shall complete 30 hours of Continuing Education (CE) relevant to the practice of optometry required during each pre-renewal period. A pre-renewal period is the 24 months preceding March 31 in the year of the renewal.
 - 2) A CE hour equals 50 minutes. CE credit may be given only in one hour increments.
 - 3) A renewal applicant is not required to comply with CE requirements for the first renewal following the original issuance of the license.
 - 4) Optometrists licensed in Illinois but residing and practicing in other states must comply with the CE requirements set forth in this Section.
- b) Approved Continuing Education
 - 1) All continuing education hours must be earned by verified attendance at or participation in a program that is offered by an approved continuing education sponsor who meets the requirements set forth in subsection (c).
 - 2) As part of the 30 hours of required continuing education, each licensee shall complete during each pre-renewal period at least 12 hours of credit that is certified by an approved optometry college in accordance with Section 1320.20 of this Part, osteopathic or medical college or university pursuant to the Medical Practice Act of 1987 [225 ILCS 60], or a

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pharmacy college pursuant to the Pharmacy Practice Act [225 ILCS 85].

- A) Each certified course shall include at least 2 hours of actual course presentation and shall include the successful completion of a post-course evaluation of the attendee's understanding of the course material. No additional credit may be given for the required post-course evaluation.
- i) The post-course evaluation may be taken on-site immediately following the course presentation. An examination distributed on-site shall not be removed from the site.
 - ii) The post-course evaluation may be a correspondence evaluation mailed to the attendee and returned to the provider. The sponsor shall not distribute a post-course evaluation at the site.
 - iii) The post-course evaluation must consist of a minimum of 5 questions per course hour.
 - iv) At the sponsor's discretion, the attendee may be allowed one retake of a failed post-course evaluation in order to receive credit as certified continuing education.
- B) Licensees who attend a certified education course without completion or passage of a post-course evaluation may apply the actual course hours toward fulfillment of the non-certified continuing education requirements as set forth in subsection (a)(1).
- C) Any approved continuing education sponsor may offer, in conjunction with the above-referenced college or university, a certified course. However, certified continuing education shall not be provided, sponsored, co-sponsored or in any way supported or financially underwritten by a CE sponsor or others who may receive patient referrals from optometrists licensed under the Act. Approved optometry programs in subsection (b)(2) are not deemed in violation of this Section. Faculty of an adjunct institution to an approved optometry program may present certified CE on the

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primary campus of the approved optometry program under this exception. Nothing in this Section shall prohibit the listing of courses in a professional journal or newsletter or prevent an approved school, college or university from certifying a course.

- D) Transcript quality continuing education courses shall be deemed equivalent to the certified courses if they meet the requirements set forth in subsection (b)(2)(A).
 - E) Continuing education sponsors shall state in their course materials the type of post-course evaluation which will be given and whether the applicant will be allowed to retake the evaluation.
 - F) Certified continuing education courses shall be courses in which the attendees are in actual attendance. No self instruction or correspondence courses shall be considered certified continuing education courses.
- 3) Eighteen hours of CE credit may be earned as follows (not accepted for certified CE):
- A) A maximum of 12 hours per pre-renewal period for papers prepared and delivered before recognized optometric organizations, papers published in nationally recognized optometric journals, or a chapter in a book of optometry, each appropriately verified.
 - B) A maximum of 12 hours per pre-renewal period for verified teaching of students at an optometry school approved by the Division, or practicing optometrists in approved CE programs. One hour of teaching at an optometry school approved by the Division is equal to one hour of continuing education.
 - C) A maximum of 4 hours per pre-renewal period for verified self-instruction or video teleconferencing that is sponsored or co-sponsored by any approved optometry college, institution or national or State optometry association.
 - D) A maximum of 4 hours per pre-renewal period for courses in

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practice management that includes business management.

- E) A maximum of 2 hours of continuing education in cardiopulmonary resuscitation certified by the American Red Cross, American Heart Association, an Illinois licensed hospital or an approved medical or optometric institution may be earned per pre-renewal period.
 - 4) Continuing education credit hours used to satisfy the CE requirements of another state may be submitted for approval for fulfillment of the CE requirements of the State of Illinois.
 - 5) Credit shall not be given for courses taken in Illinois from unapproved sponsors except for a CPR course in accordance with subsection (b)(3)(E).
- c) Continuing Education Sponsors and Programs
- 1) Sponsor, as used in this Section, shall mean a person, firm, association, corporation, or any other group that has been approved and authorized by the Division upon the recommendation of the Optometric Licensing and Disciplinary Board to coordinate and present continuing education courses or programs.
 - 2) A sponsor shall file a sponsor application, along with the required fee set forth in Section 1320.400(a)(5), that includes:
 - A) Certification
 - i) That all courses and programs offered by the sponsor for CE credit will comply with the criteria in this Section;
 - ii) That the sponsor will be responsible for verifying attendance at each course or program or session thereof utilizing signature sheets or other means of attendance verification and for providing a certificate of completion as set forth in subsection (b);
 - iii) That, upon request by the Division, the sponsor will submit such evidence as is necessary to establish compliance with

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this Section;

- iv) That each sponsor shall submit to the Division a written notice of a course offering 30 days prior to the course date. The notice shall include the description, location, date and time of the course to be offered;
 - B) A history and the experience of the sponsor as an educational provider;
 - C) A copy of a sample program with faculty, course materials and syllabi;
 - D) The name and address of the contact person responsible for all recordkeeping; and
 - E) A list of all principals of the organization applying for a sponsor license.
- 3) Each sponsor shall submit by March 31 of each even numbered year a sponsor application along with the required fee set forth in Section 1320.400(b)(2) of this Part. With the application, the sponsor shall be required to submit to the Division a list of all courses and programs offered in the pre-renewal period, which includes a description, location, date and time the course was offered.
- 4) All courses and programs shall:
- A) Contribute to the advancement, extension and enhancement of professional clinical skills and scientific knowledge in the practice of optometry;
 - B) Provide experiences that contain scientific integrity, relevant subject matter and course materials; and
 - C) Be developed and presented by persons with education and/or experience in subject matter of the program.
- 5) The tuition fees charged for programs conducted by approved sponsors

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shall be reasonable and directly related to the sponsor's actual expense in conducting the programs.

- 6) All programs given by approved sponsors shall be open to all licensed optometrists and not be limited to the members of a single organization or group and shall specify the number of CE hours and categories that may be applied toward Illinois CE requirements for licensure renewal.
- 7) Certificate of Attendance
 - A) It shall be the responsibility of the sponsor to provide each participant in a program with a certificate of attendance signed by the sponsor. The sponsor's certificate of attendance shall contain:
 - i) The name, sponsor number and address of the sponsor;
 - ii) The name of the participant and his/her optometry license number;
 - iii) A detailed statement of the subject matter;
 - iv) The number of hours actually attended in each topic;
 - v) The date of the program;
 - vi) Whether the course qualifies for certified continuing education.
 - B) A separate certification of passage or failure of the post-course evaluation shall be issued by the approved certifying institution when the course is for certified CE credit.
 - C) The sponsor shall maintain these records for not less than 5 years. These records shall include all test materials utilized for certified courses.
- 8) The sponsor shall be responsible for assuring verified continued attendance at each program. No renewal applicant shall receive CE credit for time not actually spent attending the program.

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- 9) Upon the failure of a sponsor to comply with any of the foregoing requirements, the Division, after notice to the sponsor and hearing before and recommendation by the Board (see 68 Ill. Adm. Code 1110), shall thereafter refuse to accept for CE credit attendance at or participation in any of that sponsor's CE programs until such time as the Division receives reasonably satisfactory assurances of compliance with this Section.
- d) Continuing Education Earned in Other States
 - 1) If a licensee has earned CE hours in another jurisdiction for which he/she will be requesting credit toward full compliance in Illinois, the applicant shall submit an out of state CE approval form along with a \$20 processing fee within 90 days prior to or after the course. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
 - 2) If a licensee fails to submit an out of state CE approval form within the required 90 days, late approval may be obtained by submitting the application along with the \$20 processing fee plus a \$50 per hour late fee not to exceed \$300. The Board shall review and recommend approval or disapproval of this program using the criteria set forth in this Section.
 - 3) The Board has determined that the Council on Optometric Practitioner Education (C.O.P.E.) approved courses are acceptable for out of state continuing education. If a licensee attends an out of state C.O.P.E. approved course, the licensee will not be required to submit the out of state CE approval form and the \$20 processing fee.
 - e) Certification of Compliance with CE Requirements
 - 1) Each renewal applicant shall certify, on the renewal application, full compliance with CE requirements set forth in subsection (a).
 - 2) The Division may require additional evidence demonstrating compliance with the CE requirements. It is the responsibility of each renewal applicant to retain or otherwise produce evidence of such compliance for a period of 5 years.

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- 3) When there appears to be a lack of compliance with CE requirements, an applicant will be notified and may request an interview with the Board, at which time the Board may recommend that steps be taken to begin formal disciplinary proceedings as required by Section 10-65 of the Illinois Administrative Procedure Act [5 ILCS 100/10-65].
- f) Waiver of CE Requirements/Certification in Cardiopulmonary
Resuscitation~~Resucitation~~
- 1) Any renewal applicant seeking renewal of his/her license without having fully complied with the CE requirements or the certification in Cardiopulmonary Resuscitation~~Resucitation~~ (CPR) as required in Section 1320.420 shall file with the Division a renewal application, the renewal fee set forth in Section 1320.400(b)(1), a statement setting forth the facts (including time frames) concerning such non-compliance, and a request for waiver of the CE/CPR requirements on the basis of the facts. If the Division, upon the written recommendation of the Board, finds from such affidavit or any other evidence submitted, that good cause has been shown for granting a waiver, the Division shall waive enforcement of the requirements for the renewal period for which the applicant has applied.
 - 2) Good cause shall be defined as an inability to devote sufficient hours to fulfilling the CE/CPR requirements during the applicable pre-renewal period because of:
 - A) Full time service in the armed forces of the United States of America during a substantial part of such period; or
 - B) Extreme hardship, which shall be determined on an individual basis by the Board and shall be limited to documentation of:
 - i) An incapacitating illness documented by a currently licensed physician,
 - ii) A physical inability to travel to the sites of approved programs, or
 - iii) Any other similar extenuating circumstances.

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- 3) If an interview with the Board is requested at the time the request for the waiver is filed with the Division, the renewal applicant shall be given at least 20 days written notice of the date, time and place of the interview by certified mail, return receipt requested.
- 4) Any renewal applicant who submits a request for waiver pursuant to subsection (f)(1) of this Section shall be deemed to be in good standing until the Division's final decision on the application has been made.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART C: DIAGNOSTIC AND THERAPEUTIC OCULAR
PHARMACEUTICAL AGENTS

Section 1320.300 Definitions and Standards

- a) ~~Emergency~~~~Ophthalmic emergency~~ care involves an acute condition that in the judgment of the optometrist may be life or sight threatening, requires the optometrist to initiate non surgical~~nonsurgical~~ emergency procedures and may require~~requires~~ patient referral and consultation with another appropriate health care professional.
- b) Any optometrist shall be authorized to obtain~~purchase~~ diagnostic and therapeutic ocular pharmaceutical agents and to utilize and to prescribe such drugs in the regular course of practicing optometry. The prescribing of the drugs shall be the personal act of the optometrist and may not be delegated to any other person. The use of such drugs may only be delegated to another person under the direct supervision of the optometrist. A signed written prescription for legend drugs must be presented to the patient, if applicable, and the optometrist shall be required to keep a copy of all prescriptions written.
- c) An optometrist's license may be revoked, suspended or placed on probation and fines levied by the Division upon recommendation of the Board based upon any of the following causes:
 - 1) The use of any diagnostic or therapeutic ocular pharmaceutical agent that is not approved for use;
 - 2) The misuse of any diagnostic or therapeutic ocular pharmaceutical agent

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or procedure where the optometrist knew or should have known that such use was improper or contraindicated;

- 3) Failure to take reasonable steps to ensure or arrange for follow-up care or for referral of a patient to an appropriate health care professional after providing ophthalmic emergency care;
 - 4) Failure to take reasonable steps to ensure or arrange for the care or referral of a patient when the optometrist is not available;
 - 5) Any other violations of the Act or this Part.
- d) In determining what constitutes grave or repeated misuse of any ocular pharmaceutical agent, the Board shall consider the following standards as they relate to the person who is the subject of the proposed disciplinary action. The standards shall include but not be limited to:
- 1) A consideration of whether the act or acts of the person are of a glaringly obvious nature or are repetitiously committed and resulted in a breach of standards of practice.
 - 2) A consideration that said act or acts committed constituted a breach of standards of practice to possess and apply knowledge, skill and care in using approved diagnostic or therapeutic ocular pharmaceutical agents for the purpose of aiding in the diagnosis and treatment of abnormal conditions that are ordinarily used by an optometrist.
 - 3) A consideration that a mere mistake that is not indicative of a lack of knowledge, skill and care does not constitute misuse. Nor is a bad or unexpected result evidence of misuse unless such a result would not ordinarily occur in the absence of misuse.
 - 4) A consideration that, in determining the applicable standard of use, the Board shall consider the opinion and the testimony of experts.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1320.315 Controlled Substance License Requirement

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Licensed optometrists, in order to prescribe ~~non-narcotic~~-controlled substance oral analgesic therapeutic ocular pharmaceutical agents as set forth in Section 1320.330(a)(7), shall apply for a controlled substance license pursuant to 77 Ill. Adm. Code 3100. The licensee is limited to prescribing Schedule ~~III, IV and V, III, III, and IV~~ agents in a quantity sufficient to provide treatment for up to 72 hours and in accordance with the Illinois Controlled Substances Act [720 ILCS 570].

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1320.330 Approved Therapeutic Ocular Pharmaceutical Agents Pursuant to Section 15.1 of the Act

- a) The following categories of therapeutic ocular pharmaceutical agents are approved for use by licensed optometrists:
- 1) ~~Topical~~-Anti-Infective Agents
 - 2) ~~Topical~~-Anti-Allergy Agents
 - 3) ~~Topical~~-Anti-Glaucoma Agents (except oral carbonic anhydrase inhibitors which may be prescribed only in a quantity sufficient to provide treatment for up to 72 hours)
 - 4) ~~Topical~~-Anti-Inflammatory Agents (except oral steroids)
 - 5) Topical Anesthetic Agents
 - 6) Over the Counter Agents
 - 7) ~~Non-Narcotic~~-Oral Analgesic Agents
 - 8) Mydriatic Reversing Agents
- b) Licensed optometrists shall be permitted to use topical anesthetics, mydriatics, cycloplegics and miotics.
- c) Oral pharmaceutical agents may be prescribed for a child under 5 years of age only in consultation with a physician licensed to practice medicine in all its branches.

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(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1320.335 Oral Pharmaceutical Agents

- a) Any optometrist licensed before January 1, 2008, prior to utilizing or prescribing any oral pharmaceutical agents permitted under this Act (except non-narcotic oral analgesic and over the counter agents), shall successfully complete a course of study and testing as designated in Section 1320.335(b). Graduates from an approved program of optometry subsequent to January 1, 2008 shall not be required to complete this course and may utilize and prescribe all oral pharmaceutical agents permitted by this Act.
- b) An approved course of study in oral pharmaceutical agents shall be approved by the Board and shall meet the following requirements:
- 1) The program has a faculty that comprises a sufficient number of instructors to make certain that the educational obligations to the students are fulfilled. The faculty must have demonstrated competence in their area of teaching as evidenced by appropriate degrees from accredited colleges or institutions and clinical and teaching experience.
 - 2) The program has a curriculum that contains updates in at least the following areas:
 - A) Patient medical history/drug history.
 - B) General pharmacokinetics or oral administration.
 - C) Concerns in special populations.
 - D) Treatment of ocular disease with oral pharmaceutical agents including contraindications, drug interactions, systemic toxicities and ocular effects for the following:
 - i) Oral anti-infective agents
 - Oral anti-bacterial

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- Oral anti-fungals
- Oral anti-Virals
- ii) Oral anti-glaucoma agents
 - CAIs
 - Osmotic agents
- iii) Oral anti-allergy agents
 - Antihistamines
 - Mast-cell degranulation inhibitors
 - Decongestant combinations
- iv) Oral anti-inflammatory agents
 - Steroids
 - NSAIDS
- v) Oral analgesics
 - NSAIDS
 - Opiates
- E) Clinical case studies including the use of controlled substances, treatment options, patient management and referral in the following areas:
 - i) Infectious ocular disease
 - Bacterial
 - Viral
 - Fungal
 - ii) Glaucoma
 - iii) Allergic eye disease
 - iv) Inflammatory ocular disease

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- v) Management of ocular pain
 - vi) Treatment of drug induced emergencies
 - F) Jurisprudence
 - Illinois Optometric Practice Act Rules – pharmaceutical agents
 - Requirements
 - Restrictions
- 3) The program includes a minimum of 12 instructional hours with an examination designed to test the student's knowledge and ability to apply the program's subject matter.
- A) The examination shall be administered and proctored on the site where the course is given by a licensed CE sponsor. All examinations must be developed and approved by a program of optometry approved under Section 1320.20.
 - B) Verification of student identification shall be required.
 - C) The content of all examinations shall be made available to the Division for review upon request.
- 4) In addition to all other requirements, the program must meet the requirements of Section 1320.80 (Continuing Education). 6 hours of continuing education credit and 6 hours of certified (tested) continuing education credit will be granted for successful completion of the course and test in the renewal period in which the lecture portion of the course was completed.
- 5) Requests for course approval must be submitted to the Division no later than 90 days prior to the beginning of the course. Sponsors shall provide course documentation and any other documentation required by the Board.
- c) Failure to successfully complete an approved tested educational course in oral pharmaceutical agents prior to March 31, 2010 shall result in the licensee being placed in non-renewed status until such a course is successfully completed. A

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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licensee in non-renewed status may not practice optometry within the State of Illinois.

(Source: Added at 32 Ill. Reg. _____, effective _____)

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Pharmacy Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1330
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1330.10	Amendment
1330.35	New Section
1330.40	Amendment
1330.55	Amendment
1330.60	Amendment
1330.90	Amendment
1330.96	Amendment
1330.100	Amendment
1330.130	Amendment
- 4) Statutory Authority: Pharmacy Practice Act [225 ILCS 85]
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 95-689, signed into law October 29, 2007, reauthorized the Pharmacy Practice Act; among its changes was a provision for licensure and application fees by administrative rule, along with the removal of those fees from the Act. Section 1330.35 is being added, moving the fees that had been in the Pharmacy Practice Act into this Part. Various other sections are being amended to change fee references from Section 27 of the Act to Section 1330.35.
- 6) Will this rulemaking replace any emergency rulemaking currently in effect? Yes, at 31 Ill. Reg. 16045, effective November 19, 2007.
- 7) Does this rulemaking contain an automatic repeal date? No
- 8) Does this rulemaking contain incorporations by reference? No
- 9) Are there any other proposed rulemakings pending on this Part? No
- 10) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.
- 11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may submit written comments within 45 days of this issue of the *Illinois Register* to:

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

217/785-0813 Fax #: 217/557-4451

- 12) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Licensed pharmacists, pharmacy technicians, and pharmacies may be affected.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: Licensure pursuant to the Pharmacy Practice Act.
- 13) Regulatory Agenda on which this rulemaking was summarized: July 2007

The full text of the Proposed Amendments is the same as the text that appears in the Emergency Amendments published in this issue of the *Illinois Register* on page 16045.

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Retailers' Occupation Tax
- 2) Code Citation: 86 Ill. Adm. Code 130
- 3) Section Numbers: 130.2165 Proposed Action: Amendment
- 4) Statutory Authority: 35 ILCS 110/12; 5 ILCS 2505/2505-795
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking clarifies the types of tax liabilities that may be incurred by veterinarians, including liability under the Service Occupation Tax Act, the Use Tax Act and the Retailers' Occupation Tax Act. The rulemaking sets forth the requirements that must be met in order for a transaction to be considered a service transaction, including the existence of a Veterinarian-client-patient relationship (VCPR), physical examination of the animal and maintenance of proper books and records documenting the VCPR. The regulation describes the circumstances under which service transactions occur. These include instances when medicines, drugs or other products are directly applied or administered by a licensed veterinarian during a veterinary examination, or when medicines, drugs or other products having a medicinal purpose are sold by a licensed veterinarian as part of a continuing plan for the health and well being of an animal under his or her care. The regulation defines "medicinal purpose" and also details the books and records that must be kept in order to document the occurrence of a service transaction. Examples are provided of items that have a medicinal purpose, and of several types of service transactions. The regulation also provides a brief explanation (with cross-references to the Service Occupation Tax regulations in Part 140) of the manner in which tax may apply to those transactions. The regulation similarly defines and provides examples of transactions that constitute sales subject to the Retailers' Occupation Tax and Use Tax Act.
- 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 proposed rulemaking contain incorporations by reference? No

DEPARTMENT OF REVENUE

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- 10) Are there any other proposed rulemakings pending on this Part: No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate, nor does it modify any existing State mandates.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rule may submit them in writing by no later than 45 days after publication of this notice to:

Jerilynn Troxell Gorden
Deputy General Counsel, Sales & Excise Tax
Illinois Department of Revenue
Legal Services Office
101 West Jefferson
Springfield, Illinois 62794

217/782-2844

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: Veterinary practices
- B) Reporting, bookkeeping or other procedures required for compliance: General bookkeeping
- C) Types of Professional skills necessary for compliance: General bookkeeping
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2007

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

DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENT

TITLE 86: REVENUE
CHAPTER I: DEPARTMENT OF REVENUEPART 130
RETAILERS' OCCUPATION TAX

SUBPART A: NATURE OF TAX

Section	
130.101	Character and Rate of Tax
130.105	Responsibility of Trustees, Receivers, Executors or Administrators
130.110	Occasional Sales
130.111	Sale of Used Motor Vehicles, Aircraft, or Watercraft by Leasing or Rental Business
130.115	Habitual Sales
130.120	Nontaxable Transactions

SUBPART B: SALE AT RETAIL

Section	
130.201	The Test of a Sale at Retail
130.205	Sales for Transfer Incident to Service
130.210	Sales of Tangible Personal Property to Purchasers for Resale
130.215	Further Illustrations of Sales for Use or Consumption Versus Sales for Resale
130.220	Sales to Lessors of Tangible Personal Property
130.225	Drop Shipments

SUBPART C: CERTAIN STATUTORY EXEMPTIONS

Section	
130.305	Farm Machinery and Equipment
130.310	Food, Drugs, Medicines and Medical Appliances
130.315	Fuel Sold for Use in Vessels on Rivers Bordering Illinois
130.320	Gasohol, Majority Blended Ethanol, Biodiesel Blends, and 100% Biodiesel
130.321	Fuel Used by Air Common Carriers in International Flights
130.325	Graphic Arts Machinery and Equipment Exemption
130.330	Manufacturing Machinery and Equipment
130.331	Manufacturer's Purchase Credit
130.332	Automatic Vending Machines
130.335	Pollution Control Facilities and Low Sulfur Dioxide Emission Coal-Fueled

DEPARTMENT OF REVENUE

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	Devices
130.340	Rolling Stock
130.341	Commercial Distribution Fee Sales Tax Exemption
130.345	Oil Field Exploration, Drilling and Production Equipment
130.350	Coal Exploration, Mining, Off Highway Hauling, Processing, Maintenance and Reclamation Equipment
130.351	Aggregate Manufacturing

SUBPART D: GROSS RECEIPTS

Section	
130.401	Meaning of Gross Receipts
130.405	How to Avoid Paying Tax on State or Local Tax Passed on to the Purchaser
130.410	Cost of Doing Business Not Deductible
130.415	Transportation and Delivery Charges
130.420	Finance or Interest Charges – Penalties – Discounts
130.425	Traded-In Property
130.430	Deposit or Prepayment on Purchase Price
130.435	State and Local Taxes Other Than Retailers' Occupation Tax
130.440	Penalties
130.445	Federal Taxes
130.450	Installation, Alteration and Special Service Charges
130.455	Motor Vehicle Leasing and Trade-In Allowances

SUBPART E: RETURNS

Section	
130.501	Monthly Tax Returns – When Due – Contents
130.502	Quarterly Tax Returns
130.505	Returns and How to Prepare
130.510	Annual Tax Returns
130.515	First Return
130.520	Final Returns When Business is Discontinued
130.525	Who May Sign Returns
130.530	Returns Covering More Than One Location Under Same Registration – Separate Returns for Separately Registered Locations
130.535	Payment of the Tax, Including Quarter Monthly Payments in Certain Instances
130.540	Returns on a Transaction by Transaction Basis
130.545	Registrants Must File a Return for Every Return Period

DEPARTMENT OF REVENUE

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130.550	Filing of Returns for Retailers by Suppliers Under Certain Circumstances
130.551	Prepayment of Retailers' Occupation Tax on Motor Fuel
130.552	Alcoholic Liquor Reporting
130.555	Vending Machine Information Returns
130.560	Verification of Returns

SUBPART F: INTERSTATE COMMERCE

Section	
130.601	Preliminary Comments
130.605	Sales of Property Originating in Illinois
130.610	Sales of Property Originating in Other States

SUBPART G: CERTIFICATE OF REGISTRATION

Section	
130.701	General Information on Obtaining a Certificate of Registration
130.705	Procedure in Disputed Cases Involving Financial Responsibility Requirements
130.710	Procedure When Security Must be Forfeited
130.715	Sub-Certificates of Registration
130.720	Separate Registrations for Different Places of Business of Same Taxpayer Under Some Circumstances
130.725	Display
130.730	Replacement of Certificate
130.735	Certificate Not Transferable
130.740	Certificate Required For Mobile Vending Units
130.745	Revocation of Certificate

SUBPART H: BOOKS AND RECORDS

Section	
130.801	General Requirements
130.805	What Records Constitute Minimum Requirement
130.810	Records Required to Support Deductions
130.815	Preservation and Retention of Records
130.820	Preservation of Books During Pendency of Assessment Proceedings
130.825	Department Authorization to Destroy Records Sooner Than Would Otherwise be Permissible

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SUBPART I: PENALTIES AND INTEREST

Section

- 130.901 Civil Penalties
- 130.905 Interest
- 130.910 Criminal Penalties

SUBPART J: BINDING OPINIONS

Section

- 130.1001 When Opinions from the Department are Binding

SUBPART K: SELLERS LOCATED ON, OR SHIPPING TO, FEDERAL AREAS

Section

- 130.1101 Definition of Federal Area
- 130.1105 When Deliveries on Federal Areas Are Taxable
- 130.1110 No Distinction Between Deliveries on Federal Areas and Illinois Deliveries Outside Federal Areas

SUBPART L: TIMELY MAILING TREATED AS TIMELY FILING AND PAYING

Section

- 130.1201 General Information
- 130.1205 Due Date that Falls on Saturday, Sunday or a Holiday

SUBPART M: LEASED PORTIONS OF LESSOR'S BUSINESS SPACE

Section

- 130.1301 When Lessee of Premises Must File Return for Leased Department
- 130.1305 When Lessor of Premises Should File Return for Business Operated on Leased Premises
- 130.1310 Meaning of "Lessor" and "Lessee" in this Regulation

SUBPART N: SALES FOR RESALE

Section

- 130.1401 Seller's Responsibility to Determine the Character of the Sale at the Time of the Sale

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- 130.1405 Seller's Responsibility to Obtain Certificates of Resale and Requirements for
Certificates of Resale
- 130.1410 Requirements for Certificates of Resale (Repealed)
- 130.1415 Resale Number – When Required and How Obtained
- 130.1420 Blanket Certificate of Resale (Repealed)

SUBPART O: CLAIMS TO RECOVER ERRONEOUSLY PAID TAX

Section

- 130.1501 Claims for Credit – Limitations – Procedure
- 130.1505 Disposition of Credit Memoranda by Holders Thereof
- 130.1510 Refunds
- 130.1515 Interest

SUBPART P: PROCEDURE TO BE FOLLOWED UPON
SELLING OUT OR DISCONTINUING BUSINESS

Section

- 130.1601 When Returns are Required After a Business is Discontinued
- 130.1605 When Returns Are Not Required After Discontinuation of a Business
- 130.1610 Cross Reference to Bulk Sales Regulation

SUBPART Q: NOTICE OF SALES OF GOODS IN BULK

Section

- 130.1701 Bulk Sales: Notices of Sales of Business Assets

SUBPART R: POWER OF ATTORNEY

Section

- 130.1801 When Powers of Attorney May be Given
- 130.1805 Filing of Power of Attorney With Department
- 130.1810 Filing of Papers by Agent Under Power of Attorney

SUBPART S: SPECIFIC APPLICATIONS

Section

- 130.1901 Addition Agents to Plating Baths
- 130.1905 Agricultural Producers

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- 130.1910 Antiques, Curios, Art Work, Collectors' Coins, Collectors' Postage Stamps and Like Articles
- 130.1915 Auctioneers and Agents
- 130.1920 Barbers and Beauty Shop Operators
- 130.1925 Blacksmiths
- 130.1930 Chiropodists, Osteopaths and Chiropractors
- 130.1935 Computer Software
- 130.1940 Construction Contractors and Real Estate Developers
- 130.1945 Co-operative Associations
- 130.1950 Dentists
- 130.1951 Enterprise Zones
- 130.1952 Sales of Building Materials to a High Impact Business
- 130.1953 Sales of Building Materials to be Incorporated into a Redevelopment Project Area within an Intermodal Terminal Facility Area
- 130.1955 Farm Chemicals
- 130.1960 Finance Companies and Other Lending Agencies – Installment Contracts – Bad Debts
- 130.1965 Florists and Nurserymen
- 130.1970 Hatcheries
- 130.1971 Sellers of Pets and the Like
- 130.1975 Operators of Games of Chance and Their Suppliers
- 130.1980 Optometrists and Opticians
- 130.1985 Pawnbrokers
- 130.1990 Peddlers, Hawkers and Itinerant Vendors
- 130.1995 Personalizing Tangible Personal Property
- 130.2000 Persons Engaged in the Printing, Graphic Arts or Related Occupations, and Their Suppliers
- 130.2004 Sales to Nonprofit Arts or Cultural Organizations
- 130.2005 Persons Engaged in Nonprofit Service Enterprises and in Similar Enterprises Operated As Businesses, and Suppliers of Such Persons
- 130.2006 Sales by Teacher-Sponsored Student Organizations
- 130.2007 Exemption Identification Numbers
- 130.2008 Sales by Nonprofit Service Enterprises
- 130.2009 Personal Property Purchased Through Certain Fundraising Events for the Benefit of Certain Schools
- 130.2010 Persons Who Rent or Lease the Use of Tangible Personal Property to Others
- 130.2011 Sales to Persons Who Lease Tangible Personal Property to Exempt Hospitals
- 130.2012 Sales to Persons Who Lease Tangible Personal Property to Governmental Bodies
- 130.2013 Persons in the Business of Both Renting and Selling Tangible Personal Property –

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	Tax Liabilities, Credit
130.2015	Persons Who Repair or Otherwise Service Tangible Personal Property
130.2020	Physicians and Surgeons
130.2025	Picture-Framers
130.2030	Public Amusement Places
130.2035	Registered Pharmacists and Druggists
130.2040	Retailers of Clothing
130.2045	Retailers on Premises of the Illinois State Fair, County Fairs, Art Shows, Flea Markets and the Like
130.2050	Sales and Gifts By Employers to Employees
130.2055	Sales by Governmental Bodies
130.2060	Sales of Alcoholic Beverages, Motor Fuel and Tobacco Products
130.2065	Sales of Automobiles for Use In Demonstration (Repealed)
130.2070	Sales of Containers, Wrapping and Packing Materials and Related Products
130.2075	Sales To Construction Contractors, Real Estate Developers and Speculative Builders
130.2076	Sales to Purchasers Performing Contracts with Governmental Bodies
130.2080	Sales to Governmental Bodies, Foreign Diplomats and Consular Personnel
130.2085	Sales to or by Banks, Savings and Loan Associations and Credit Unions
130.2090	Sales to Railroad Companies
130.2095	Sellers of Gasohol, Coal, Coke, Fuel Oil and Other Combustibles
130.2100	Sellers of Feeds and Breeding Livestock
130.2101	Sellers of Floor Coverings
130.2105	Sellers of Newspapers, Magazines, Books, Sheet Music and Musical Recordings, and Their Suppliers; Transfer of Data Downloaded Electronically
130.2110	Sellers of Seeds and Fertilizer
130.2115	Sellers of Machinery, Tools and Special Order Items
130.2120	Suppliers of Persons Engaged in Service Occupations and Professions
130.2125	Trading Stamps and Discount Coupons
130.2130	Undertakers and Funeral Directors
130.2135	Vending Machines
130.2140	Vendors of Curtains, Slip Covers and Other Similar Items Made to Order
130.2145	Vendors of Meals
130.2150	Vendors of Memorial Stones and Monuments
130.2155	Tax Liability of Sign Vendors
130.2156	Vendors of Steam
130.2160	Vendors of Tangible Personal Property Employed for Premiums, Advertising, Prizes, Etc.
130.2165	Veterinarians

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130.2170 Warehousemen

SUBPART T: DIRECT PAYMENT PROGRAM

Section

130.2500 Direct Payment Program
130.2505 Qualifying Transactions, Non-transferability of Permit
130.2510 Permit Holder's Payment of Tax
130.2515 Application for Permit
130.2520 Qualification Process and Requirements
130.2525 Application Review
130.2530 Recordkeeping Requirements
130.2535 Revocation and Withdrawal

130.ILLUSTRATION A Examples of Tax Exemption Card

130.ILLUSTRATION B Example of Notice of Revocation of Certificate of Registration

AUTHORITY: Implementing the Illinois Retailers' Occupation Tax Act [35 ILCS 120] and authorized by Section 2505-25 of the Civil Administrative Code of Illinois [20 ILCS 2505/2505-25].

SOURCE: Adopted July 1, 1933; amended at 2 Ill. Reg. 50, p. 71, effective December 10, 1978; amended at 3 Ill. Reg. 12, p. 4, effective March 19, 1979; amended at 3 Ill. Reg. 13, pp. 93 and 95, effective March 25, 1979; amended at 3 Ill. Reg. 23, p. 164, effective June 3, 1979; amended at 3 Ill. Reg. 25, p. 229, effective June 17, 1979; amended at 3 Ill. Reg. 44, p. 193, effective October 19, 1979; amended at 3 Ill. Reg. 46, p. 52, effective November 2, 1979; amended at 4 Ill. Reg. 24, pp. 520, 539, 564 and 571, effective June 1, 1980; amended at 5 Ill. Reg. 818, effective January 2, 1981; amended at 5 Ill. Reg. 3014, effective March 11, 1981; amended at 5 Ill. Reg. 12782, effective November 2, 1981; amended at 6 Ill. Reg. 2860, effective March 3, 1982; amended at 6 Ill. Reg. 6780, effective May 24, 1982; codified at 6 Ill. Reg. 8229; recodified at 6 Ill. Reg. 8999; amended at 6 Ill. Reg. 15225, effective December 3, 1982; amended at 7 Ill. Reg. 7990, effective June 15, 1983; amended at 8 Ill. Reg. 5319, effective April 11, 1984; amended at 8 Ill. Reg. 19062, effective September 26, 1984; amended at 10 Ill. Reg. 1937, effective January 10, 1986; amended at 10 Ill. Reg. 12067, effective July 1, 1986; amended at 10 Ill. Reg. 19538, effective November 5, 1986; amended at 10 Ill. Reg. 19772, effective November 5, 1986; amended at 11 Ill. Reg. 4325, effective March 2, 1987; amended at 11 Ill. Reg. 6252, effective March 20, 1987; amended at 11 Ill. Reg. 18284, effective October 27, 1987; amended at 11 Ill. Reg. 18767, effective October 28, 1987; amended at 11 Ill. Reg. 19138, effective October 29, 1987; amended at 11 Ill. Reg. 19696, effective November 23, 1987;

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amended at 12 Ill. Reg. 5652, effective March 15, 1988; emergency amendment at 12 Ill. Reg. 14401, effective September 1, 1988, for a maximum of 150 days, modified in response to an objection of the Joint Committee on Administrative Rules at 12 Ill. Reg. 19531, effective November 4, 1988, not to exceed the 150 day time limit of the original rulemaking; emergency expired January 29, 1989; amended at 13 Ill. Reg. 11824, effective June 29, 1989; amended at 14 Ill. Reg. 241, effective December 21, 1989; amended at 14 Ill. Reg. 872, effective January 1, 1990; amended at 14 Ill. Reg. 15463, effective September 10, 1990; amended at 14 Ill. Reg. 16028, effective September 18, 1990; amended at 15 Ill. Reg. 6621, effective April 17, 1991; amended at 15 Ill. Reg. 13542, effective August 30, 1991; amended at 15 Ill. Reg. 15757, effective October 15, 1991; amended at 16 Ill. Reg. 1642, effective January 13, 1992; amended at 17 Ill. Reg. 860, effective January 11, 1993; amended at 17 Ill. Reg. 18142, effective October 4, 1993; amended at 17 Ill. Reg. 19651, effective November 2, 1993; amended at 18 Ill. Reg. 1537, effective January 13, 1994; amended at 18 Ill. Reg. 16866, effective November 7, 1994; amended at 19 Ill. Reg. 13446, effective September 12, 1995; amended at 19 Ill. Reg. 13568, effective September 11, 1995; amended at 19 Ill. Reg. 13968, effective September 18, 1995; amended at 20 Ill. Reg. 4428, effective March 4, 1996; amended at 20 Ill. Reg. 5366, effective March 26, 1996; amended at 20 Ill. Reg. 6991, effective May 7, 1996; amended at 20 Ill. Reg. 9116, effective July 2, 1996; amended at 20 Ill. Reg. 15753, effective December 2, 1996; expedited correction at 21 Ill. Reg. 4052, effective December 2, 1996; amended at 20 Ill. Reg. 16200, effective December 16, 1996; amended at 21 Ill. Reg. 12211, effective August 26, 1997; amended at 22 Ill. Reg. 3097, effective January 27, 1998; amended at 22 Ill. Reg. 11874, effective June 29, 1998; amended at 22 Ill. Reg. 19919, effective October 28, 1998; amended at 22 Ill. Reg. 21642, effective November 25, 1998; amended at 23 Ill. Reg. 9526, effective July 29, 1999; amended at 23 Ill. Reg. 9898, effective August 9, 1999; amended at 24 Ill. Reg. 10713, effective July 7, 2000; emergency amendment at 24 Ill. Reg. 11313, effective July 12, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15104, effective October 2, 2000; amended at 24 Ill. Reg. 18376, effective December 1, 2000; amended at 25 Ill. Reg. 941, effective January 8, 2001; emergency amendment at 25 Ill. Reg. 1792, effective January 16, 2001, for a maximum of 150 days; amended at 25 Ill. Reg. 4674, effective March 15, 2001; amended at 25 Ill. Reg. 4950, effective March 19, 2001; amended at 25 Ill. Reg. 5398, effective April 2, 2001; amended at 25 Ill. Reg. 6515, effective May 3, 2001; expedited correction at 25 Ill. Reg. 15681, effective May 3, 2001; amended at 25 Ill. Reg. 6713, effective May 9, 2001; amended at 25 Ill. Reg. 7264, effective May 25, 2001; amended at 25 Ill. Reg. 10917, effective August 13, 2001; amended at 25 Ill. Reg. 12841, effective October 1, 2001; amended at 26 Ill. Reg. 958, effective January 15, 2002; amended at 26 Ill. Reg. 1303, effective January 17, 2002; amended at 26 Ill. Reg. 3196, effective February 13, 2002; amended at 26 Ill. Reg. 5369, effective April 1, 2002; amended at 26 Ill. Reg. 5946, effective April 15, 2002; amended at 26 Ill. Reg. 8423, effective May 24, 2002; amended at 26 Ill. Reg. 9885, effective June 24, 2002; amended at 27 Ill. Reg. 795, effective January 3, 2003; emergency amendment at 27 Ill. Reg. 11099, effective July 7, 2003,

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for a maximum of 150 days; emergency expired December 3, 2003; amended at 27 Ill. Reg. 17216, effective November 3, 2003; emergency amendment at 27 Ill. Reg. 18911, effective November 26, 2003, for a maximum of 150 days; emergency expired April 23, 2004; amended at 28 Ill. Reg. 9121, effective June 18, 2004; amended at 28 Ill. Reg. 11268, effective July 21, 2004; emergency amendment at 28 Ill. Reg. 15193, effective November 3, 2004, for a maximum of 150 days; emergency expired April 1, 2005; amended at 29 Ill. Reg. 7004, effective April 26, 2005; amended at 31 Ill. Reg. 3574, effective February 16, 2007; amended at 31 Ill. Reg. 5621, effective March 23, 2007; amended at 31 Ill. Reg. 13004, effective August 21, 2007; amended at 31 Ill. Reg. 14091, effective September 21, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART S: SPECIFIC APPLICATIONS

Section 130.2165 Veterinarians

- a) Veterinarians as Servicemen~~When Liable For Tax~~
Veterinarians are engaged primarily in rendering service to their clients and so are considered to be servicemen. As medical professionals regulated under the Veterinary Medicine and Surgery Practice Act of 2004 (the Act) [225 ILCS 115/1] they typically provide services to persons with whom they have established a veterinarian-client-patient relationship (VCPR) as defined in Section 3 of the Act. Under the Act, in order to maintain a valid VCPR, a veterinarian must maintain sufficient knowledge of the animal to initiate treatment and be readily available for follow-up. In addition, he or she must maintain adequate medical records, as provided in regulations adopted under the Act at 68 Ill. Adm. Code 1500.50 (a)(11), and must comply with certification, licensure, professional conduct and disciplinary requirements, including continuing education mandates, as provided by the Act and 68 Ill. Adm. Code 1500. Services provided by veterinarians are predicated upon compliance with these requirements.~~When veterinarians sell items of tangible personal property, such as pet food, animal tags, pet collars, leashes, and the like, other than farm chemicals (see Section 130.1955 of this Part) to purchasers for use or consumption apart from their rendering of service as veterinarians, they incur Retailers' Occupation Tax liability. Veterinarians who sell items over the counter must be registered as retailers. (See Subpart G of this Part.) Any item sold to a veterinarian who intends to resell the item shall be taxable unless the veterinarian provides the seller with a Certificate of Resale.~~
- b) Tax Liabilities of Veterinarians~~When Not Liable For Tax~~

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In conducting a veterinary practice, veterinarians may incur different types of tax depending upon the nature of their activities. When licensed veterinarians transfer tangible personal property to their clients as a result of the practice of veterinary medicine, a service transaction occurs that results in liability under the Service Occupation Tax Act. Veterinarians also sometimes sell items of tangible personal property to clients or even to the general public outside the scope of a service transaction. In such cases, they are considered to be retailers engaged in the business of selling tangible personal property at retail and incur Retailers' Occupation Tax liability. In addition, veterinarians incur Use Tax on items of tangible personal property that are not transferred to their clients and instead are consumed by them in the course of performing veterinary services. Subsections (c) through (e) of this Section describe the requirements for a service transaction and define the tax liability that results from these transactions. Also described are the circumstances under which Retailers' Occupation Tax liability and Use Tax liability are incurred by veterinarians. ~~Veterinarians are engaged in a profession and primarily render service. To the extent to which they engage in such profession, they are not engaged in the business of selling tangible personal property to purchasers for use or consumption within the meaning of the Act. Consequently, they are not required to remit Retailers' Occupation Tax measured by their receipts from engaging in such profession, including receipts from both services and tangible personal property transferred incident to those services.~~

c) Service Transactions – Requirements – TaxationExample

- 1) In order for a transaction to be considered a service transaction for purposes of taxation, several requirements must first be met. Specifically:
 - A) A licensed veterinarian must have first established a valid VCPR with the service client as defined in Section 3 of the Act;
 - B) A licensed veterinarian must have physically examined the animal;
 - C) A veterinary practice must maintain medical records demonstrating that the animal for whom tangible personal property was transferred was physically examined by a licensed veterinarian in that veterinary practice no more than 1 year prior to the date on which tangible personal property was transferred;

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- D) The requirements of this subsection (c)(1) are not intended in any way to affect the requirements of the Veterinary Medicine and Surgery Practice Act of 2004 concerning the establishment or maintenance of a valid VCPR, but are intended only to establish the type of tax liability that will be incurred by a veterinary practice.
- 2) When veterinarians engage in service transactions they incur liability under the Service Occupation Tax Act. See 86 Ill. Adm. Code 140 for a detailed explanation of these liabilities. Assuming a valid VCPR has first been established, a service transaction occurs under the following circumstances:
- A) A service transaction occurs when medicines, drugs and other products are directly applied or administered by a licensed veterinarian during a veterinary examination. Tangible personal property transferred may include, but is not limited to, vaccines; flea and tick products; shampoos; bandages; ointments; splints; and sutures.
- B) A service transaction occurs when a licensed veterinarian sells medicines, drugs and other products having a medicinal purpose, as defined in subsection (c)(2)(C) of this Section, as part of a continuing plan for the health and well being of an animal under his or her care. These drugs, medicines and other medicinal products may be products that federal law restricts to use only by prescription from a licensed veterinarian, or may be products that are recommended by the veterinarian under a continuing plan for the health and well being of the animal. These transactions include refills of such drugs, medicines and other medicinal products that are made over-the-counter without a physical examination of the animal on the date of the refill. In order to document that qualifying items are transferred as part of a continuing plan for the health and well being of the animal, the following requirements must be met:
- i) the licensed veterinarian transferring items to the service client (or the veterinarian's designee) must enter a notation in the animal's medical records that the medicine, drug or

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medicinal product was recommended or prescribed as a result of an examination or after consultation with the service client; and

ii) the licensed veterinarian transferring items to the service customer (or the veterinarian's designee) must sign and contemporaneously date the notation in the animal's medical records; and

iii) the animal's medical records must demonstrate that a licensed veterinarian in the veterinary practice that transferred the items to the animal examined the animal no more than 1 year prior to the date on which the items were transferred.

C) For purposes of this subsection (c), a medicine, drug, or other product having a medicinal purpose means items that are ingested by or applied to an animal and that cure or treat disease, illness, injury or pain or mitigate the symptoms of such disease, illness, injury or pain. Such items may include, but are not limited to, items that are required to be prescribed by a veterinarian; nonprescription medicines; vitamins, herbal remedies and dietary and nutritional supplements (e.g., glucosamine chondroitin); medicated shampoos; topical flea and tick products applied directly on an animal for the control of fleas and ticks; and flea and tick collars. Such items also include dental products such as toothpaste, toothbrushes and chews that are specifically designed to promote dental health in animals; insecticides and insect growth regulators that are applied by broadcast treatment (e.g., hand pump sprayers or pressurized aerosols) or with total release aerosols or foggers; products used to treat urinary behavior issues; collars worn by an animal after surgery to prevent the removal of sutures; and splints and braces. Animal food is considered to have a medicinal purpose only if its manufacturer restricts its sale to licensed veterinarians. In order to document the requirement that the manufacturer restricts the sale of animal food to licensed veterinarians, a veterinarian shall annually obtain a letter from the manufacturer representing that the animal food is sold only to licensed veterinarians. Provided that a veterinarian maintains this

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letter in his or her books and records, the Department shall consider the animal food to have a "medicinal purpose" for the period of one year following the date of issuance of the letter. The following items are not considered to have medicinal purposes: combs; brushes; shears; nail clippers; name tags; nonmedicated shampoo; leashes; collars; toys; clothing; odor eliminators; and waste handling products. Prescriptions for animals are subject to the high rate of tax. See 86 Ill. Adm. Code 130.310.

- i) EXAMPLE 1: During a veterinary examination of a dog, a veterinarian breaks open a 6 dose package of flea and tick product and applies one packet to the dog. He or she recommends that the service client continue use of the flea and tick product and offers the remaining 5 packets for sale. If the customer purchases all 5 packets of the flea and tick product at the time of the service transaction, the veterinarian will incur liability under the Service Occupation Tax on the 6 pack of flea and tick product (one applied to the animal incident to service, the other 5 transferred to the service customer as part of the service transaction). If the service customer returns 6 months later and purchases 2 additional flea and tick packets without examination of the dog, the veterinarian will incur liability under the Service Occupation Tax provided that he or she maintains the proper documentation in his or her books and records as required in subsection (c)(2)(B) of this Section.
- ii) EXAMPLE 2: A service client discovers that his or her dog has fleas, so the client takes it to the veterinarian for treatment. The veterinarian uses a lice comb to examine for fleas and then applies a nonprescription flea and tick bath to treat the infestation. The veterinarian recommends that the service client purchase additional bottles of the product to ensure that treatment is complete. The service client returns 2 weeks later to purchase an additional bottle of product. The veterinarian will incur liability under the Service Occupation Tax on the flea and tick product transferred when treating the dog, as well as on the subsequent sale of the same flea and tick product (provided

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that the required documentation is maintained). The veterinarian will incur Use Tax on the flea and tick comb that he or she uses in practice (as well as other items used or consumed in the grooming and bathing of the dog, such as towels, dryers or disposable pads).

3) Application of Service Tax to Example

A) In both Examples 1 and 2 of subsection (c)(2)(C), the veterinarian can remit Service Occupation Tax based on the selling price of the tangible personal property transferred incident to service, as more fully explained in subsection (c)(3)(B) of this Section. However, if the annual aggregate cost price of all items transferred incident to service transactions is less than 35% of annual aggregate gross receipts from service, he or she may elect instead to handle liability by being treated as a "de minimis" serviceman. See 86 Ill. Adm. Code 140.106 for an explanation of the 35% threshold. As a de minimis serviceman, he or she may pay tax as follows:

- i) If the veterinarian does not make over-the-counter sales subject to Retailers' Occupation Tax (e.g., sales of leashes, clippers or combs), he or she may elect to remit Use Tax to suppliers on cost price of tangible personal property transferred incident to service (if suppliers are not registered to collect the Use Tax, he or she must register for the limited purpose of self-assessing and remitting Use Tax on these purchases). See 86 Ill. Adm. Code 140.108 for further information. He or she cannot provide Certificates of Resale to her suppliers if she elects this option.
- ii) If the veterinarian makes over-the-counter sales subject to Retailers' Occupation Tax, he or she may remit Service Occupation Tax to the Department on the cost price of the tangible personal property transferred incident to service. See 86 Ill. Adm. Code 140.109 for further information. In this case, he or she should provide Certificates of Resale to suppliers. He or she must register and file returns with payment of tax to the Department.

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- B) If the veterinarian's annual aggregate cost price of all items transferred incident to service transactions is 35% or more of annual aggregate gross receipts from service, he or she cannot elect to be treated as a "de minimis" serviceman. He or she must pay Service Occupation Tax on the selling price of the tangible personal property transferred incident to service. See 86 Ill. Adm. Code 140.106. He or she must register and remit returns with tax to the Department. He or she should provide Certificates of Resale to suppliers and may calculate selling price as follows:
- i) Separately stated selling price. If the serviceman separately states the selling price of the tangible personal property transferred incident to service on billings to service customers, then Service Occupation Tax liability is based on that separately stated selling price. In no event, however, can the Service Occupation Tax liability be based on an amount less than the serviceman's cost price of the tangible personal property being transferred.
- ii) Fifty percent base. If the serviceman's bill to the service customer does not separately state the selling price of the tangible personal property transferred, the serviceman's Service Occupation Tax liability is based on 50% of the entire customer bill. However, in no event can the Service Occupation Tax be based on an amount less than the serviceman's cost price of the tangible personal property being transferred.

~~For example, if a veterinarian sells a pet diet product that is also available over the counter at pet supply retail outlets, the veterinarian incurs a Retailers' Occupation Tax liability on such sales. However, if a veterinarian transfers a pet diet product that is available only through prescription by a veterinarian and is not available over the counter, such transfer is subject to Service Occupation Tax liability.~~

- d) Retail Transactions – Defined – Taxation
- 1) Retailers' Occupation Tax Liability will be incurred by veterinarians in the following circumstances:

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- A) Retailers' Occupation Tax liability will be incurred on the sale of any tangible personal property to persons with whom the veterinarian has not established a valid VCPR in accordance with the Veterinary Medicine and Surgery Practice Act of 2004. Such items may be medicinal (e.g., a flea and tick product for application on an animal) or non-medicinal (e.g., nonmedicated shampoos, combs, leashes, collars).
- B) Retailers' Occupation Tax liability will be incurred on the sale of any tangible personal property to persons with whom a veterinarian has established a valid VCPR if those items are sold outside the scope of the service transactions described in subsection (c) of this Section. The following items are considered to be transferred outside of the scope of a service transaction, regardless of whether a VCPR has been established: combs, brushes, shears, nail clippers, name tags, nonmedicated shampoos, leashes, collars, toys, clothing, odor eliminators and waste handling products.
- e) Use Tax Incurred by Veterinarians
A veterinarian will incur Use Tax on tangible personal property that he or she uses or consumes in his or her veterinary practice and is not transferred to a service customer. In Example 2 of subsection (c)(2)(C), these items would include the disposable pads, dryers, combs and towels. Other items might include, but are not limited to, cleaning supplies, tables or chairs, thermometers and hand soap. Certificates of Resale cannot be used for the purchase of these items. Instead, Use Tax must either be paid to suppliers or if suppliers are not registered to collect tax, then the veterinarian must self-assess and remit Use Tax to the Department.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

- 1) Heading of the Part: Dismissal of Tenured Teachers Under Article 24 and Dismissal of Tenured Teachers and Principals Under Article 34 of the School Code
- 2) Code Citation: 23 Ill. Adm. Code 51
- 3) Section Number: 51.20 Proposed Action: Amendment
- 4) Statutory Authority: 105 ILCS 5/24-12 and 34-85
- 5) A Complete Description of the Subjects and Issues Involved: Public Act 95-510, effective in late August of this year, amended Section 24A-4 of the School Code and added a new Section 34-85c affecting only the Chicago Public Schools. These provisions permit the school board and the exclusive representative of the district's teachers to enter into an agreement that will constitute an alternative evaluation plan for teachers in certain, specified schools. Dismissal of affected teachers will also be governed by the terms of that agreement. The present amendment to Section 51.20 is a technical one, acknowledging that the requirements of Part 51 are not applicable to teachers who are affected by this agreement.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace emergency rules 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 will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this notice to:

Sally Vogl

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

Agency Rules Coordinator
Illinois State Board of Education
100 North First Street
Springfield, Illinois 62777

217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 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 is summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: the relevant Public Act was signed after publication of the July 2007 Regulatory Agenda.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER b: PERSONNEL

PART 51

DISMISSAL OF TENURED TEACHERS UNDER ARTICLE 24 AND

DISMISSAL OF TENURED TEACHERS AND PRINCIPALS

UNDER ARTICLE 34 OF THE SCHOOL CODE

Section

51.10	Definitions
51.20	Applicability of this Part
51.30	Dismissal Proceedings, Notice to Tenured Teachers, and Compliance with Other Applicable Provisions of the School Code
51.40	Qualifications of Hearing Officers; Conditions of Service
51.50	Suspension Pending the Hearing (Repealed)
51.55	Pre-Hearing Procedures
51.60	The Hearing
51.70	The Decision
51.80	Waiver, Interpretation and Application of this Part

AUTHORITY: Implementing and authorized by Sections 24-12 and 34-85 of the School Code [105 ILCS 5/24-12 and 34-85].

SOURCE: Rules Prescribed by the State Board of Education Governing the Procedure for the Dismissal of Tenured Teachers in Illinois, adopted February 19, 1976; codified at 8 Ill. Reg. 13739; emergency amendment at 9 Ill. Reg. 13116, effective August 9, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 5807, effective April 2, 1986; emergency amendment at 10 Ill. Reg. 19572, effective October 30, 1986, for a maximum of 150 days; amended at 11 Ill. Reg. 5950, effective March 23, 1987; amended at 29 Ill. Reg. 10108, effective June 30, 2005; amended at 32 Ill. Reg. _____, effective _____.

Section 51.20 Applicability of this Part

This Part applies to the dismissal for reason or cause of a tenured teacher (see Section 51.10 of this Part) under Section 24-12 or Section 34-85 of the School Code, other than a teacher for whom alternative procedures are established in an agreement entered into pursuant to Section 34-85c of the School Code [105 ILCS 5/34-85c].

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NOTICE OF PROPOSED AMENDMENT

(Source: Amended at 32 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Special Education
- 2) Code Citation: 23 Ill. Adm. Code 226
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
226.220	Amendment
226.635	Amendment
226.690	Amendment
- 4) Statutory Authority: 105 ILCS 5/Art. 14 and 2-3.6
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking encompasses three separate technical changes necessitated by recent legislation.
 - Section 226.220 (Development, Review, and Revision of the IEP) needs to be amplified with a provision acknowledging some requirements that were added to Section 14-8.02 of the School Code by P.A. 95-257, related to the development of an IEP for a child with a disability on the autism spectrum.
 - A timeframe for requesting substitution of a hearing officer needs to be added to Section 226.635 (Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers), since none is now specified in Section 14-8.02a(f-5) of the School Code pursuant to P.A. 94-1100.
 - Section 226.690 (Transfer of Parental Rights) needs to incorporate the possibility of a student's delegation of rights as set forth in new Section 14-6.10 of the School Code (P.A. 95-372).
- 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or enlarge a State mandate.

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl
Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (S-493)
Springfield, Illinois 62777

217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 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 2 most recent regulatory agendas because: two of the relevant Public Acts to which these amendments respond were signed after publication of the July 2007 Regulatory Agenda.

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER f: INSTRUCTION FOR SPECIFIC STUDENT POPULATIONS

PART 226

SPECIAL EDUCATION

SUBPART A: GENERAL

Section

226.10	Purpose
226.50	Requirements for a Free Appropriate Public Education (FAPE)
226.60	Charter Schools
226.75	Definitions

SUBPART B: IDENTIFICATION OF ELIGIBLE CHILDREN

Section

226.100	Child Find Responsibility
226.110	Evaluation Procedures
226.120	Reevaluations
226.130	Additional Procedures for Students Suspected of or Having a Specific Learning Disability
226.135	Additional Procedures for Students Suspected of or Having a Cognitive Disability
226.140	Modes of Communication and Cultural Identification
226.150	Evaluation to be Nondiscriminatory
226.160	Determination of Eligibility (Repealed)
226.170	Criteria for Determining the Existence of a Specific Learning Disability (Repealed)
226.180	Independent Educational Evaluation
226.190	Reevaluation (Repealed)

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)

Section

226.200	General Requirements
226.210	IEP Team
226.220	Development, Review, and Revision of the IEP

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- 226.230 Content of the IEP
- 226.240 Determination of Placement
- 226.250 Child Aged Three Through Five
- 226.260 Child Reaching Age Three

SUBPART D: PLACEMENT

Section

- 226.300 Continuum of Placement Options
- 226.310 Related Services
- 226.320 Service to Students Living in Residential Care Facilities
- 226.330 Placement by School District in State-Operated or Nonpublic Special Education Facilities
- 226.340 Nonpublic Placements by Parents Where FAPE is at Issue
- 226.350 Service to Parentally-Placed Private School Students

SUBPART E: DISCIPLINE

Section

- 226.400 Disciplinary Actions
- 226.410 Manifestation Determination Review (Repealed)
- 226.420 Appeals (Repealed)
- 226.430 Protection for Children Not Yet Eligible for Special Education (Repealed)
- 226.440 Referral to and Action by Law Enforcement and Judicial Authorities (Repealed)

SUBPART F: PROCEDURAL SAFEGUARDS

Section

- 226.500 Language of Notifications
- 226.510 Notification of Parents' Rights
- 226.520 Notification of District's Proposal
- 226.530 Parents' Participation
- 226.540 Consent
- 226.550 Surrogate Parents
- 226.560 Mediation
- 226.570 State Complaint Procedures

SUBPART G: DUE PROCESS

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Section	
226.600	Calculation of Timelines
226.605	Request for Hearing; Basis (Repealed)
226.610	Information to Parents Concerning Right to Hearing
226.615	Procedure for Request
226.620	Denial of Hearing Request (Repealed)
226.625	Rights of the Parties Related to Hearings
226.630	Qualifications, Training, and Service of Impartial Due Process Hearing Officers
226.635	Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers
226.640	Scheduling the Hearing and Pre-Hearing Conference
226.645	Conducting the Pre-Hearing Conference
226.650	Child's Status During Due Process Hearing (Repealed)
226.655	Expedited Due Process Hearing
226.660	Powers and Duties of Hearing Officer
226.665	Record of Proceedings
226.670	Decision of Hearing Officer; Clarification
226.675	Monitoring and Enforcement of Decisions; Notice of Ineligibility for Funding
226.680	Reporting of Decisions (Repealed)
226.690	Transfer of Parental Rights

SUBPART H: ADMINISTRATIVE REQUIREMENTS

Section	
226.700	General
226.710	Policies and Procedures
226.720	Facilities and Classes
226.730	Class Size for 2009-10 and Beyond
226.731	Class Size Provisions for 2007-08 and 2008-09
226.735	Work Load for Special Educators
226.740	Records; Confidentiality
226.750	Additional Services
226.760	Evaluation of Special Education
226.770	Fiscal Provisions

SUBPART I: PERSONNEL

Section	
226.800	Personnel Required to be Qualified

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226.810	Special Education Teaching Approval
226.820	Authorization for Assignment
226.830	List of Independent Evaluators
226.840	Qualifications of Evaluators

AUTHORITY: Implementing Article 14 and authorized by Section 2-3.6 of the School Code [105 ILCS 5/Art.14 and 2-3.6].

SOURCE: Adopted August 12, 1976; rules repealed and new emergency rules adopted at 2 Ill. Reg. 37, p. 29, effective September 1, 1978, for a maximum of 150 days; rules repealed and new rules adopted at 3 Ill. Reg. 5, p. 932, effective February 1, 1979; emergency amendment at 4 Ill. Reg. 38, p. 328, effective September 15, 1980, for a maximum of 150 days; amended at 5 Ill. Reg. 8021, effective July 22, 1981; amended at 6 Ill. Reg. 558, effective December 23, 1981; emergency amendment at 7 Ill. Reg. 6511, effective May 6, 1983, for a maximum of 150 days; emergency amendment at 7 Ill. Reg. 8949, effective July 15, 1983, for a maximum of 150 days; codified at 8 Ill. Reg. 6669; amended at 8 Ill. Reg. 7617, effective May 17, 1984; emergency amendment at 10 Ill. Reg. 3292, effective January 27, 1986, for a maximum of 150 days; emergency expired June 24, 1986; amended at 10 Ill. Reg. 18743, effective October 22, 1986; amended at 10 Ill. Reg. 19411, effective October 31, 1986; amended at 13 Ill. Reg. 15388, effective September 14, 1989; emergency amendment at 14 Ill. Reg. 11364, effective June 26, 1990, for a maximum of 150 days; emergency expired November 23, 1990; amended at 15 Ill. Reg. 40, effective December 24, 1990; amended at 16 Ill. Reg. 12868, effective August 10, 1992; emergency amendment at 17 Ill. Reg. 13622, effective August 3, 1993, for a maximum of 150 days; emergency expired December 31, 1993; amended at 18 Ill. Reg. 1930, effective January 24, 1994; amended at 18 Ill. Reg. 4685, effective March 11, 1994; amended at 18 Ill. Reg. 16318, effective October 25, 1994; amended at 19 Ill. Reg. 7207, effective May 10, 1995; amended at 20 Ill. Reg. 10908, effective August 5, 1996; amended at 21 Ill. Reg. 7655, effective July 1, 1997; Part repealed, new Part adopted at 24 Ill. Reg. 13884, effective August 25, 2000; amended at 27 Ill. Reg. 8126, effective April 28, 2003; amended at 31 Ill. Reg. 9915, effective June 28, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART C: THE INDIVIDUALIZED EDUCATION PROGRAM (IEP)**Section 226.220 Development, Review, and Revision of the IEP**

The development, review, and revision of each child's IEP shall conform to the requirements of 34 CFR 300.324 and 300.328. The additional requirements of this Section shall also apply.

- a) When an IEP has been developed or revised, a notice in accordance with 34 CFR

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300.503(b) and (c) shall be provided immediately to the parents, and implementation of the IEP shall occur no later than ten days after the provision of this notice.

- b) Either a child's educational provider or a child's parent may request an IEP meeting at any time. Within ten days after receipt of such a request, the district shall either agree and notify the parent in accordance with 34 CFR 300.503 or notify the parents in writing of its refusal, including an explanation of the reason no meeting is necessary to ensure the provision of FAPE for the child.
- c) The development of an IEP for a child who has a disability on the autism spectrum shall include consideration of the factors specified in Section 14-8.02(b) (1) through (7) of the School Code.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

SUBPART G: DUE PROCESS

Section 226.635 Appointment, Recusal, and Substitution of Impartial Due Process Hearing Officers

The appointment, recusal, and substitution of due process hearing officers shall conform with the requirements of Section 14-8.02a(f-5) of the School Code [105 ILCS 5/14-8.02a(f-5)]. A request for substitution of the hearing officer, as permitted by that Section, shall be submitted via letter or facsimile to the Due Process Coordinator at the State Board of Education and shall be postmarked or transmitted no later than five days after the party requesting the substitution receives notification from the State Board of the original hearing officer's appointment.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 226.690 Transfer of Parental Rights

This Section implements 34 CFR 300.520 and Section 14-6.10 of the School Code [105 ILCS 5/14-6.10].

- a) When a student with a disability reaches the age of majority (18 years of age; see 755 ILCS 5/11-1) or becomes an emancipated minor pursuant to the Emancipation of Minors Act [750 ILCS 30] (except for a student with a disability who has been adjudged as a disabled person pursuant to 755 ILCS ~~5/11a-25/11a-4~~

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or who has executed a Delegation of Rights that is in effect as provided in Section 14-6.10 of the School Code):

- 1) The school district shall provide any notice required by this Part to both the individual and the parents, and all other rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to the student; and
 - 2) All rights accorded to parents under Part B of the Individuals with Disabilities Education Act, the implementing regulations at 34 CFR 300, and this Part shall transfer to a child who is incarcerated in an adult or juvenile, State, or local correctional institution.
- b) Whenever rights are transferred to a student pursuant to this Section, the district shall notify the student and the parents of the transfer of rights.
 - c) All notices that are required under this Part and 34 CFR 300 shall be provided to the student and the parent after the student reaches the age of majority.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Secular Textbook Loan
- 2) Code Citation: 23 Ill. Adm. Code 350
- 3)

<u>Section Numbers</u>	<u>Proposed Action:</u>
350.15	Amendment
350.25	Amendment
- 4) Statutory Authority: 105 ILCS 5/18-17
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking is prompted by the need to revise some existing provisions so that up-to-date means of communication will be permitted as part of procedures discussed in Part 350. It is no longer useful to specify, for example, that the U.S. Mail is the only way in which required notifications can be submitted. These changes will bring the rules into alignment with the agency's current electronic capabilities.

Various other revisions are being made to conform to current style considerations and wording requirements.
- 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 will not create or enlarge a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Written comments may be submitted within 45 days after the publication of this Notice to:

Sally Vogl

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

Agency Rules Coordinator
Illinois State Board of Education
100 North First Street (S-493)
Springfield, Illinois 62777

217/782-5270

Comments may also be submitted via e-mail, addressed to:

rules@isbe.net

- 13) Initial Regulatory Flexibility Analysis:
 - A) Types of small businesses, small municipalities and not-for-profit corporations affected: Some textbook vendors that participate in this program are small businesses.
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: July 2007

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

STATE BOARD OF EDUCATION

NOTICE OF PROPOSED AMENDMENTS

TITLE 23: EDUCATION AND CULTURAL RESOURCES

SUBTITLE A: EDUCATION

CHAPTER I: STATE BOARD OF EDUCATION

SUBCHAPTER j: TEXTBOOKS AND EQUIPMENT

PART 350

SECULAR TEXTBOOK LOAN

Section

350.10	Definition of Terms
350.15	Acquisition Procedures
350.20	Administrative Practices (Repealed)
350.25	Disposal Procedures
350.30	Fiscal Procedures (Repealed)

AUTHORITY: Implementing and authorized by Section 18-17 of the School Code [105 ILCS 5/18-17].

SOURCE: Adopted September 27, 1976; amended at 2 Ill. Reg. 27, p. 163, effective June 27, 1978; amended at 4 Ill. Reg. 37, p. 770, effective September 6, 1980; codified at 7 Ill. Reg. 13870; amended at 8 Ill. Reg. 2462, effective February 15, 1984; amended at 15 Ill. Reg. 17597, effective November 20, 1991; amended at 20 Ill. Reg. 9951, effective July 12, 1996; amended at 24 Ill. Reg. 7256, effective May 1, 2000; amended at 28 Ill. Reg. 7050, effective May 3, 2004; amended at 29 Ill. Reg. 10141, effective June 30, 2005; amended at 31 Ill. Reg. 10668, effective July 16, 2007; amended at 32 Ill. Reg. _____, effective _____.

Section 350.15 Acquisition Procedures

- a) Students shall not be assessed a fee for any textbook or book substitute provided under the Secular Textbook Loan Program.
- b) Eligible applicants shall provide parents with a brief written explanation of the textbook loan program and the process for a parent/guardian or student to request the loan of a secular textbook in a student handbook, newsletter or flyer or by similar means. A parent/guardian or student may request the loan of a secular textbook(s) by submitting an individual request (see Section 18-17 of the School Code). School districts shall develop procedures for taking a request from a parent/guardian or student.

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- c) Requested textbooks shall be those that have been adopted for use in the district or school and that are available from those vendors participating in the program. The State Board of Education each fiscal year shall provide on its electronic textbook loan systemwebsite the list of participating vendors and the list of secular textbooks that the State Board of Education has identified as eligible under the program.
- d) By the end of November of each year, the State Superintendent Board of Education will identify the grade levels to be funded and calculate the per-pupil allocation. Those school administrators with schools eligible to participate will be notified in writing or electronically as to ~~1)~~ the total amount available to their students to be used for the grade levels identified for funding (the per-pupil allocation will be based upon the total amount of funds appropriated for the program and the total statewide public and nonpublic school enrollment in the specific grade levels to be funded, as of the last school day in September of the most recent~~current~~ school year for which data are available); ~~and~~
- ~~2) the password to be used to access the textbook loan website for the purposes of completing a Request Form.~~
- e) The request~~Request Forms~~ shall be completed by the school administrator. Electronic submission of the request~~Request Form~~ shall certify compliance with Section 18-17 of the School Code and this Part, as well as with Article X, Section 3, of the Illinois Constitution, which provides in pertinent part that *no funds may be used to help support or sustain any institution controlled by any church or sectarian denomination.*
- f) Each eligible applicant shall submit its completed request~~Request Form~~ on or before March 15. Eligible applicants will be unable to access the electronic request system~~Request Form~~ after this deadline.
- g) Each school administrator shall be informed either in writing or electronically~~via U.S. mail~~ by April 15 as to the specific textbooks that will be purchased.
- h) On a form provided by the State Superintendent Board of Education, the school administrator shall confirm that the quantity and titles of all textbooks received are the same as ordered. Such confirmation shall be mailed or faxed to the State Board of Education, using the address or fax number provided on the form, within seven days after receipt of the textbooks.

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- i) All textbooks provided through the program shall be listed on an inventory maintained by the State Board of Education. Each school shall identify (stamp) the materials received under the program as "Property of the State of Illinois, School Year__".
- j) Each recipient shall have procedures to assure the return of all textbooks from those to whom they have been loaned.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 350.25 Disposal Procedures

- a) Textbooks received under the Textbook Loan Program *may not be disposed of out-of-state or sold without the prior approval of the State Board of Education* (Section 18-17 of the School Code) as provided in subsection (b) or (c) of this Section.
- b) Disposal of Textbooks on Loan for Less than Five Years
Textbooks on loan for less than five years that a recipient determines are no longer needed (e.g., elimination of program, wear, adoption of new textbooks) shall be disposed of in the following manner:
 - 1) On a form provided by the State **Superintendent Board** of Education, the recipient shall submit to the State **Superintendent Board** a list of textbooks that are no longer needed, giving the International Standard Book Numbers (ISBN), quantity, grade level, and titles of the materials. If no ISBN is given for the materials, then a description must be provided of the materials that are no longer needed.
 - 2) The State **Superintendent Board** of Education shall attempt to relocate these textbooks to other Illinois schools.
 - A) A list of all textbooks that are no longer needed shall be **made available disseminated** to all eligible applicants **no later than** September **30** of each year.
 - B) Requests for these textbooks shall be honored on a first-come, first-served basis.

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- C) ~~The Based on this effort, the State Board shall make appropriate notification to the~~ sending and/or receiving schools ~~and shall notify the State Superintendent of the exchange of textbooks purchased through the Illinois Textbook Program all parties in writing.~~
- D) Receiving schools shall be responsible for all transportation arrangements and for all costs incurred in the transportation of the textbooks from the sending school.
- 3) Textbooks that cannot be relocated by the end of January to another Illinois school pursuant to subsection (b)(2) of this Section may be disposed of pursuant to the exemption from the Illinois Property Control Act that has been granted by the Director of the Department of Central Management Services. Upon request, a copy of the exemption will be provided to recipients that seek to dispose of textbooks pursuant to this subsection (b)(3).
- c) Disposal of Textbooks on Loan for Five Years or More
Textbooks on loan for five or more years may be disposed of in such a manner as the school board, nonpublic school or other eligible school determines, including out-of-state disposal or sale, provided that:
- 1) The school administrator provides written or electronic notification to the State Superintendent Board of Education of the recipient's intent to dispose of the textbooks. ~~This Such~~ notification shall:
- A) Provide a list of textbooks that are no longer needed, which shall be reported ~~by mail~~ to the State Superintendent Board of Education giving the International Standard Book Numbers (ISBN), quantity, grade level, and titles of the materials. If no ISBN is given for the materials, then a description must be provided of the materials that are no longer needed.
- B) Cite the proposed method for disposing of the textbooks.
- 2) ~~Notification shall be sent to the State Board of Education by certified U.S. mail, return receipt requested.~~

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- 2)3) Textbooks shall not be disposed of ~~in~~ less than 30 days after notification to the State Board. ~~The date of delivery on the return receipt shall constitute the date of notification.~~ If the State ~~Superintendent~~Board of Education identifies a disposition that better conserves public resources or better serves the interests of the public, then ~~the State Superintendent~~the State Superintendent shall, within 30 days after notification, arrange with the school to dispose of the materials in some alternative manner. If the State ~~Superintendent~~Board of Education does not arrange ~~for any other~~such action within 30 days, then the school shall dispose of the books as indicated in the notice to the State ~~Superintendent~~Board of Education.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: The Administration and Operation of the Teachers' Retirement System
- 2) Code Citation: 80 Ill. Adm. Code 1650
- 3)

<u>Section Numbers:</u>	<u>Proposed Action:</u>
1650.1110	Amendment
1650.1113	Amendment
1650.1115	Amendment
1650.1116	Amendment
1650.1118	Amendment
1650.1119	Amendment
1650.1122	Amendment
1650.1125	New
- 4) Statutory Authority: Implementing and authorized by Article 16 [40 ILCS 5/16] and Article 1, Section 119 [40 ILCS 5/1-119] of the Illinois Pension Code
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments are technical refinements to the Teachers' Retirement System's existing Qualified Illinois Domestic Relations Order (QILDRO) rules, Subpart M. The amendments enhance the System's effective administration of the amended QILDRO law [40 ILCS 5/1-119] that became effective July 1, 2006. New Section 1650.1125 explains how the System will allocate lump-sum death benefits that are affected by a QILDRO.
- 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 amendments pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create or expand a State mandate or local government.

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

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

217/753-0375

- 13) Initial Regulatory Flexibility Analysis: These amendments will not affect small businesses.
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: January 2006.

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

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

NOTICE OF PROPOSED AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

SUBTITLE D: RETIREMENT SYSTEMS

CHAPTER III: TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

PART 1650

THE ADMINISTRATION AND OPERATION OF THE
TEACHERS' RETIREMENT SYSTEM

SUBPART A: REPORTS BY BOARD OF TRUSTEES

Section

1650.10 Annual Financial Report (Repealed)

SUBPART B: BASIC RECORDS AND ACCOUNTS

Section

1650.110 Membership Records
1650.120 Claims Records (Repealed)
1650.130 Individual Accounts (Repealed)
1650.140 Ledger and Accounts Books (Repealed)
1650.150 Statistics (Repealed)
1650.160 Confidentiality of Records
1650.180 Filing and Payment Requirements
1650.181 Early Retirement Incentive Payment Requirements
1650.182 Waiver of Additional Amounts Due
1650.183 Definition of Employer's Normal Cost

SUBPART C: FILING OF CLAIMS

Section

1650.201 Disability Benefits – Application Procedure
1650.202 Disability and Occupational Disability Benefits – Definitions
1650.203 Disability Retirement Annuity – Definitions
1650.204 Gainful Employment – Consequences
1650.205 Medical Examinations and Investigation of Disability Claims
1650.206 Physician Certificates
1650.207 Disability Due to Pregnancy
1650.208 Disability Payments
1650.209 Computation of Annual Salary When Member Has Different Semester Salary

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NOTICE OF PROPOSED AMENDMENTS

	Rates
1650.210	Claim Applications
1650.211	Disability Recipient Eligible to Receive an Age or Disability Retirement Annuity
1650.220	Reclassification of Disability Claim (Repealed)
1650.221	When Member Becomes Annuitant
1650.222	Death Out of Service
1650.230	Medical Examinations and Investigations of Claims (Repealed)
1650.240	Refunds; Impermissible Refunds; Canceled Service; Repayment
1650.250	Death Benefits
1650.260	Evidence of Age
1650.270	Reversionary Annuity – Evidence of Dependency
1650.271	Evidence of Parentage
1650.272	Eligible Child Dependent By Reason of a Physical or Mental Disability
1650.280	Evidence of Marriage
1650.290	Offsets

SUBPART D: MEMBERSHIP AND SERVICE CREDITS

Section	
1650.301	Early Retirement Without Discount – Return to Teaching from a Break in Service
1650.310	Effective Date of Membership
1650.320	Method of Calculating Service Credits
1650.325	Method of Calculating Service Credit for Recipients of a Disability Benefit or Occupational Disability Benefit
1650.330	Duplicate Service Credit
1650.335	Unreported Regular Service Credit and Earnings
1650.340	Service Credit for Leaves of Absence
1650.341	Service Credit for Involuntary Layoffs
1650.345	Service Credit for Periods Away From Teaching Due to Pregnancy
1650.346	Service Credit for Periods Away From Teaching Due to Adoption
1650.350	Service Credit for Unused Accumulated Sick Leave Upon Retirement
1650.351	Employer Contribution for Excess Sick Leave
1650.355	Purchase of Optional Service – Required Minimum Payment
1650.356	Payroll Deduction Program (Repealed)
1650.357	Employer Payment of Member's Optional Service and/or Upgrade Contribution Balance (Repealed)
1650.360	Settlement Agreements and Judgments
1650.370	Calculation of Average Salary (Renumbered)
1650.380	Definition of Actuarial Equivalent

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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- 1650.390 Independent Contractors
- 1650.391 Optional 2.2 Upgrade of Earned and Credited Service
- 1650.392 2.2 Upgrade of Optional Service Not Credited at Initial Upgrade

SUBPART E: CONTRIBUTION CREDITS AND PAYMENTS

Section

- 1650.410 Return of Contributions for Duplicate or Excess Service
- 1650.415 Return of Optional Increase in Retirement Annuity Contributions
- 1650.416 Optional Increase in Retirement Annuity – 1% Contribution Reduction
- 1650.420 Interest on Deficiencies (Repealed)
- 1650.430 Installment Payments (Repealed)
- 1650.440 Small Deficiencies, Credits or Death Benefit Payments
- 1650.450 Definition of Salary
- 1650.451 Reporting of Conditional Payments
- 1650.460 Calculation of Average Salary
- 1650.470 Rollover Distributions
- 1650.480 Rollovers to the System
- 1650.481 Employer Contribution Required for Salary Increases in Excess of 6%
- 1650.482 Contracts and Collective Bargaining Agreements – Loss of Exemption from Employer Contributions
- 1650.483 Employer Contributions for Salary Increases in Excess of 6% and Excess Sick Leave Exemption from Contributions
- 1650.484 Members Not Covered by Collective Bargaining Agreements or Employment Contracts
- 1650.485 Employer Contributions for Salary Increases in Excess of 6% - Receipt of Bill

SUBPART F: RULES GOVERNING ANNUITANTS AND BENEFICIARIES

Section

- 1650.505 Beneficiary (Repealed)
- 1650.510 Re-entry Into Service
- 1650.520 Suspension of Benefits
- 1650.530 Power of Attorney
- 1650.540 Conservators/Guardians
- 1650.550 Presumption of Death
- 1650.560 Benefits Payable on Death
- 1650.570 Survivors' Benefits
- 1650.571 Payment of Monthly Survivor Benefits to a Trust

TEACHERS' RETIREMENT SYSTEM OF THE STATE OF ILLINOIS

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1650.575	Full-time Student – Receipt of Survivors Benefits Until Age 22
1650.580	Evidence of Eligibility
1650.590	Comptroller Offset
1650.595	Overpayments

SUBPART G: ATTORNEY GENERALS' OPINION

Section	
1650.605	Policy of the Board Concerning Attorney Generals' Opinion (Repealed)

SUBPART H: ADMINISTRATIVE REVIEW

Section	
1650.610	Staff Responsibility
1650.620	Right of Appeal
1650.630	Form of Written Request
1650.635	Presiding Hearing Officer – Duties and Responsibilities
1650.640	Prehearing Procedure
1650.641	Claims Hearing Committee Hearing Packet
1650.650	Hearing Procedure
1650.660	Rules of Evidence (Repealed)

SUBPART I: AMENDMENTS TO BYLAWS AND RULES

Section	
1650.710	Amendments

SUBPART J: RULES OF ORDER

Section	
1650.810	Parliamentary Procedure

SUBPART K: FREEDOM OF INFORMATION ACT REQUESTS

Section	
1650.910	Summary and Purpose
1650.920	Definitions
1650.930	Submission of Requests
1650.940	Form and Content of FOIA Requests

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- 1650.950 Appeal of a Denial
- 1650.960 Executive Director's Response to Appeal
- 1650.970 Response to FOIA Requests
- 1650.980 Inspection of Records at System Office
- 1650.990 Copies of Public Records
- 1650.995 Materials Available Under Section 4 of FOIA

SUBPART L: BOARD ELECTION PROCEDURES

Section

- 1650.1000 Nomination of Candidates
- 1650.1001 Elections Date/Election Day – Defined
- 1650.1010 Petitions
- 1650.1020 Eligible Voters
- 1650.1030 Election Materials
- 1650.1040 Marking of Ballots
- 1650.1050 Return of Ballots
- 1650.1060 Observation of Ballot Counting
- 1650.1070 Certification of Ballot Counting
- 1650.1080 Challenges to Ballot Counting
- 1650.1090 Special Election to Fill Un-Expired Term of Elected Trustee

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section

- 1650.1110 Definitions
- 1650.1111 Requirements for a Valid Qualified Illinois Domestic Relations Order
- 1650.1112 Requirements for a Valid QILDRO Calculation Order
- 1650.1113 Required Forms
- 1650.1114 Filing a QILDRO or a Calculation Order with the System
- 1650.1115 Benefits Affected by a QILDRO
- 1650.1116 Effect of a Valid QILDRO
- 1650.1117 QILDROs Against Persons Who Became Members Prior to July 1, 1999
- 1650.1118 Alternate Payee's Address
- 1650.1119 Electing Form of Payment
- 1650.1120 Automatic Annual Increases
- 1650.1121 Reciprocal Systems QILDRO Policy Statement (Repealed)
- 1650.1122 Providing Benefit Information for Divorce Purposes
- 1650.1123 Suspension and Expiration of a QILDRO

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- 1650.1124 Income Tax Reporting
1650.1125 Lump-Sum Death Benefit Allocation to Alternate Payee

SUBPART N: PAYROLL DEDUCTION PROGRAM

Section

- 1650.1200 Payroll Deduction Program Guidelines
1650.1201 Employer Responsibility Under the Payroll Deduction Program Upon Execution of a Payroll Deduction Agreement
1650.1202 Payroll Deduction Agreements – Suspensions and Terminations
1650.1203 Payroll Deduction Program – Full Time Employment Defined
1650.1204 Payroll Deduction Program – Disability Defined
1650.1205 Employer Payment of Member's Optional Service, Refund and/or Upgrade Contribution Balance

SUBPART O: RETIREMENT BENEFITS

Section

- 1650.2900 Excess Benefit Arrangement

AUTHORITY: Implementing and authorized by Articles 1 and 16 of the Illinois Pension Code [40 ILCS 5/Arts. 1 and 16]; Freedom of Information Act [5 ILCS 140]; Internal Revenue Code (26 USC 1 et seq.); Section 5-15 of the Illinois Administrative Procedure Act [5 ILCS 100/5-15].

SOURCE: Filed June 20, 1958; emergency rules adopted at 2 Ill. Reg. 49, p. 249, effective November 29, 1978, for a maximum of 150 days; adopted at 3 Ill. Reg. 9, p. 1, effective March 3, 1979; codified at 8 Ill. Reg. 16350; amended at 9 Ill. Reg. 20885, effective December 17, 1985; amended at 12 Ill. Reg. 16896, effective October 3, 1988; amended at 14 Ill. Reg. 18305, effective October 29, 1990; amended at 15 Ill. Reg. 16731, effective November 5, 1991; amended at 17 Ill. Reg. 1631, effective January 22, 1993; amended at 18 Ill. Reg. 6349, effective April 15, 1994; emergency amendment at 18 Ill. Reg. 8949, effective May 24, 1994, for a maximum of 150 days; emergency modified at 18 Ill. Reg. 12880; amended at 18 Ill. Reg. 15154, effective September 27, 1994; amended at 20 Ill. Reg. 3118, effective February 5, 1996; emergency amendment at 21 Ill. Reg. 483, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 2422, effective January 31, 1997; amended at 21 Ill. Reg. 4844, effective March 27, 1997; emergency amendment at 21 Ill. Reg. 17159, effective December 9, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 7243, effective April 9, 1998; emergency amendment at 22 Ill. Reg. 7314, effective April 9, 1998, for a maximum of 150 days; emergency amendment at 22 Ill. Reg. 9374, effective May 14, 1998, for a maximum of 150 days;

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emergency rule modified in response to JCAR Objection at 22 Ill. Reg. 11640; emergency amendment at 22 Ill. Reg. 13151, effective June 29, 1998, for a maximum of 150 days; amended at 22 Ill. Reg. 15620, effective August 17, 1998; amended at 22 Ill. Reg. 19079, effective October 1, 1998; amended at 22 Ill. Reg. 22090, effective December 1, 1998; amended at 23 Ill. Reg. 3079, effective February 23, 1999; amended at 24 Ill. Reg. 2440, effective January 27, 2000; amended at 24 Ill. Reg. 10300, effective June 26, 2000; amended at 25 Ill. Reg. 203, effective December 22, 2000; amended at 26 Ill. Reg. 2758, effective February 11, 2002; amended at 26 Ill. Reg. 11476, effective July 11, 2002; amended at 27 Ill. Reg. 1668, effective January 17, 2003; amended at 27 Ill. Reg. 9209, effective May 28, 2003; amended at 28 Ill. Reg. 10055, effective June 29, 2004; amended at 29 Ill. Reg. 1546, effective January 14, 2005; amended at 29 Ill. Reg. 13244, effective August 9, 2005; amended at 30 Ill. Reg. 194, effective December 23, 2005; amended at 30 Ill. Reg. 472, effective December 21, 2005; amended at 30 Ill. Reg. 11728, effective June 23, 2006; amended at 30 Ill. Reg. 17525, effective October 18, 2006; amended at 31 Ill. Reg. 10688, effective July 13, 2007; amended at 32 Ill. Reg. _____, effective _____.

SUBPART M: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section 1650.1110 Definitions

- a) The definitions in Section 1-119(a) of the Illinois Pension Code (the "Act") [40 ILCS 5/1-119(a)] shall apply to this Subpart.
- b) The phrase "death benefit" in Section 1-119(a)(2) of the Act [40 ILCS 5/1-119(a)(2)] includes:
 - 1) A refund of any remaining accumulated contributions;
 - 2) A refund payable to a deceased member's designated beneficiary because the member elected a 2.2 upgrade and dies before making the full upgrade contribution; or
 - 3) A survivor benefit under Section 16-141 or Section 16-142 of the Act [40 ILCS 5/16-141, 16-142] if and only if payable as a lump sum.
- c) The phrase "member's refund" in Section 1-119(a)(5) of the Act [40 ILCS 5/1-119(a)(5)] does not include an "error refund" as defined in subsection (d) of this Section.

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- d) The phrase "error refund" as used in this Subpart includes:
- 1) A refund paid to a member as the result of an error in a payment to the System; or
 - 2) A refund payable to a living member resulting from an overpayment made by a TRS-covered employer for a 2.2 upgrade.
- e) The phrase "disability benefit" in Section 1-119(a)(3) of the Act [40 ILCS 5/1-119(a)(3)] includes:
- 1) A disability benefit under Section 16-149 of the Act [40 ILCS 5/16-149];
 - 2) An occupational disability benefit under Section 16-149.1 of the Act [40 ILCS 5/16-149.1]; or
 - 3) A disability retirement annuity under Section 16-149.2 of the Act [40 ILCS 5/16-149.2].
- f) The phrase "member's retirement benefit" as used in this Subpart means the total amount of the "retirement benefit" as defined in Section 1-119(a)(8) of the Act [40 ILCS 5/1-119(a)(8)] that would be payable to the member in the absence of a QILDRO.
- g) The phrase "partial member's refund" as used in this Subpart includes:
- 1) A refund of survivor benefit contributions;
 - 2) A partial refund of retirement contributions as provided under Section 16-152(d) of the Act [40 ILCS 5/16-152(d)];
 - 3) An upgrade contribution refund payable to a living member who has elected a 2.2 upgrade, because:
 - A) The member has creditable service in excess of 34 years;
 - B) The member is entitled to a 1% reduction in the upgrade contribution for every three full years of creditable service;

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- C) An actuarial calculation provides a greater benefit than an upgraded final average salary calculation; or
- D) The member failed to make the full upgrade contribution in a timely fashion;
- 4) A refund of contributions for excess optional service as provided in Section 1650.410(b); or
- 5) A refund of contributions for the Early Retirement Option under Section 16-152(e) of the Act [40 ILCS 5/16-152(e)].
- h) The phrase "effective date of the QILDRO" or any similar phrase as used in this Subpart means the date that a retirement benefit, refund, or lump-sum death benefit to which the QILDRO applies becomes payable, ~~provided that:~~
- 1) ~~No QILDRO will apply to a benefit or refund that becomes payable less than 30 days after the date the System received the QILDRO; and~~
 - 2) ~~If the QILDRO expresses any amount payable to the alternate payee as a percentage, the System must receive a valid QILDRO Calculation Order before the QILDRO becomes effective.~~
- i) The phrase "valid receipt date" or any similar phrase as used in this Subpart means the date the System received a valid court order.
- j) The phrase "valuation procedures established by the retirement system" in Section 503(b)(2) of the Illinois Marriage and Dissolution of Marriage Act [750 ILCS 5/503(b)(2)], with respect to the Teachers' Retirement System, means the benefit information provided by the System for divorce purposes in accordance with Section 1650.1122.
- k) The phrase "percentage QILDRO" or any similar phrase as used in this Subpart means any portion of the QILDRO that expresses an amount payable to the alternate payee as a percentage rather than a specified dollar amount.
- l) The phrase "alternate payee share" or any similar phrase as used in this Subpart means that portion of any benefit or refund allocated to the alternate payee in the QILDRO.

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(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1650.1113 Required Forms

- a) A QILDRO, a Consent to Issuance of QILDRO, or a Calculation Order must be in the form adopted by the System as of the valid receipt date.
- b) The ~~required~~ forms adopted by the System are available on the System's web site, trs.illinois.gov, or upon request.
- c) A QILDRO, a Consent Form, or a Calculation Order that is not in the form adopted by the System as of the receipt date is invalid.
- d) Re-typed forms and obsolete forms will be returned, unprocessed, to the sender.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1650.1115 Benefits Affected by a QILDRO

- a) A QILDRO may apply only to the following benefits administered by the System:
 - 1) A monthly retirement benefit;
 - 2) A single sum retirement benefit;
 - 3) A termination refund;
 - 4) A partial member's refund; or
 - 5) A return of accumulated contributions payable to a member's designated beneficiary upon death; or
 - 6) A survivor benefit, if and only if payable as a lump sum.
- b) If a QILDRO applies to any partial member's refund that becomes payable, the aggregate amount paid to the alternate payee from all partial member's refunds shall not exceed the amount specified in the QILDRO.

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- c) A QILDRO shall not apply to any of the following:
- 1) A monthly survivor benefit;
 - 2) A disability benefit as defined in Section 1650.1110(e) of this Subpart;
 - ~~3) An occupational disability benefit;~~
 - ~~4) A disability retirement annuity;~~
 - 35) A Teachers' Retirement Insurance Program ("TRIP") benefit or any other health insurance benefit; or
 - 46) An error refund as defined in Section 1650.1110(d) of this Subpart.
- d) If a benefit or refund subject to a QILDRO is also subject to tax lien or withholding order, the System will deduct the amount due pursuant to the tax lien or withholding order prior to deducting the amount due pursuant to the QILDRO, until the System receives different instructions from the court that issued the QILDRO. It is the member's or alternate payee's responsibility to obtain clarification from the court if the QILDRO should take priority ahead of a competing tax lien or withholding order.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1650.1116 Effect of a Valid QILDRO

- a) If the QILDRO applies to a member who is not an annuitant of the System, the QILDRO will be placed in the member's file and will not be implemented until an affected benefit or refund to which the QILDRO applies becomes payable.
- b) If the QILDRO applies to a member who is an annuitant of the System, payment to the alternate payee will begin with the first benefit or refund to which the QILDRO applies that falls at least 30 days after the valid receipt date of the QILDRO.
- c) If the QILDRO expresses any amount payable to the alternate payee as a percentage, the System cannot pay the alternate payee such amount until the

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System receives a valid Calculation Order corresponding to the percentage in the underlying QILDRO.

- 1) When a retirement benefit subject to a percentage QILDRO on file with the System becomes payable and the System has not received a valid Calculation Order corresponding to the retirement benefit, the System will determine an anticipated payment to the alternate payee based on information in the QILDRO, if it is possible to do so. The System will hold the alternate payee's anticipated payment and begin paying the member's retirement benefit, less the amount held for the alternate payee, until the System receives a valid Calculation Order corresponding to the retirement benefit.
 - 2) When a member's refund, partial member's refund, or lump-sum death benefit subject to a percentage QILDRO on file with the System becomes payable and the System has not received a valid Calculation Order corresponding to that refund or lump-sum death benefit, the System will hold the refund or lump-sum death benefit until the System receives a valid Calculation Order corresponding to that benefit or refund.
 - 3) Once the System receives a Calculation Order, the System will adjust the amounts payable in accordance with the Calculation Order and begin paying the alternate payee.
 - 4) If it is not possible for the System to determine an anticipated payment based only on the percentage QILDRO, then neither the member nor the alternate payee will be paid until the System receives a valid corresponding Calculation Order.
- d) If ~~a refund application is pending when~~ the System receives a valid QILDRO that purports to apply to ~~a member's~~ the refund, partial member's refund, or lump-sum death benefit that will be paid within 30 days of the valid receipt date but the ~~refund~~ payment has not yet been vouchered, the System will hold the portion of the refund or lump-sum death benefit that would be payable to the alternate payee until it receives clarification from the court as to whether the QILDRO applies to that ~~pending~~ refund or lump-sum death benefit. It is the member's or alternate payee's responsibility to obtain such clarification from the court and to notify the System of the court's clarification.

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- e) If ~~a refund~~ payment has already been vouchered when the System receives a QILDRO that purports to apply to the refund or lump-sum death benefit, the QILDRO shall not apply to that payment refund.
- f) "Vouchered" as used in this Section means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1650.1118 Alternate Payee's Address

- a) An alternate payee is responsible to report to the System in writing of each change in his or her name and mailing address.
- b) When a member's retirement benefit, lump-sum death benefit, or refund subject to a QILDRO becomes payable, the System will send notice to the last address of the alternate payee reported to the System that the benefit or refund is payable. Other than sending such notice, the System shall have no duty to take any other action to locate an alternate payee.
- c) The 180-day period during which the System will hold the retirement benefit, lump-sum death benefit, or refund as provided in Section 1-119(e)(2) of the Act [40 ILCS 5/1-119(e)(2)] begins on the date that the notice described in subsection (b) of this Section is sent to the last address of the alternate payee reported to the System, or on the date that the retirement benefit, lump-sum death benefit, or refund becomes payable, whichever is later. If the System does not receive written confirmation of the alternate payee's current mailing address within the 180-day period, any amounts held will be paid to the regular payee.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1650.1119 Electing Form of Payment

- a) A member's election either to receive or forego a proportional annuity under the Retirement Systems Reciprocal Act [40 ILCS 5/20] is not a prohibited election under Section 1-119(j)(1) of the Act [40 ILCS 5/1-119(j)(1)].
- b) A member's election to take a refund is not a prohibited election under Section 1-

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119(j)(1) of the Act. However, a member's election to roll over a refund payment does not affect the alternate payee's right to payment of the amount designated in the QILDRO.

- c) A member's election of a form of payment of annuity that reduces the member's total benefit, while still allowing full payment to the alternate payee under a QILDRO at the date of the election, is not a prohibited election under Section 1-119(j)(1) of the Act.
- d) A member's failure to elect a 2.2 upgrade, or failure to make all upgrade contributions in a timely fashion, is not a prohibited election under Section 1-119(j)(1) of the Act.
- e) A dependent beneficiary's election to receive monthly survivor benefits is not a prohibited election under Section 1-119(j)(1) of the Act.
- f) The System may, in its sole discretion, hold a proposed election until clarification is obtained from a court of competent jurisdiction as to whether the proposed election is a prohibited election under Section 1-119(j)(1) of the Act [40 ILCS 5/1-119(j)(1)]. It shall be the duty of the member or alternate payee to obtain such clarification upon request of the System.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1650.1122 Providing Benefit Information for Divorce Purposes

- a) Within 45 days after receiving a subpoena or request from a member, the System will provide a statement for divorce purposes regarding the value of a member's retirement benefit through June 30 of the last completed school year for which data are on file with the System. If requested, the System will also provide the TRS Member Guide, the TRS QILDRO publication, and this Subpart.
- b) Within 45 days after receiving a percentage QILDRO, if the System receives the percentage QILDRO before the member has commenced receiving retirement benefits, the System will provide a statement including the following information:
 - 1) School year of initial membership in the System;
 - 2) Amount of permissive and regular service credit;

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- 3) Non-reduced monthly retirement benefit estimate;
 - 4) Earliest date when non-reduced monthly retirement benefit will become payable;
 - 5) Permissive service credit purchased;
 - 6) 2.2 upgrade information;
 - 7) Refund upon termination of employment;
 - 8) Survivor benefit contribution refund;
 - 9) Lump-sum death benefit amount;
 - 10) Whether the member has filed a retirement application; and
 - 11) Intended retirement date, if the member has filed a retirement application.
- c) Within 45 days after receiving a valid percentage QILDRO that designates an alternate payee share of the retirement benefit, and after the System receives all information necessary to determine the actual benefit payable, if the System receives the percentage QILDRO after the member has applied for or commenced receiving retirement benefits, the System will provide a statement including the following information:
- 1) Effective date of retirement;
 - 2) Date retirement benefits commenced (or will commence);
 - 3) Amount of permissive and regular service credit;
 - 4) Actual monthly retirement benefit;
 - 5) Survivor benefit contribution refund;
 - 6) 2.2 upgrade refund; and

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- 7) Lump-sum death benefit amount.
- d) Within 45 days after the effective date of retirement of a member subject to a valid percentage QILDRO on file with the System that designates an alternate payee share of the retirement benefit, and after the System receives all information necessary to determine the actual benefit payable, the System shall provide a statement including the following information:
 - 1) Effective date of retirement ;
 - 2) Date retirement benefits commenced (or will commence);
 - 3) Amount of permissive and regular service credit;
 - 4) Actual monthly retirement benefit;
 - 5) Survivor benefit contribution refund;
 - 6) 2.2 upgrade refund;
 - 7) Lump-sum death benefit amount; and
 - 8) If the QILDRO expresses any alternate payee share amount payable to the alternate payee as a percentage ~~and the System has not received a Calculation Order for that QILDRO~~, the notice will specify that the System must receive a valid corresponding Calculation Order before the System can implement that portion of the QILDRO.
- e) Within 45 days after receiving notice of the death of a member, if lump-sum death benefits are subject to a valid QILDRO on file with the System, the System shall provide a statement indicating the lump-sum death benefit amount.
- f) Information provided by the System for divorce purposes does not include the value of a member's retirement benefit accrued during a school year for which data are not yet on file with the System.
- g) Information provided by the System for divorce purposes does not reflect an actuarial opinion as to the present values of a member's retirement benefit, refund, or other interests.

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- h) Information provided by the System for divorce purposes reflects the member's total service career for which service credit in the System has accrued, does not include reciprocal service accrued with another retirement system, and is not isolated as to the marital period only.
- i) The System does not calculate the amount of a member's retirement benefit or refund that would be payable to a former spouse pursuant to a divorce decree or dissolution judgment.
- j) While the System makes every effort to provide accurate information for divorce purposes, benefit estimates are by their nature approximate and subject to revision due to errors, omissions, erroneous assumptions, or future changes in the rules and laws governing the System.
- k) In accordance with Section 1650.160 of this Part pertaining to the confidentiality of member records, the System does not disclose information for divorce purposes to spouses, former spouses, relatives, or other third parties, including the member's attorney, except in response to the member's written authorization to release such information, in response to a subpoena, or as provided in this Section 1650.1122.

(Source: Amended at 32 Ill. Reg. _____, effective _____)

Section 1650.1125 Lump-Sum Death Benefit Allocation to Alternate Payee

The alternate payee share of any lump-sum death benefit will be satisfied as follows:

- a) First, from any refund of accumulated or excess contributions, prior to any distribution to the designated beneficiaries.
- b) Second, from any survivor benefit payable as a lump sum, prior to any distribution to the designated beneficiaries, subject to the following:
 - 1) All eligible dependent beneficiaries will first elect whether to receive the survivor benefit in monthly payments or in a lump-sum payment.
 - 2) If monthly payments are elected, no amount is payable to the alternate payee from those monthly survivor benefit payments.

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- 3) If any portion of the survivor benefit is payable as a lump sum, the balance of any alternate payee share not paid from the refund of accumulated or excess contributions will be paid from the lump-sum survivor benefit, prior to any distribution to the designated beneficiaries.
- c) If the refund of accumulated or excess contributions and the lump-sum survivor benefit are insufficient to satisfy the alternate payee share, no further amount is payable to the alternate payee.
- d) The aggregate amount distributed to the alternate payee from any refund of accumulated or excess contributions and any lump-sum survivor benefit shall not exceed the alternate payee share.
- e) All benefit overpayments will be deducted from any refund of accumulated or excess contributions and any lump-sum survivor benefit prior to paying the alternate payee share.

(Source: Added at 32 Ill. Reg. _____, effective _____)

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- 1) Heading of the Part: Commercial Driver Training Schools
- 2) Code Citation: 92 Ill. Adm. Code 1060
- 3)

<u>Section Numbers:</u>	<u>Adopted Action:</u>
1060.5	Amendment
1060.20	Amendment
1060.50	Amendment
1060.100	Amendment
1060.120	Amendment
1060.180	Amendment
1060.200	Amendment
- 4) Statutory Authority: 625 ILCS 5/6-401, 625 ILCS 5/6-402, 625 ILCS 5/6-406, 625 ILCS 5/6-409, 625 ILCS 5/6-411 and 625 ILCS 5/6-521
- 5) Effective Date of Amendments: November 16, 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: 31 Ill. Reg. 11509; August 10, 2007
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between proposal and final version: Technical, non-substantive changes were made as suggested by 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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- 15) Summary of Purpose of Amendments: Definitions pertaining to commercial driver training schools; clarification of the prohibition of the possession of Secretary of State questionnaires; additional motorcycle driving school requirements; additional language prohibiting high school driver education teachers/administrators from being driving school owners; posted hour requirements; requirement for driving school instructors to have their wallet licenses in their possession during instruction; clarification of teenage student classroom and behind-the-wheel instruction requirements and correction of the amount of experience required for a teenage accredited instructor; additional restriction on CDL testing of CDL Accredited Driving Schools.
- 16) Information and questions regarding this adopted rulemaking shall be directed to:

Arlene J. Pulley
Office of the Secretary of State
Driver Services Department
2701 South Dirksen Parkway
Springfield, Illinois 62723

217/557-4462

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

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TITLE 92: TRANSPORTATION
CHAPTER II: SECRETARY OF STATEPART 1060
COMMERCIAL DRIVER TRAINING SCHOOLS

Section	
1060.5	Definitions
1060.10	Unlicensed Person May Not Operate Driver Training School
1060.20	Requirements for School Licenses
1060.30	Driver Training School Names
1060.40	Refund of Application Fees
1060.50	School Locations and Facilities
1060.60	Driver Training School Student Instruction Record
1060.70	Driver Training School Course of Instruction
1060.80	Driver Training School Contracts
1060.90	Inspection of School Facilities
1060.100	Licenses
1060.110	Safety Inspection of Driver Training School Motor Vehicles
1060.120	Requirements to Obtain and Retain a Driver Training Instructor's License
1060.130	Examination for Driver Training Instructor
1060.140	Temporary Permit
1060.150	Driver Training School Responsibility for Employees
1060.160	Solicitation of Students and Pupils for Commercial Driver Training Instruction
1060.170	Hearings
1060.180	Teen Accreditation
1060.190	Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License, Teen Accreditation, CDL Accreditation, and Instructor's License
1060.200	Commercial Driver's License and/or Endorsement and/or Accreditation
1060.210	Driver Training School Responsibility for Employees (Recodified)
1060.220	Solicitation of Students and Pupils for Commercial Driver Training Instruction (Recodified)
1060.230	Hearings (Recodified)
1060.240	Teen Accreditation (Recodified)
1060.250	Denial, Cancellation, Suspension, and Revocation of Commercial Driver Training School's License and Instructor's License (Recodified)
1060.260	Commercial Driver's License and/or Endorsement and/or Restriction Accreditation (Recodified)

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AUTHORITY: Implementing Article IV of the Illinois Driver Licensing Law of the Illinois Motor Vehicle Code [625 ILCS 5/Ch. 6, Art. IV] and authorized by Section 2-104(b) of the Illinois Title and Registration Law of the Illinois Vehicle Code [625 ILCS 5/2-104(b)].

SOURCE: Filed March 2, 1972; codified at 6 Ill. Reg. 12697; transferred from 23 Ill. Adm. Code 252.50 (State Board of Education) pursuant to Section 5-80(d) of the Illinois Administrative Procedure Act [5 ILCS 100/5-80(d)] and Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] at 11 Ill. Reg. 1631, effective December 31, 1986; amended at 11 Ill. Reg. 17244, effective October 13, 1987; amended at 12 Ill. Reg. 13203, effective August 1, 1988; amended at 12 Ill. Reg. 19756, effective November 15, 1988; amended at 14 Ill. Reg. 8658, effective May 18, 1990; recodified at 17 Ill. Reg. 20006, effective November 3, 1993; amended at 18 Ill. Reg. 7788, effective May 9, 1994; amended at 20 Ill. Reg. 3861, effective February 14, 1996; amended at 22 Ill. Reg. 22069, effective December 2, 1998; emergency amendment at 24 Ill. Reg. 8403, effective June 2, 2000, for a maximum of 150 days; amended at 24 Ill. Reg. 15443, effective October 5, 2000; amended at 25 Ill. Reg. 6409, effective April 26, 2001; amended at 26 Ill. Reg. 15020, effective October 1, 2002; emergency amendment at 28 Ill. Reg. 398, effective December 22, 2003, for a maximum of 150 days; emergency expired May 19, 2004; amended at 28 Ill. Reg. 11925, effective July 26, 2004; amended at 30 Ill. Reg. 11377, effective June 14, 2006; amended at 31 Ill. Reg. 16008, effective November 16, 2007.

Section 1060.5 Definitions

For purposes of this Part, the following definitions shall apply:

"Administrator" - any individual who is employed by or acts on behalf of a high school who administers a state approved high school driver education program.

"Branch Office" – an office of a Commercial Driver Training School in a distinct location from the main office, but which conducts business under the name and as a part of the school as provided in Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6, Art. IV] and which meets the requirements of Section 1060.50 of this Part.

"Business Day" – any day on which the Office of the Secretary of State Commercial Driver School Division is open; Monday through Saturday, excluding State holidays.

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"Cancellation" – the without prejudice annulment or termination by formal action of the Secretary of a driver training school's license or a driver training school instructor's license because of some error or defect in the license or because the licensee is in some form of violation of any of the requirements in the Illinois Vehicle Code or Illinois Administrative Code, which annulment or termination shall not be subject to renewal or restoration except that an application for a new license shall be presented and acted upon by the Secretary after the licensee demonstrates compliance with the provisions of this Part for which the cancellation was issued.

"CDL Accreditation" – the accreditation of a commercial driver training school by the Department, which allows the school to offer instruction to students who wish to obtain a CDL and/or endorsement.

"CDL Study Guide" – a study guide compiled by the Secretary of State from information contained in the Illinois Vehicle Code [625 ILCS 5] and 49 CFR 383, which is designed to aid drivers in preparing for a CDL examination.

"Commercial Driver's License ~~or "(CDL)"~~" - a ~~driver's~~ license issued by a state ~~or other jurisdiction, in accordance with the standards contained in 49 CFR 383 (2006, no later amendments or editions included), to an individual to a person,~~ which authorizes ~~the individual that person~~ to ~~operate~~ drive a ~~certain~~ class of a commercial motor vehicle, ~~or vehicles.~~ [625 ILCS 5/6-500(3)]

"Commercial Driver Training School" – an entity licensed by the Secretary of State to engage in the business of giving instruction for a fee in the driving of motor vehicles or in the preparation of an applicant for examination given by the Secretary of State for a driver's license or permit.

"Commercial Driver Training Section" – a unit of the Department of Driver Services which oversees the licensing of commercial driving schools and the instructors in commercial driver training schools.

"Commercial Motor Vehicle" – a vehicle as defined in Section 6-500 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-500].

"Department" – Department of Driver Services within the Office of the Secretary of State.

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"Endorsement" – an indication on the driver's license that the driver has qualified to operate certain types and/or combinations of vehicles, and/or carry specified cargo.

"Enhanced Instruction Report" – a report submitted on a form prescribed by the Department showing the name, address, and number of behind-the-wheel instruction periods taken for every student who has had ~~twenty five (25)~~ hours of behind-the-wheel instruction.

"Fraud" – includes anything calculated to deceive, whether it be a single act or combination of circumstances, whether the suppression of truth or the suggestion of what is false, whether it be by direct falsehood or by innuendo, by speech or by silence.

~~"Gross Combination Weight Rating (GCWR)" – the GVWR of the power unit plus the GVWR of the towed unit(s) or the combined registered weight of the power unit plus the towed unit, whichever is greater.~~

~~"Gross Vehicle Weight Rating" or "(GVWR)" – the value specified by the manufacturer or manufacturers as the maximum loaded weight of a single vehicle. The GVWR of a combination of vehicles (commonly referred to as the "Gross Combination Weight Rating" or GCWR) is the GVWR of the power unit plus the GVWR of the towed unit or units. In the absence of a value specified by the manufacturer, GCWR is determined by adding the GVWR of the power unit and the total weight of the towed unit and any load on the unit, the value specified by the manufacturer(s) as the maximum loaded weight of a single vehicle, or the registered gross weight, whichever is greater.~~

"Hazardous Materials" – substance or material in a quantity and form which may pose an unreasonable risk to health and safety or property when transported in commerce (49 ~~U.S.C.A.~~ 1802).

"Instruction Record" – records kept by the instructor to reflect the number of hours a pupil in a Commercial Driver Training School attends behind-the-wheel and classroom instruction as provided in Section 6-418 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-418].

"Main Office" – the primary office of the Commercial Driver Training School which is designed solely for conducting the business of the school as provided in

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Article IV of the Illinois Driver Licensing Law of the Illinois Vehicle Code.

"Misrepresentation" – a false statement of a substantive fact, or any conduct which leads to a belief of a substantive fact material to proper understanding of the matter in hand, made with intent to deceive or mislead.

"Physical Facilities" – the building and items which constitute part of the building, including the telephone and the furniture.

"Questionnaires" - any and all written examinations and/or forms, including but not limited to the "Illinois Driver's License Written Examination Basic and Classification "D"" and "Identification of Signs, Shapes and Colors" forms.

"Restriction" – requirement or condition added to a driver's license which must first be met by the license holder before he/she may legally operate a motor vehicle.

"Revocation" – the termination by formal action of the Secretary of a commercial driver training school's license or a commercial driver training school instructor's license, which termination shall be subject to renewal or restoration identical to the provisions for revocation of a driver's license as provided in Section 1-176 of the Illinois Vehicle Code [625 ILCS 5/1-176].

"Sex and Drug Related Offenses" – offenses of criminal sexual assault [720 ILCS 5/12-13], aggravated criminal sexual assault [720 ILCS 5/12-14], criminal sexual abuse [720 ILCS 5/12-15], aggravated criminal sexual abuse [720 ILCS 5/12-16], juvenile pimping [720 ILCS 5/11-19.1], soliciting for a juvenile prostitute [720 ILCS 5/11-15.1], unauthorized manufacture or delivery of a controlled substance which shall include counterfeit drugs [720 ILCS 570/401], sale, delivery or exchange of instruments used for illegal drug use or abuse [720 ILCS 5/22-51], delivery of a controlled substance which includes counterfeit and look alike substances [720 ILCS 570/407], manufacture or delivery of cannabis [720 ILCS 550/5], delivery of cannabis [720 ILCS 550/7], the production of the cannabis plant [720 ILCS 550/8], illegal possession in a motor vehicle of any controlled substance or any cannabis [625 ILCS 5/6-206(a)(28)], the criminal transmission of HIV [720 ILCS 5/12-16.2], exploitation of a child [720 ILCS 5/11-19.2], controlled substance trafficking [720 ILCS 570/401.17], cannabis trafficking [720 ILCS 550/5.1], delivery of cannabis on school grounds [720 ILCS 550/5.2], calculated criminal cannabis conspiracy [720 ILCS 550/9], calculated criminal

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drug conspiracy [720 ILCS 570/405], and criminal drug conspiracy [720 ILCS 570/405.1].

"Short Review Course" – a course offered by Commercial Driver Training Schools to pupils who have previously held or currently hold a valid driver's license and which does not meet the requirement of 6 hours of classroom instruction and 6 hours behind-the-wheel instruction.

"Surety Bond" – a written obligation whereby another person assumes liability for another's debts or defaults of obligation.

"Suspension" – the procedures for temporary withdrawal of a commercial driver training school's license or commercial driver training school instructor's license identical to the provisions for the suspension of a driver's license as provided in Section 1-204 of the Illinois Vehicle Code [625 ILCS 5/1-204].

"Teen Accreditation" – the accreditation of a Commercial Driver Training School by the Department, which allows the school to offer instruction to pupils under age 18.

(Source: Amended at 31 Ill. Reg. 16008, effective November 16, 2007)

Section 1060.20 Requirements for School Licenses

- a) The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training school license unless:~~The Department shall not issue a driver training school license to any person unless:~~
- 1) The applicant has at least one motor vehicle owned or leased in the name of the driver training school or school owner indicated on the license, and registered by the Secretary of State Vehicle Services Department, that has been safety inspected and insurance certified as required in subsection (e) for use by the school for driver training purposes and driving instruction.
 - 2) The applicant has at least one person who is employed by or associated with the school, and who is licensed or qualified to be licensed by the Department as a driver training instructor for that school.
 - 3) The physical facilities meet the requirements of this Part.

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- 4) The applicant is of good moral character as required pursuant to Section 6-402(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-402(a)]. In making a determination of good moral character, the Department is not limited to, but shall consider, the following:
- A) If the owner has been convicted of a felony:
 - i) The relationship of any crime of which the person has been convicted to the ability to operate a driver training school; or
 - ii) The opinions of the community members concerning the owner; or
 - iii) The length of time that has elapsed since the owner's last criminal conviction.
 - B) If the owner has been indicted, formally charged or otherwise charged with a felony:
 - i) If the owner whose commercial driver training school license has been cancelled under this Part is adjudicated "guilty" by the court systems, the cancellation previously entered on his/her record in accordance with Section 1060.190(b) of this Part shall stand. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the Illinois Vehicle Code.
 - ii) If the owner whose commercial driver training school license has been cancelled under this Part is adjudicated "not guilty" by the court systems, the cancellation previously entered on the license in accordance with Section 1060.190(b) of this Part shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the Illinois Vehicle

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Code.

- iii) If the owner whose commercial driver training school license has been cancelled under this Part is granted a disposition of "court supervision" by the court systems, the cancellation previously entered on the license in accordance with Section 1060.190(b) of this Part shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school license under another Section of this Part or the Illinois Vehicle Code.
- 5E) An individual whose commercial driver training school license has been cancelled pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.
- b) Only one driver training school license shall be issued to any individual, group, association, partnership or corporation, and the Department shall deny the application of any driver training school if any of the applicants are unqualified or are already licensed or have made application for another driver training school license.
 - c) The applicant shall not be a current salaried or contractual employee of the Secretary of State as mandated by the guidelines of the Secretary of State's Office policy manual that states that an employee shall not advocate or promote specific professional or commercial services to the public in matters under the jurisdiction of the Office of the Secretary of State.
 - d) No accreditation program shall remain in operation if properly qualified personnel are not available or if other changes occur that would reduce its qualifications. Exception: in the event of fire, flood or other catastrophe, the school may temporarily continue to operate with facilities that are not up to standards only for the duration of the courses that have been started, if the Director of the Department consents for them to do so. A Secretary of State employee shall determine that no health or safety hazard exists in violation of any local, State or federal ordinance before the Director of the Department shall give his/her consent. No new course can be started until facilities meet the minimum requirements for licensing.

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- e) No driver training school shall operate in the State of Illinois unless it provides and files with the Department a continuous surety bond in the principal sum of \$20,000, underwritten by a company authorized to do business in the State of Illinois, for the protection of the contractual rights of students as provided in Section 6-402(e) of the Illinois Driver Licensing Law of the Illinois Vehicle Code. All bonds filed pursuant to this provision shall be in substantially the following form:

Know All Persons by These Presents, That We, _____, of _____,

hereinafter referred to as Principal and _____, a corporation organized and existing to do business in the State of Illinois, for the use and benefit of all persons who may be damaged by breach of this bond, as Obligees, in the penal sum of Twenty Thousand Dollars (\$20,000), lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, our executors, administrators, successors and assigns, firmly by these presents. The Condition Of This Obligation Is such, That whereas, the principal has made application for a license or permit to the State of Illinois for the purpose of exercising the vocation of a Driver Training School. Now Therefore, if the said Principal shall faithfully comply with the Illinois Vehicle Code, as amended, and all rules and regulations which have been or may hereafter be in force concerning the said License or Permit, and shall save and keep harmless the Obligees from all loss or damage which may be sustained as a result of the issuance of said license or permit to the said Principal, this obligation shall be void; otherwise, to remain in full force and effect. The Bond Will Expire but may be continued by renewal certificate signed by Principal and Surety. The Surety may at any time terminate its liability by giving 30 days written notice to the Commercial Driver Training Section of the Department, 650 Roppolo Drive, Elk Grove Village, Illinois 60007, and the Surety shall not be liable for any default after such 30 day notice period, except for defaults occurring prior thereto.

Signed, Sealed and Dated this _____ day of _____, 20__.

Principal _____

Surety _____

By _____

Attorney-in-fact

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- f) Upon receipt of a properly executed application for a driver training school license, or driver training instructor's license, the Department shall investigate the qualifications of the applicant, and authorized representatives shall inspect the school property and equipment to determine whether the application should be granted or denied.
- g) An owner or manager shall not engage in fraudulent activity as defined in Section 1060.5 of this Part.
- h) An owner or employee of a commercial driver training school shall not have been declared to have engaged in fraudulent activity within the 5 years prior to making application.
- i) Licenses shall be issued by the Department.
- j) An owner shall not have ~~unauthorized~~ possession of ~~application forms or~~ questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations. This includes questionnaires purposely or inadvertently obtained from any Secretary of State employee or any individual acting on behalf of the Secretary of State.
- k) An owner shall not knowingly use unlicensed instructors for the purpose of classroom or behind the wheel instruction.
- l) An owner shall not be currently employed as an administrator and/or teacher of a State-approved high school driver education program.

(Source: Amended at 31 Ill. Reg. 16008, effective November 16, 2007)

Section 1060.50 School Locations and Facilities

- a) Each driver training school must comply with Section 6-409 of the Illinois Vehicle Code [625 ILCS 5/6-409]. In addition, the branch classroom shall be identified as such by a permanent sign which indicates the location of the main office and classroom and which is reasonably visible to the general public from outside the branch classroom.
- b) The established place of business of each driver training school shall comply with

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Section 6-406 of the Illinois Vehicle Code [625 ILCS 5/6-406] and, in addition:

- 1) The main office and each branch office shall have a minimum of 150 square feet of office space;
 - 2) Each school facility must post, in a conspicuous place, on or near the permanent school sign, the days and regular hours when open. A school shall not be deemed open for business unless at least one authorized representative of the school is present; and
 - 3) The main office and each branch office of the driver training school shall have direct access from the outside. Any business may be conducted in the same building providing the business being conducted is legal and that the business has its own entrance.
- c) The established place of business or branch office, branch classroom or advertised address of any driver training school shall comply with all restrictions contained in Section 6-405(b) of the Illinois Vehicle Code [625 ILCS 5/6-405].
- d) Each established main office and branch office facility must maintain a place of business which shall be open to the general public during posted hours on file with the Secretary of State, a minimum of 8 hours per week. The 8 hours must be on Monday through Friday between the hours of 7 a.m. and ~~5 p.m.~~7 p.m.
- e) The classroom facility shall contain the following:
- 1) Sufficient seating facilities and writing surfaces for students;
 - 2) Charts, diagrams, traffic control devices, or pictures relating to the operation of motor vehicles and traffic laws;
 - 3) Blackboards or other forms of illustrative devices which are visible from all seating areas;
 - 4) Textbooks, reference books and pamphlets relating to the proper operation of motor vehicles and traffic laws;
 - 5) Adequate fire extinguishers in operable condition as required pursuant to Section 6-406(c) of the Illinois Drivers Licensing Law of the Illinois

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Vehicle Code.

- f) Each main classroom or branch classroom shall have:
- 1) a minimum of 300 square feet of classroom space and the main classroom shall be within close proximity of the main office facility;
 - 2) installed a heating and ventilating system adequate to maintain a comfortable room temperature for the occupants;
 - 3) installed an adequate lighting system so as to provide sufficient lighting for the occupants.
- g) A driver training school ~~that~~^{which} has an established place of business and a main classroom facility may operate a branch classroom, provided it meets all requirements of the main classroom.
- 1) Upon receipt by the Department of a written request to open a branch classroom or branch office, an authorized representative of the Department shall inspect the branch office or branch classroom, and, if it complies with the provisions of Section 6-406(e) of the Illinois Driver Licensing Law of the Illinois Vehicle Code and this Part, the Department shall issue the appropriate license, which must be displayed in a visibly prominent place in the branch facility.
 - 2) When a branch facility is to be closed, the driver training school shall return the branch facility's license to the Secretary of State in a timely manner.

(Source: Amended at 31 Ill. Reg. 16008, effective November 16, 2007)

Section 1060.100 Licenses

- a) No individual, partnership, group, association or corporation may sell, assign, barter, or trade any driver training school license or driver training instructor license issued by the Secretary of State. No license issued under the Illinois Vehicle Code to any person to operate a driver training school or to an instructor shall be transferable.

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- b) When any licensed driver training school ceases to engage in the business of giving instruction for compensation in the driving of motor vehicles or the business of preparing an applicant for examination given by the Secretary of State for a drivers license or when, upon reasonable investigation, it appears that the school has ceased to do business, the owners, partners, associates, corporate directors, officers or managers of the driver training school shall surrender their driver training school license to the Secretary of State.
- c) Driver training school instructors must have their wallet instructor's license on their person during all classroom and behind the wheel instruction.

(Source: Amended at 31 Ill. Reg. 16008, effective November 16, 2007)

Section 1060.120 Requirements to Obtain and Retain a Driver Training Instructor's License

- a) The Secretary of State shall not issue, or shall deny, cancel, suspend or revoke, a driver training instructor's license:
- 1) To any person who:
 - A) has not held a valid driver's license for any 2 year period preceding the date of application for an instructor's license; ~~or to any person intending~~
 - B) intends to instruct in L and/or M classification, as defined in 92 Ill. Adm. Code 1030.30(b); and, ~~as defined in 92 Ill. Adm. Code 1030.30(b), who~~
 - C) has not held the representative classification for 3 consecutive years immediately prior to the date of application;
 - 2) To any person who has been convicted of 3 or more offenses against traffic regulations governing the movement of traffic within the 2 year period immediately preceding the date of application for an instructor's license;
 - 3) To any person who has had 2 or more convictions of a violation that caused an auto accident within the 2 year period immediately preceding

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the date of application for an instructor's license;

- 4) To any person who has been convicted of driving under the influence of alcohol and/or other drugs, pursuant to Section 11-501 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501], leaving the scene of a fatal accident, pursuant to Section 11-401 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-401], reckless homicide, pursuant to Section 9-3 of the Criminal Code of 1961 [720 ILCS 5/9-3], reckless driving, pursuant to Section 11-503 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-503], or any sex or drug related offense within 10 years prior to date of application;
- 5) To any person who has failed to pass the written, vision, or road test required by the Department for applicants for a driver training instructor's license;
- 6) To any person who is physically unable to safely operate a motor vehicle or to safely instruct or train others in the operation of a motor vehicle as determined by a licensed physician pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)]. An application/medical examination form provided by the Secretary of State shall be completed by the applicant and physician. The physician's medical examination form shall contain the applicant's ability to safely operate a motor vehicle. The form shall also contain an indication of the person's eyesight, hearing, mental alertness, reflexes, and whether the person has normal use of his/her limbs and feet. The physician must also provide his/her address and the date and place of the examination. Those persons who are solely classroom instructors shall comply with subsection (d) of this Section;
- 7) To any person who fails to properly and fully complete an application for a license or otherwise indicates that he/she is unqualified to receive a driver training instructor's license;
- 8) To any person who is not employed or associated with a driver training school licensed by the Department as required pursuant to Section 6-417 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-417];

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- 9) To any person who is currently a salaried or contractual employee of the Secretary of State as mandated by the guidelines of the Secretary of State's Office Policy Manual that states that an employee shall not advocate or promote specific professional or commercial services to the public in matters under the jurisdiction of the Office of the Secretary of State;
- 10) To any person who fails to supply a complete set of fingerprints to the Department as required pursuant to Section 6-411(b) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(b)];
- 11) To any person who is not at least 21 years of age and a resident of the State of Illinois;
- 12) To any person who has failed to comply with the provisions of this Part pursuant to Section 6-411(d) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(d)];
- 13) To any person who is not of good moral character as required pursuant to Section 6-411(a) of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411(a)]. In making a determination of good moral character, the Department is not limited to, but shall consider the following:
 - A) If the instructor has been convicted of a felony:
 - i) The relationship of any crime of which the person has been convicted to the ability to operate a driver training school; or
 - ii) The opinions of the community members concerning the owner; or
 - iii) The length of time that has elapsed since the owner's last criminal conviction.
 - B) If the instructor has been indicted, formally charged or otherwise charged with a felony:
 - i) If the instructor whose commercial driver training school

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instructor license has been cancelled under this Part is adjudicated "guilty" by the court systems, the cancellation previously entered on his/her record in accordance with Section 1060.190(b) of this Part shall stand. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part or the Illinois Vehicle Code.

- ii) If the instructor whose commercial driver training school instructor license has been cancelled under this Part is adjudicated "not guilty" by the court systems, the cancellation previously entered on the license in accordance with Section 1060.190(b) of this Part shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part or the Illinois Vehicle Code.
- iii) If the instructor whose commercial driver training school instructor license has been cancelled under this Part is granted a disposition of "court supervision" by the court systems, the cancellation previously entered on the license in accordance with Section 1060.190(b) of this Part shall be rescinded. This action does not preclude further suspension and/or revocation of the commercial driver training school instructor license under another Section of this Part or the Illinois Vehicle Code.

~~C) An individual whose commercial driver training school instructor license has been cancelled pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001;~~

- 14) To any person whose suspension under Section 11-501.1 of the Illinois Rules of the Road of the Illinois Vehicle Code [625 ILCS 5/11-501.1] has terminated within 10 years prior to date of application;
- 15) To any person who has not completed a 30 hour course or an equivalent college or university course approved by the Director of the Department.

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- A) Any person possessing a current and valid commercial driver training instructor's license, or who is renewing a commercial driver training license issued by the Secretary of State's Office, shall be exempt from this requirement.
- B) A driver training school whose instructor provides training to individuals under the age of 18 years is exempt from this requirement and must complete the mandatory 48 hour course as required in Section 1060.180 of this Part;
- 16) To any person currently licensed by the Secretary of State as a Third Party Certification Program Safety Officer;:-
- 17) To any person who is currently an administrator and/or teacher of a State-approved high school driver education program.
- b) If an applicant indicates that he/she has been convicted of a felony, the applicant shall submit a signed release allowing the Department to obtain any information regarding the applicant's arrest and conviction, thereby enabling the Department to determine the fitness of an applicant to be licensed as an instructor.
- c) No driver training instructor shall provide behind-the-wheel instruction in a vehicle that is classified higher than the classification of the instructor's driver's license. An instructor may hold two classifications; one classification from Classes A, B, C and D, and one classification from Classes L and M, as defined in 92 Ill. Adm. Code 1030.30(b). An instructor holding a Class A commercial driver's license may teach students to drive all Class A, B, C, and D vehicles. An instructor holding a Class B commercial driver's license may teach students to drive all Class B, C, and D vehicles. An instructor holding a Class C commercial driver's license may teach students to drive all Class C and D vehicles. However, an instructor holding a non-commercial driver's license may only teach students who do not require a commercial driver's license. An instructor holding a Class M license may teach students to drive all Class L and M vehicles.
- d) Any person who is physically unable to safely operate a motor vehicle but meets all other requirements to be a driver training instructor shall be able to teach only the classroom portion of the driver training course upon receipt of a doctor's statement indicating the person is physically able to teach in the classroom. The

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person shall also pass the vision test, as provided in 92 Ill. Adm. Code 1030.70, the written test, as provided in 92 Ill. Adm. Code 1030.80, the highway safety sign test, and submit all applicable fees as set out in Section 6-411 of the Illinois Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/6-411] before being issued an instructor's license for classroom instruction only.

- e) All instructors who have ceased to be employed or associated with the designated school on their license must submit a new complete instructor's license application and application fee before being licensed to instruct at another school or in the same school after such cessation.
- f) If a driver training instructor license is not renewed within one year after the previous year's expiration date, the applicant shall be required to take examinations pursuant to Section 1060.130 of this Part.
- g) An instructor shall not engage in fraudulent activity as defined in Section 1060.5 of this Part.
- h) During the course of instruction in either classroom or behind-the-wheel, an instructor shall not engage in activity unrelated to normal driving instruction that puts the student in danger.
- i) An instructor shall not have ~~unauthorized~~ possession of ~~application forms or~~ questionnaires used by the Driver Services Department in conjunction with administering driver's license examinations. This includes questionnaires purposely or inadvertently obtained from any Secretary of State employee or any individual acting on behalf of the Secretary of State.
- j) An individual whose commercial driver training school instructor license has been cancelled pursuant to this Part may request an administrative hearing pursuant to 92 Ill. Adm. Code 1001.

(Source: Amended at 31 Ill. Reg. 16008, effective November 16, 2007)

Section 1060.180 Teen Accreditation

- a) Accreditation of the School – Each commercial driver training school that desires to offer instruction to those under the age of 18 must be accredited by the Secretary of State through the Department of Driver Services before such

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instruction can be offered or advertised.

- 1) Upon receipt of proper application for accreditation, the Secretary of State will investigate the school and verify the application. A Secretary of State employee shall contact the school and make an appointment to visit the school's facilities. At the time of the visit, the Secretary of State employee shall verify that the school meets the standards set forth for commercial driving schools in Section 6-401 of the Illinois Vehicle Code [625 ILCS 5/6-401]. In addition, the school shall meet the standards for commercial driver school teen accreditation that are set forth in Section 1060.180(b) through (f) of this Part. These standards shall be furnished to the school by the Secretary of State before the visit if the school requests them. If all qualifications and standards are met, the school shall be certified to offer instruction to students under the age of 18.
 - 2) The accreditation of each school is renewable upon the expiration date of the school license provided all qualifications and standards are met and provided the school has been in compliance with all rules.
 - 3) Only qualified teaching personnel may teach persons under age 18. Exception: in the event of an emergency situation wherein the only available teacher terminates his or her employment, or must take a leave of absence, while a course remains incomplete, other licensed instructors may take over and complete the course. No new courses may be started before properly qualified teaching personnel are again available. In all such cases the Department must give prior approval. Approval shall not be given until the Department has checked the roster of instructors at the school and determined that no other teacher licensed by the Secretary of State to teach students under 18 is available at the school.
- b) Required Facilities – All teen accredited driver training schools must provide all classroom and vehicle facilities and equipment as prescribed in the driving school laws and regulations as administered by the Secretary of State. Those who desire to provide instruction for persons under the age of 18 must comply with Section 1060.50 of this Part. Schools in operation at the time that this Part becomes effective may continue to use their present classroom facilities as long as they continue to occupy them.
- 1) Required Course of Instruction

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- A) One copy of an outline covering the topics to be taught in the classroom phase of instruction, and 1 copy of an outline of the behind-the-wheel phase of instruction constructed along the lines of the recommended "Illinois Driver Education Curriculum." Said outlines must meet the approval of the Director of the Department.
 - i) Accredited teen driver training schools must follow the approved classroom and behind-the-wheel course outlines that are submitted to the Director of the Department at the time of application for certification. The Department shall determine compliance with this provision by unannounced inspections of teen classes and records. At least one such inspection shall take place every 2 months.
 - ii) If such classroom or behind-the-wheel outlines are substantially changed, revised outlines must be submitted in duplicate to the Director of the Department for approval. A letter shall be sent to the driver training school informing them if their classroom or behind-the-wheel outline has been approved.
 - B) Instructional materials shall be available and shall include one of the following: a 16 mm sound projector and screen, video equipment with films processed on video tape, a film strip or slide projector and films which correspond with the outline described in subsection (b)(2)(A) of this Section.
 - C) A professional library containing an assortment of reference and textbooks, pamphlets and other publications which is available for the use of students or teachers.
- c) Teacher Qualifications
- 1) Classroom Teacher Qualifications – Each teen accredited driver training school must have at least one classroom instructor employed who meets the standards of Section 6-411 of the Illinois Vehicle Code [625 ILCS 5/6-411], pertaining to classroom instructors who teach approved driver education courses to students under 18 years of age.

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- A) A classroom driver training instructor teaching the teen accredited program must comply with Sections 1060.120 and 1060.130 of this Part.
 - B) The instructor must possess good physical and mental health. An application/physical exam form will be provided by the Secretary of State, which must be completed by the instructor and a physician.
 - C) The instructor must qualify under one of the following requirements:
 - i) Be a certified teacher meeting the requirements of 23 Ill. Adm. Code 252.40(b)(3). (Minor – 16 semester hours)
 - ii) Hold a baccalaureate degree, have 1 year of teaching experience in primary, secondary or higher education and complete a 48 hour course approved by the Director of the Department.
 - iii) Complete the 48 hour course or an equivalent college or university course (a course, at least 48 hours in length, designed to provide individuals with the knowledge, methods and procedures specific to conducting driver education instructional courses, that has been approved by the Director of the Department) and provide written documentation verifying they have had 2 months of experience teaching behind-the-wheel to adults.
 - iv) Hold a valid State teaching certificate and complete a 48 hour behind-the-wheel and classroom course approved by the Director of Driver Services.
- 2) Behind-the-wheel Teacher Qualifications – Behind-the-wheel teachers of driving shall be those who have passed an objective type written examination based upon current textbooks and the Motor Vehicle Code; a practical test regarding their ability to drive and to instruct others; and investigation of their moral character and driving record as required in

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Section 6-411(a) through (f) of the Illinois Vehicle Code [625 ILCS 5/6-411(a) through (f)] and supplementary regulations.

- A) A driver training instructor teaching the teen accredited behind-the-wheel program must comply with Sections 1060.120 and 1060.130 of this Part.
 - B) The instructor must possess good physical and mental health. An application/physical exam form will be provided by the Secretary of State which must be completed by the instructor and a physician.
 - C) The instructor must qualify under one of the following requirements:
 - i) Be a certified teacher meeting the requirements of 23 Ill. Adm. Code 252.40(b)(3).
 - ii) Hold a baccalaureate degree and have 26 months of experience in teaching behind-the-wheel to adults.
 - iii) Have 7 years of uninterrupted teaching experience in a commercial driver training school.
 - iv) Be licensed by the Secretary of State, complete the 48 hour course (48 Hour Course – a course, at least 48 hours in length, designed to provide individuals with the knowledge, methods and procedures specific to conducting driver education instructional courses that has been approved by the Department Director) or an equivalent college or university course approved by the Director of Driver Services, and provide written documentation verifying they have had 2 months of experience teaching behind-the-wheel to adults.
 - v) Hold a valid State teaching certificate and complete a 48 hour course approved by the Director of Driver Services.
- 3) Classroom and/or behind-the-wheel driver education teachers are to be

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assigned not more than 12 clock hours of instructional work daily. No teen instruction, classroom or behind-the-wheel can take place between the hours of 10:00 p.m. and 6:00 a.m.

d) Student Qualifications

- 1) A driver training school or driver training instructor licensed by the Secretary of State shall comply with all of the requirements of Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5] prior to requesting a certificate of completion from the Secretary of State.
- 2) A superintendent or chief school administrator may waive the requirements contained within Section 6-408.5 of the Illinois Vehicle Code if he/she deems it to be in the best interests of the student or dropout. The State Board of Education may, at their discretion, by rule or regulation, establish guidelines for the waiver of the requirements of Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5].
- 3) Prior to a driver training school or driver training school instructor requesting a certificate of completion for a student, the driver training school or driver training instructor must verify that the student is enrolled in school and has received a passing grade in at least 8 courses during the 2 semesters. Verification of a student's eligibility to obtain a certificate of completion from the Secretary of State shall be by one of the following methods:
 - A) obtain written documentation on a form prepared or approved by the Secretary of State stating the student has received a passing grade in at least 8 courses during the previous 2 semesters;
 - B) obtain written waiver from a superintendent or school administrator on a form prepared or approved by the Secretary of State;
 - C) obtain written verification on a form prepared or approved by the Secretary of State stating the student is enrolled in a home school;
 - D) obtain copies of the student's report card and/or transcript for the previous 2 semesters indicating a passing grade in at least 8

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courses during the previous 2 semesters.

- 4) Verification of eligibility for any person who has dropped out of school and has not yet attained the age of 18 years shall be by one of the following methods:
 - A) obtain written documentation verifying the dropout's enrollment in GED or an alternative education program or obtain a copy of the dropout's GED certificate;
 - B) obtain written verification that the student prior to dropping out had received a passing grade in at least 8 courses during the 2 previous semesters last ending prior to requesting a certificate of completion; or
 - C) obtain written consent on a form prepared or approved by the Secretary of State from the dropout's parents or guardian and the regional superintendent.
 - 5) Students enrolled in a driver training school shall be informed in writing of the eligibility requirements of Section 6-408.5 of the Illinois Vehicle Code at the time of registration which shall be documented in the student's file.
 - 6) The driver training school and/or driver training school instructor shall maintain a copy and make available for inspection all written documentation required by this Section.
- e) Classroom Instruction – for persons under age 18 years
- ~~1) No classroom instruction shall be provided to any person who is enrolled as a student in any public or non-public secondary school unless the restrictions contained in Section 6-408.5 of the Illinois Vehicle Code [625 ILCS 5/6-408.5] are complied with.~~
 - 1)2) Classroom instruction shall include not less than 30 class hours. Instructional periods are to be no longer than 2 hours daily with meetings distributed regularly throughout the minimum of four complete weeks. The maximum number of students cannot exceed 30 per class for

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classroom instruction unless the size of the classroom exceeds 350 square feet, then a maximum of 35 students shall be allowed.

- ~~2)3)~~ Classroom instruction shall include subject matter relating to the rules of the road, safe driving practices, pedestrian safety, driver responsibility, theory of driving, defensive driving techniques, behavioral characteristics of drivers, auto insurance and financial responsibility, development of perception for driving, emergency situation procedures, the use of automobile safety devices, and the effects of alcohol and/or other drugs on driving.
- ~~3)4)~~ Each classroom course must have a definite starting date and completion date. Late registrations shall not be accepted beyond the third day of the course, at which time the course must be closed to further enrollments.
- ~~4)5)~~ Late registrants and absentees shall be given make-up instruction and assignments. No school shall permit the student to be absent from more than 4 class sessions without requiring the student to re-enroll in a later course and to start over.
- ~~5)6)~~ The teaching facilities must provide adequate, comfortable seating for students. Lighting must be adequate and the maintenance (housekeeping) of the room orderly.
- ~~6)7)~~ A textbook on driver education must be in the possession of each student for the duration of the course, to be used as a regular part of the course content, and consistent with the recommended course outline.
- ~~7)8)~~ Audio-visual materials shall be used as a supplement to the teacher's presentation but not as a replacement. Reference materials are to be available to the students and their use assured by assignments. All assignments are to be made in advance of due dates and should include outside reading as well as preparation for testing.
- ~~8)9)~~ A regular schedule of classroom testing shall be followed. Student progress in acquaintance with information, data, and knowledge is to be periodically evaluated. Criteria for passing or failing the course must be evident to the students and successful completion clearly defined.

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- ~~9)10)~~ Each student shall be informed prior to the time instruction begins of the character and amount of any and all fees or charges made for enrollments or registration, tuition, use of equipment, text and reference materials, supplies, and any service, equipment, or materials provided by the commercial driving school.
- ~~10)11)~~ Instruction for each student in the class shall begin on the date and location designated by advertisement and continue throughout the designated period unless the course is cancelled and the student is refunded any fees already paid.
- ~~11)12)~~ A listing of students enrolled in the classroom shall be sent to the Department of Driver Services Blue Slip Unit within 3 days after the third day of classroom instruction on forms provided by the Secretary of State. A certificate will not be issued to anyone whose name has not been submitted on this form signed by an authorized official of the school.
- f) Laboratory Instruction – for persons under age 18 years
- 1) Laboratory instruction shall not begin until such time as the student is enrolled in a classroom program of driver education and possesses the basic information required for safe operation of a vehicle in traffic. At least 4 hours of classroom instruction must be given before behind-the-wheel lessons are started.
 - 2) Each student must have in his or her possession when engaged in vehicle operation a valid instruction permit issued by the Secretary of State.
 - 3) Not less than two nor more than four students are to occupy the car with an instructor when instruction is in progress. Student driving experiences shall be for periods of not more than 90 minutes for each student per session. The accumulation of 6 hours of practice driving shall be distributed regularly throughout a minimum of two complete weeks. Although observation time in the car may not be counted as practice driving, a minimum of 6 hours is required. The only exception shall be when a parent requests that observers be excluded because the parent has chosen an alternate formula. The alternate formula may substitute 1 additional hour of behind the wheel instruction for 3 hours of observation; or 2 additional hours of behind the wheel instruction for 6 hours of

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observation. If an alternate formula is chosen the student may drive alone with an instructor. The school must maintain on file a parental signature authorizing the student to take an alternate formula for the behind the wheel portion of instruction.

- 4) Each student shall receive a minimum of 6 full hours of behind-the-wheel instruction. There can be no allowance for any absences without actual make-up time spent behind-the-wheel. Satisfactory completion denotes that each student has the competencies to be certified by the school for issuance of a certificate.
 - 5) Lesson time or practice driving time may not be used to call for, deliver or dismiss other students to their homes or pick-up points.
 - 6) Practice driving instruction shall include actual experience in starting, stopping, shifting, turning, backing, parking, steering, and emergency situation procedure in a vehicle equipped according to Section 6-410 of the Illinois Vehicle Code [625 ILCS 5/6-410].
- g) Records
- 1) Records shall be maintained by schools which substantiate daily attendance, lesson time, and periodic evaluation of each student. Also recorded shall be the beginning and ending dates of classroom as well as laboratory instruction. Students are to be identified by their social security numbers as well as by name, address and other personal information. Such records are to be on file in the office of the management for a period of 3 years.
 - 2) A Secretary of State form shall be used for submitting the names of those students who have satisfactorily fulfilled the requirements of the complete course in driver education and who qualify for a certificate. The form shall be signed by an authorized official of the school.

(Source: Amended at 31 Ill. Reg. 16008, effective November 16, 2007)

Section 1060.200 Commercial Driver's License and/or Endorsement and/or Accreditation

- a) Accreditation of the Program – Each commercial driver training school that

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desires to offer instruction to those individuals who wish to obtain a CDL and/or endorsement and/or restriction must be accredited by the Secretary of State through the Department of Driver Services before such instruction can be offered or advertised.

- 1) Upon receipt of proper application for accreditation, the Secretary of State shall investigate the program and verify the information contained in the application. A Secretary of State employee shall contact the applicant and make an appointment to inspect the school's facilities. At the time of inspection, the Secretary of State employee shall verify that the school meets the standards for CDL accreditation set forth in Section 1060.190(b) through (f) in addition to all other applicable Sections within this Part. These standards shall be furnished to the school by the Secretary of State before the visit if the school requests them. If all qualifications and standards are met, the school shall be accredited to offer instruction on how to operate a vehicle with CDL and/or endorsement and/or restriction classification.
 - 2) The accreditation of each school is renewable upon the expiration date of the school license, provided all qualifications and standards are met, provided the school has been in compliance with all rules.
 - 3) Only qualified teaching personnel who already possess a CDL and/or endorsement and/or restriction classification may teach the drive portion of instruction.
- b) Required facilities – All CDL and or endorsement and/or restriction accredited schools must provide all classroom and vehicle facilities and equipment as prescribed in Article IV of the Driver Licensing Law of the Illinois Vehicle Code [625 ILCS 5/Ch. 6, Art. IV] and Section 1060.50 of this Part. Those who desire to provide instruction to persons who wish to obtain a CDL and/or endorsement and/or restriction classified license must additionally provide a vehicle training area, owned or leased by the school, with sufficient space to properly accommodate the number of vehicles the school has in operation and appropriate off-street maneuvers.
- 1) Required course of instruction:
 - A) CDL accredited driving schools must administer driving

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instruction that corresponds to a curriculum that will be provided to the school by the Secretary of State. Each CDL accredited driving school must provide the minimum of 160 hours of instruction in not less than a 4 week period to each student as indicated in the curriculum.

- B) The following curriculum must be offered to each first time CDL student in a minimum of 4 weeks. Each student must receive 160 hours of CDL instruction ~~allocated~~ as outlined in this subsection (b)(1)(B). The training schedule outlined must follow the Illinois Occupational Skill Standards, Entry-Level Truck Driver Manual (March 1999) endorsed for Illinois by the Illinois Occupational Skill Standards and Credentialing Counsel. This Manual is available from the Secretary of State Driver Facility, 650 Roppolo Drive, Elk Grove Village IL 60007. follows:
- i) Classroom. 40 hours of classroom instruction; this includes, but is not limited to, preparation for the Secretary of State's written examinations and all chapters of this curriculum.
 - ii) Range. 16 hours of training yard behind-the-wheel instruction. This requires one on one instruction with a properly licensed CDL instructor and vehicle on an approved training lot.
 - iii) Over the Road. 16 hours of behind-the-wheel instruction on public streets and highways. This requires one on one instruction with a properly licensed CDL instructor and vehicle.
 - iv) Observation. 10 hours of observation experience composed of observation of the practice range and over-the-road training.
 - v) Remedial Training. 78 hours of additional classroom training, observation, and practice range/over-the-road training based on each CDL student's specific needs.

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~~The training schedule outlined above must follow the Illinois Occupational Skill Standards, Entry Level Truck Driver Manual (March 1999) endorsed for Illinois by the Illinois Occupational Skill Standards and Credentialing Counsel. This Manual is available from the Secretary of State Driver Facility, 650 Roppolo Drive, Elk Grove Village IL 60007.~~

- C) Instructional materials shall be available and shall include at least one of the following: a 16 mm sound projector and screen, video equipment with films processed on video tape, a film or films.
- D) A professional library containing an assortment of reference and textbooks, pamphlets, and other publications, including but not limited to the CDL Study Guide, that are available for the use of students and teachers.
- E) A brush-up course of instruction may be offered to individuals who currently hold or have held a CDL issued under the requirements of 49 CFR 383 (20062005). The school must maintain records that verify students qualify for a brush-up course. This course may be offered on an hourly basis. No brush-up course may be offered to any individual who has never held a CDL or its equivalent.
- F) Classroom instruction – CDL and/or endorsement and/or restriction classification instruction.
- i) Each classroom course must have a definite starting date and completion date. A listing of students enrolled in each course shall be sent to the Secretary of State, within 3 days after the third day of classroom instruction, on forms provided by the Secretary of State.
- ii) Classroom instruction shall include subject matter relating to the rules of the road as contained in the CDL Study Guide, safe driving practices, pedestrian safety, defensive driving techniques, behavioral characteristics of drivers, federal regulations relating to the Department of Transportation and CDL standards (49 CFR 383 (2006), as incorporated in Section 1060.5 (Commercial Driver's

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- [License](#))), vehicle insurance, the use of safety devices, and the effects of alcohol and drugs on driving.
- iii) Practice driving instruction must comply with the curriculum provided by the Office of the Secretary of State.
 - iv) Audio-visual materials shall be used as a supplement to the teacher's presentation, but not as a replacement. Reference materials are to be available to the students and their use assured by assignments. All assignments are to be made in advance of due dates and shall include outside reading as well as preparation for testing.
 - v) A regular schedule of classroom testing shall be followed. Student progress is to be periodically evaluated. Criteria for passing or failing the course shall be evident to the student, and successful completion clearly defined.
 - vi) Each student shall be informed, prior to the time instruction begins, of the amount of any and all fees or charges made for enrollment or registration, tuition, use of equipment, or materials provided by the CDL and/or endorsement and/or restriction accredited driver training program.
 - vii) Instruction of each student in the class shall begin on the date and location designated by advertisement and continue throughout the designed period, unless the course is cancelled and the student is refunded any fees already paid.
- G) Laboratory Instruction – For persons taking instruction for CDL and/or endorsement and/or restriction classification.
- i) Behind-the-wheel instruction shall not begin until such time as the student is enrolled in a classroom program of CDL and/or endorsement and/or restriction classification driver training and obtains the required knowledge for the safe operation of a vehicle in traffic as provided in 49 CFR 383.110-121 [\(2006\)](#).

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- ii) Each student must have in his/her possession when engaged in vehicle operation a valid and properly classified instruction permit issued by the Secretary of State, unless previously licensed in a classification representative of the vehicle he/she intends to drive.
 - iii) Practice driving instruction shall include but not be limited to pre-trip inspection, actual experience in starting, stopping, shifting, turning, backing, docking, parking, steering, and emergency situation procedures.
 - iv) CDL skills testing for "~~A~~"-classification A must be given in a representative power unit with a multi-range transmission with no fewer than 9 forward gears and a representative trailer at least 48 feet long with a tandem axle.
- 2) Student ratio per course
- A) The total number of students enrolled in each CDL accredited course in any 30 day period shall not exceed 5 students per each currently licensed instructor.
 - B) The total number of students enrolled in each CDL accredited course in any 30 day period shall not exceed 6 students for each currently registered CDL vehicle.
- c) Classroom teacher qualifications
- 1) Each CDL and/or endorsement and/or restriction accredited driver training school must have at least one classroom instructor employed by the school who meets the standards of Section 6-411 of the Illinois Vehicle Code [625 ILCS 5/6-411].
 - 2) Required classroom teacher qualifications:
 - A) A driver training instructor teaching the classroom portion of a CDL and/or endorsement and/or restriction accredited course must comply with Sections 1060.120 and 1060.130 of this Part.

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- B) The instructor must possess good physical and mental health as determined by a physician. An application/physical examination form shall be provided by the Secretary of State which shall be completed by the instructor and a physician.
 - C) A classroom instructor must pass an objective type instructor written examination based upon the Illinois Vehicle Code, commercial school rules and regulations, and the Commercial Motor Vehicle Safety Act of 1986 (49 USC 2704). The written examination shall consist of 125 questions (90 multiple choice and 35 true/false) and the instructor must correctly answer 106 questions to pass.
- d) CDL and/or endorsement and/or restriction behind-the-wheel teacher qualifications
- 1) Each CDL and/or endorsement and/or restriction accredited driver training school must have at least one behind-the-wheel instructor employed by the school who meets the standards of Section 6-411 of the Illinois Vehicle Code [625 ILCS 5/6-411].
 - 2) Required behind-the-wheel teacher qualifications:
 - A) A driver training instructor teaching the behind-the-wheel portion of a CDL and/or endorsement and/or restriction accredited course must comply with the provisions of Sections 1060.120 and 1060.130 of this Part and be licensed in a classification representative of the vehicle in which they intend to teach for at least 3 consecutive years immediately prior to application (a 1 month lapse in renewal will not negate the 3 consecutive years requirement).
 - B) The instructor must possess good physical and mental health as determined by a physician. An application/physical examination form, provided by the Secretary of State, shall be completed by the instructor and a physician.
 - C) The instructor shall give instruction only in the classification and/or endorsement and/or restriction in which he/she is licensed.

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- D) A behind-the-wheel instructor must pass an objective type instructor written examination based upon the Illinois Vehicle Code, commercial school rules and regulations, and the Commercial Motor Vehicle Safety Act of 1986 (49 USC 2704) as provided for in subsection (c)(1)(C) of this Section. In addition, a behind-the-wheel instructor must pass a practical test regarding his/her ability to drive a vehicle of CDL and/or endorsement and/or restriction classification (92 Ill. Adm. Code 1030.85).
- e) Student Instruction Records
- 1) Records shall be maintained by schools that document daily attendance, lesson time, and periodic evaluation of each student. Also recorded shall be the dates of classroom instruction, behind-the-wheel instruction and observation time. Students are to be identified by their social security numbers as well as by name, address, and other personal information. A driver license number also must be entered on the student record. Such records are to be on file in the office of the management for a period of 3 years.
 - 2) The driver school with a CDL and/or endorsement and/or restriction accreditation must meet all requirements of Section 1060.60 of this Part.
 - 3) The school and each student must maintain separate but identical logs of the student's behind-the-wheel instruction and observation time. The logs must include the dates of instruction, type of instruction, student/instructor signatures and odometer readings of the vehicles used for instruction.
 - 4) A Secretary of State form shall be used for submitting names of those students who have satisfactorily fulfilled the CDL accreditation course. The form shall be signed by an authorized official of the school.
- f) The Secretary of State shall suspend or revoke, cancel or deny the license and/or accreditation of any driver training school or driver training instructor if the school or instructor fails to comply with the provisions of this Part or 49 CFR 383 (2006).

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- g) The Secretary of State may reduce the amount of scheduled skills testing for CDL Accredited schools that have a student failure rate of 45% or greater in the preceding 2 calendar months.

(Source: Amended at 31 Ill. Reg. 16008, effective November 16, 2007)

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NOTICE OF EMERGENCY AMENDMENTS

- 1) Heading of the Part: Pharmacy Practice Act of 1987
- 2) Code Citation: 68 Ill. Adm. Code 1330
- 3)

<u>Section Numbers</u> :	<u>Emergency Action</u> :
1330.10	Amendment
1330.35	New Section
1330.40	Amendment
1330.55	Amendment
1330.60	Amendment
1330.90	Amendment
1330.96	Amendment
1330.100	Amendment
1330.130	Amendment
- 4) Statutory Authority: Pharmacy Practice Act [225 ILCS 87]
- 5) Effective Date of Amendments: November 19, 2007
- 6) If these emergency amendments are to expire before the end of the 150-day period, please specify the date on which they will expire: The Department has not set a date for the emergency to expire before the end of the 150-day period.
- 7) Date Filed in Index Department: November 19, 2007
- 8) A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Public Act 95-689, signed into law October 29, 2007, reauthorized the Pharmacy Practice Act; among its changes was a provision for licensure and application fees by administrative rule, along with the removal of those fees from the Act. Many other changes in this Part will be necessary as a result of PA 95-689, but removal of the fees from the Act requires the Department to file this fee section as an emergency due to the immediate effective date of the bill.
- 10) A Complete Description of the Subjects and Issues Involved: Section 1330.35 is added, moving the fees that had been in the Pharmacy Practice Act into this Part. Various other sections are amended to change fee references from Section 27 of the Act to Section 1330.35.

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- 11) Are there any proposed amendments pending on this Part? No
- 12) Statement of Statewide Policy Objectives: This rulemaking has no impact on local government.
- 13) Information and questions regarding this emergency amendment shall be directed to:

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

217/785-0813
Fax #: 217/557-4451

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

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENTS

TITLE 68: PROFESSIONS AND OCCUPATIONS

CHAPTER VII: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
SUBCHAPTER b: PROFESSIONS AND OCCUPATIONS

PART 1330

PHARMACY PRACTICE ACT OF 1987

Section

1330.5	Definitions
1330.10	Application for Certificate of Registration as a Pharmacy Technician
<u>EMERGENCY</u>	
1330.20	Approval of Pharmacy Programs
1330.30	Graduates of Programs Not Approved Pursuant to the Provisions of Section 1330.20
<u>1330.35</u>	<u>Fees</u>
<u>EMERGENCY</u>	
1330.40	Application for Examination
<u>EMERGENCY</u>	
1330.50	Examination for Licensure
1330.55	Application for Licensure on the Basis of Examination
<u>EMERGENCY</u>	
1330.60	Endorsement
<u>EMERGENCY</u>	
1330.65	Patient Counseling
1330.70	Definitions (Renumbered)
1330.75	Security Requirements
1330.76	Reporting Theft or Loss of Controlled Substances
1330.80	Violations
1330.90	Divisions of Pharmacy Licenses
<u>EMERGENCY</u>	
1330.91	Division I Pharmacies
1330.92	Division II Pharmacies
1330.93	Division III Pharmacies
1330.94	Division IV Pharmacies
1330.95	Division V Pharmacies
1330.96	Nonresident Pharmacies
<u>EMERGENCY</u>	
1330.97	Division VI Pharmacies
1330.98	Automated Dispensing and Storage Systems

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- 1330.99 Parenteral Product Standards
1330.100 Application for a Pharmacy License
EMERGENCY
1330.110 Granting Variances
1330.120 Renewals
1330.130 Restoration
EMERGENCY
1330.140 Continuing Education

AUTHORITY: Implementing the Pharmacy Practice Act of 1987 [225 ILCS 85] and authorized by Section 2105-15 of the Civil Administrative Code of Illinois [20 ILCS 2105/2105-15].

SOURCE: Rules and Regulations Promulgated for the Administration of the Illinois Pharmacy Practice Act, effective August 20, 1975; amended March 8, 1977; amended at 4 Ill. Reg. 1234, effective July 11, 1980; amended at 5 Ill. Reg. 2997, effective March 11, 1981; codified at 5 Ill. Reg. 11049; emergency amendment at 6 Ill. Reg. 916, effective January 6, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 7448, effective June 15, 1982; amended at 7 Ill. Reg. 6496, effective June 30, 1983; amended at 9 Ill. Reg. 16918, effective October 23, 1985; amended at 10 Ill. Reg. 21913, effective December 17, 1986; transferred from Chapter I, 68 Ill. Adm. Code 330 (Department of Registration and Education) to Chapter VII, 68 Ill. Adm. Code 1330 (Department of Professional Regulation) pursuant to P.A. 85-225, effective January 1, 1988, at 12 Ill. Reg. 2957; amended at 12 Ill. Reg. 17394, effective October 14, 1988; amended at 16 Ill. Reg. 19811, effective December 7, 1992; amended at 21 Ill. Reg. 12600, effective August 29, 1997; amended at 22 Ill. Reg. 21959, effective December 1, 1998; amended at 23 Ill. Reg. 14131, effective November 18, 1999; amended at 24 Ill. Reg. 8548, effective June 9, 2000; amended at 26 Ill. Reg. 18338, effective December 13, 2002; amended at 27 Ill. Reg. 19389, effective December 11, 2003; emergency amendment at 29 Ill. Reg. 5586, effective April 1, 2005, for a maximum of 150 days; amended at 29 Ill. Reg. 13639, effective August 25, 2005; amended at 30 Ill. Reg. 14267, effective August 21, 2006; amended at 30 Ill. Reg. 16930, effective October 12, 2006; emergency amendment at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days.

Section 1330.10 Application for Certificate of Registration as a Pharmacy TechnicianEMERGENCY

- a) An applicant for a certificate of registration as a pharmacy technician shall file an application on forms supplied by the Division together with:
- 1) A copy of high school diploma or its equivalent, or proof of current

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enrollment in a high school program; and

- 2) The fee required by Section 1330.35 of this Part~~the Pharmacy Practice Act of 1987 (the Act) [255 ILCS 85]~~ pursuant to ~~Section 27(A)(1)~~.
- b) Pursuant to Section 9 of the Act, an applicant may assist a registered pharmacist for 60 days upon submission of an application to the Division in accordance with subsection (a).

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days)

Section 1330.35 Fees
EMERGENCY

The following fees are not refundable.

- a) Certificate of pharmacy technician.
 - 1) The fee for application for a certificate of registration as a pharmacy technician is \$40.
 - 2) The fee for the renewal of a certificate of registration as a pharmacy technician shall be calculated at the rate of \$25 per year.
- b) License as a pharmacist.
 - 1) The fee for application for a license is \$75.
 - 2) In addition, applicants for any examination as a registered pharmacist shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the applicant's application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.

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- 3) The fee for a license as a registered pharmacist registered or licensed under the laws of another state or territory of the United States is \$200.
 - 4) The fee for the renewal of a license shall be calculated at the rate of \$75 per year.
 - 5) The fee for the restoration of a license other than from inactive status is \$20 plus all lapsed renewal fees.
 - 6) Applicants for the preliminary diagnostic examination shall be required to pay, either to the Department or to the designated testing service, a fee covering the cost of determining an applicant's eligibility and providing the examination. Failure to appear for the examination on the scheduled date, at the time and place specified, after the application for examination has been received and acknowledged by the Department or the designated testing service, shall result in the forfeiture of the examination fee.
 - 7) The fee to have the scoring of an examination authorized by the Department reviewed and verified is \$20 plus any fee charged by the applicable testing service.
- c) License as a pharmacy.
- 1) The fee for application for a license for a pharmacy under this Act is \$100.
 - 2) The fee for the renewal of a license for a pharmacy under this Act shall be calculated at the rate of \$100 per year.
 - 3) The fee for the change of a pharmacist-in-charge is \$25.
- d) General Fees.
- 1) The fee for the issuance of a duplicate license, for the issuance of a replacement license for a license that has been lost or destroyed or for the issuance of a license with a change of name or address other than during the renewal period is \$20. No fee is required for name and address changes on Department records when no duplicate certification is issued.
 - 2) The fee for a certification of a registrant's record for any purpose is \$20.

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- 3) The fee to have the scoring of an examination administered by the Department reviewed and verified is \$20.
- 4) The fee for a wall certificate showing licensure or registration shall be the actual cost of producing the certificate.
- 5) The fee for a roster of persons registered as pharmacists or registered pharmacies in this State shall be the actual cost of producing the roster.
- 6) The fee for pharmacy licensing, disciplinary or investigative records obtained pursuant to a subpoena is \$1 per page.

(Source: Added by emergency rulemaking at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days)

Section 1330.40 Application for Examination**EMERGENCY**

- a) An applicant for examination shall apply on forms approved by the Division, at least 30 days prior to an examination date. The application shall include:
 - 1) One of the following:
 - A) Certification of graduation from a first professional degree program in pharmacy totalling at least 5 academic years. The program must be approved by the Division upon recommendation of the Board of Pharmacy pursuant to the provisions of Section 1330.20; or
 - B) Certification, in the case of an applicant applying in the last half-year of the curriculum from the dean of an approved pharmacy program indicating the applicant is expected to graduate. It is the responsibility of the individual school to notify the Division of all the students who do not graduate; or
 - C) Proof of compliance with Section 1330.30 of this Part if the applicant is a graduate of a program not approved pursuant to the provisions of Section 1330.20 of this Part.

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- 2) The fee as required by Section ~~1330.3527(B)(2) of the Act.~~
- b) An applicant whose application is complete shall be scheduled for the next available examination.
- c) If the applicant has successfully completed the Theoretical and Applied Pharmaceutical Sciences examination and/or the Federal Law examination recognized by the Division in another jurisdiction, the applicant may have examination scores submitted to the Division from the reporting entity.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days)

Section 1330.55 Application for Licensure on the Basis of Examination**EMERGENCY**

- a) An applicant for licensure on the basis of examination shall submit to the Division a properly completed application on forms provided by the Division along with the following:
 - 1) The fee required by Section ~~1330.3527(B)(1) of the Act;~~
 - 2) Certification of graduation from an approved program of pharmacy as set forth in Section 1330.20; and
 - 3) Proof of successful completion of the examination approved by the Division specified in Section 1330.50 of this Part.
- b) Upon receipt of the items required in subsection (a) of this Section, and upon the verification by the Division that the candidate meets all of the requirements for licensure as a Registered Pharmacist, the Division shall issue a license to practice pharmacy or notify the applicant of the reason for denial.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days)

Section 1330.60 Endorsement**EMERGENCY**

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- a) An applicant who is currently licensed by examination under the laws of another U.S. jurisdiction or another country shall file an application with the Division, together with:
- 1) Certification of graduation from a 5 year pharmacy program approved pursuant to Section 6 of the Act and Section 1330.20 of this Part;
 - 2) For individuals licensed in another state prior to January 1, 1983, proof of having completed the hours of apprenticeship; or, if at least 1500 hours of apprenticeship were not required, an affidavit attesting to the period of the applicant's active experience as a pharmacist;
 - 3) A certification by the state or territory of original licensure, stating:
 - A) The time during which the applicant was licensed in that state;
 - B) Whether the file on the applicant contains any record of any disciplinary actions taken or pending;
 - C) A brief description of the examination and the applicant's grades; and
 - 4) Proof of successful passage of the Illinois multi-state jurisprudence examination; and
 - 5) The fee as required by Section ~~1330.3525 of the Act.~~
- b) The Division and the Board shall examine each application to determine whether the requirements, at the time of licensure in the state where the applicant was licensed by examination, were substantially equivalent to the requirements then in force in this State.
- c) If the requirements are found to be substantially equivalent and the applicant graduated from an approved college of pharmacy and meets all other requirements of Section 6 of the Act, the Division will notify the applicant of approval and/or denial and the reasons for the approval or denial within 30 days after receipt of the application and supporting documentation.

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(Source: Amended by emergency rulemaking at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days)

Section 1330.90 Divisions of Pharmacy Licenses**EMERGENCY**

- a) Each individual, partnership, corporation or any other applicant for a pharmacy license shall indicate, on forms supplied by the Division, the division designations for which a license is being requested.
- b) The Board shall have the authority to review and make recommendations to the Director regarding the appropriate division designation of an applicant.
- c) A pharmacy, whose scope of services requires it to be placed in more than one division designation, shall be issued one pharmacy license for each division designated and shall be charged the appropriate fee, as set forth in Section 1330.3527(C) of the Act, for each division license issued.
- d) A pharmacy shall designate a different pharmacist-in-charge for each division as established by Section 15 of the Act and shall comply with the designated division requirements of this Part.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days)

Section 1330.96 Nonresident Pharmacies**EMERGENCY**

- a) The Board shall require and provide for an annual nonresident special pharmacy registration for all pharmacies located outside of this State that dispense medications for Illinois residents and mail, ship or deliver prescription medications into this State. Nonresident special pharmacy registration shall be granted by the Board upon the disclosure and certification by a pharmacy:
 - 1) That it is licensed in the state in which the dispensing facility is located and from which the drugs are dispensed;
 - 2) Of the location, names and titles of all principal corporate officers and all pharmacists who are dispensing drugs to residents of this State;

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- 3) That it complies with all lawful directions and requests for information from the board of pharmacy of each state in which it is licensed or registered, except that it shall respond directly to all communications from the Board concerning emergency circumstances arising from the dispensing of drugs to residents of this State;
 - 4) That it maintains its records of drugs dispensed to residents of this State so that the records are readily retrievable from the records of other drugs dispensed;
 - 5) That it cooperates with the Board in providing information to the board of pharmacy of the state in which it is licensed concerning matters related to the dispensing of drugs to residents of this State; and
 - 6) That during its regular hours of operation, but not less than 6 days per week, for a minimum of 40 hours per week, a toll-free telephone service is provided to facilitate communication between patients in this State and a pharmacist at the pharmacy who has access to the patients' records. The toll-free number must be disclosed on the label affixed to each container of drugs dispensed to residents of this State.
- b) To obtain nonresident special pharmacy registration in Illinois, an applicant shall file an application with the Division, on forms provided by the Division, that includes:
- 1) Disclosure and certification of information required in subsections (a)(1) through (6); and
 - 2) The required fee pursuant to Section ~~1330.3527(C)(1) of the Act.~~
- c) Nonresident special pharmacy registration shall expire on March 31 of each even numbered year and may be renewed during the 60 days preceding the expiration date by paying the fee required by Section ~~1330.3527(C)(2) of the Act.~~

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days)

Section 1330.100 Application for a Pharmacy License

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- a) Establishing, Relocating or Changing Ownership
 - 1) Any person who desires to establish, relocate or change the ownership of a pharmacy shall file an application on forms supplied by the Division, together with the fee required by Section ~~1330.3527(C)(1) of the Act~~ and specify the applicable division as defined in Section 1330.05.
 - 2) Upon determination that the application is in good order, an inspection of the premises will be conducted to determine compliance with Section 14 of the Act. An application shall be in good order when it is signed, notarized and the license of the pharmacist-in-charge has been verified to be in good standing with the Division and that he/she is not a pharmacist-in-charge at another pharmacy.
 - 3) Upon recommendation of the Drug Compliance Coordinator, the Board may request the owner of the pharmacy and the pharmacist-in-charge to appear for an interview with the Board.
 - 4) No pharmacy license shall be issued unless the pharmacy meets the requirements of Section 14 of the Act and the requirements for each applicable division as set forth in Sections 1330.91, 1330.92, 1330.93, 1330.94 and/or 1330.95.
 - 5) No pharmacy license shall be issued if outdated drugs are in stock.
- b) For a change of name of pharmacist-in-charge only, the owner shall be required to file an application on forms supplied by the Department, together with the required fee and submit the present license. The Department shall evaluate the application and, if satisfactory, issue a new license.
- c) Within 30 days after issuance of a pharmacy license, the pharmacy for which the licensure was requested shall be open to the public for pharmaceutical services.

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days)

Section 1330.130 Restoration

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EMERGENCY

- a) A registrant seeking restoration of a certificate of registration that has expired for 5 years or less shall have the license restored upon payment of all lapsed renewal fees required by Section ~~1330.3527 of the Act~~ and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.140 of this Part.
- b) A registrant seeking restoration of a certificate of registration that has been placed on inactive status for 5 years or less shall have the license restored upon payment of the current renewal fee and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.140 of this Part.
- c) A registrant seeking restoration of a certificate of registration after it has expired or been placed on inactive status for more than 5 years shall file an application, on forms supplied by the Division, together with the fee required by Section ~~1330.3527 of the Act~~ and proof of 30 hours of continuing education (e.g., certificate of attendance or completion) in accordance with Section 1330.140 of this Part. The registrant shall also submit either:
 - 1) Certification of active practice in another jurisdiction. Evidence shall include a statement from the appropriate board or licensing authority in the other jurisdiction that the registrant was authorized to practice during the term of active practice;
 - 2) An affidavit attesting to military service as specified in Section 12 of the Act. The applicant restoring a license shall be excused from the payment of any lapsed fee or any restoration fees.
 - 3) A registrant who is unable to submit proof of satisfaction of either subsection (c)(1) or (2) shall submit proof of completion of:
 - A) 15 clock hours of refresher courses or continuing education for each year the license was expired; or
 - B) Up to 400 hours of clinical practice under the supervision of a pharmacist.

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

NOTICE OF EMERGENCY AMENDMENTS

The course work or clinical training described in subsections (c)(3)(A) and (B) shall have the prior approval of the Board.

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

(Source: Amended by emergency rulemaking at 31 Ill. Reg. 16045, effective November 19, 2007, for a maximum of 150 days)

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF RECOMMENDATION
TO PROPOSED RULEMAKING

DEPARTMENT OF AGRICULTURE

Heading of the Part: Halal Food Disclosure

Code Citation: 8 Ill. Adm. Code 190

<u>Section Numbers:</u>	190.10	190.60	190.APPENDIX A
	190.20	190.70	190.APPENDIX B
	190.30	190.80	190.APPENDIX C
	190.40	190.90	190.APPENDIX D
	190.50	190.100	190.APPENDIX E

Date Originally Published in the Illinois Register: 2/2/07
31 Ill. Reg. 2053

At its meeting on November 13, 2007, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended that the Department of Agriculture initiate rulemaking to implement Public Acts in a more timely manner. This rulemaking was proposed in February 2007, more than 5 years after the effective date of the Public Act requiring the rules (PA 92-394).

The agency should respond to this Recommendation in writing within 90 days after receipt of this Statement. Failure to respond will constitute refusal to accede to the Committee's Recommendation. The agency's response will be placed on the JCAR agenda for further consideration.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

OBJECTION, RECOMMENDATION AND SUSPENSION OF EMERGENCY RULES

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

Heading of the Part: Medical Assistance Programs

Code Citation: 89 Ill. Adm. Code 120

Section Numbers: 120.32 120.33

At its meeting on 11/13/07, the Joint Committee on Administrative Rules voted to object to and suspend the Department of Healthcare and Family Services' emergency rule titled Medical Assistance Programs (89 Ill. Adm. Code 120), which became effective 11/7/07, because, contrary to Section 5-45 of the Illinois Administrative Procedure Act, no emergency situation existed that warranted adoption of this entire emergency rule. The agency is maintaining that the loss of the federal SCHIP waiver warrants the adoption of an emergency rule to continue coverage of adults served under that waiver. However, this emergency rule is not limited to that issue. It contains other provisions that this Committee does not recognize as an emergency situation. JCAR recommends that the Department adopt a rule that addresses the loss of the SCHIP waiver. The Committee finds that inclusion of policy within this emergency rule that does not address a valid emergency is not in the public interest.

Under Section 5-125(b) of the Illinois Administrative Procedure Act, the suspended emergency rule may not be enforced by the Department of Healthcare and Family Services for any reason, nor may the Department file with the Secretary of State any rule having substantially the same purpose and effect as the suspended rule for at least 180 days following receipt of this certification and statement by the Secretary of State.

JOINT COMMITTEE ON ADMINISTRATIVE RULES
ILLINOIS GENERAL ASSEMBLY

STATEMENT OF OBJECTION TO
PEREMPTORY RULEMAKING

DEPARTMENT OF HUMAN SERVICES

Heading of the Part: Food Stamps

Code Citation: 89 Ill. Adm. Code 121

Section Numbers: 121.63(f)(2) 121.63(f)(5) 121.63(h)

Date Originally Published in the Illinois Register: 10/12/07
31 Ill. Reg. 14372

At its meeting on November 13, 2007, the Joint Committee on Administrative Rules objected to the Department of Human Services' removing dates of incorporation by reference from Section 121.63(f)(2), (f)(5) and (h) in its rule titled Food Stamps (89 Ill. Adm. Code 121; 31 Ill. Reg. 14372). Removing the dates from incorporations by reference of USDA regulations contravenes Section 5-75 of the Illinois Administrative Procedure Act.

Failure of the agency to respond within 90 days after receipt of the Statement of Objection shall be deemed a refusal. The agency's response will be placed on the JCAR agenda for further consideration.

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 November 13, 2007 through November 19, 2007 and have been scheduled for review by the Committee at its December 11, 2007 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

<u>Second Notice Expires</u>	<u>Agency and Rule</u>	<u>Start Of First Notice</u>	<u>JCAR Meeting</u>
12/28/07	<u>Department of Financial and Professional Regulation, Illinois Athletic Trainers Practice Act (68 Ill. Adm. Code 1160)</u>	8/10/07 31 Ill. Reg. 11388	12/11/07
12/29/07	<u>State Fire Marshal, Fire Equipment Distributor and Employee Standards (Repealer) (41 Ill. Adm. Code 250)</u>	9/21/07 31 Ill. Reg. 13272	12/11/07
12/30/07	<u>Department of Human Services, Early Intervention Program (89 Ill. Adm. Code 500)</u>	8/10/07 31 Ill. Reg. 11408	12/11/07
1/2/08	<u>Illinois Student Assistance Commission, Veterans' Home Nurse Loan Repayment Program (23 Ill. Adm. Code 2757)</u>	9/28/07 31 Ill. Reg. 13446	12/11/07

PROCLAMATIONS

2007-394**SPECIAL SESSION PROCLAMATION**

- WHEREAS, the Regional Transportation Authority (RTA) is the financial oversight and regional planning body for the three public transit operators in northeastern Illinois: the Chicago Transit Authority (CTA), Metra commuter rail, and Pace suburban bus; and
- WHEREAS, the RTA is an important public asset that, according to the RTA, generates an annual economic impact of more than \$12 billion to the State of Illinois; and
- WHEREAS, approximately two million riders per day use the CTA, Metra commuter rail, or Pace suburban bus; and
- WHEREAS, strengthening Illinois' transit system will enhance residents' quality of life by reducing pollution as well as traffic congestion; and
- WHEREAS, according to the CTA, revenues to support transit are not keeping up with increased maintenance, repair and transit costs potentially necessitating additional state funding; and
- WHEREAS, the CTA asserts that without additional funding by January 20, 2008, it is prepared to raise cash fares as high as \$3.25 for rail passengers who pay cash, cut 81 bus routes, and layoff 2,400 employees; and
- WHEREAS, Metra officials have warned riders to expect fares to increase up to 30 % if additional funding is not received by the State of Illinois; and
- WHEREAS, according to the RTA, without additional funding, Metra will face a \$40 million deficit in 2008; and
- WHEREAS, the Legislature has been unable to reach a funding solution that is acceptable to its membership;

THEREFORE, pursuant to Article IV, Section 5 (b) of the Illinois Constitution of 1970, I hereby call and convene the 95th General Assembly, in duly constituted quorums capable of conducting business, in a special session to commence on November 28, 2007, at 1:00 p.m., to consider any and all funding options for the RTA, the CTA, Metra, and Pace.

Dated: November 19, 2007

PROCLAMATIONS

Filed: November 19, 2007

ILLINOIS ADMINISTRATIVE CODE Issue Index - With Effective Dates

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