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**July 29, 2005  Volume 29, Issue 31**

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DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Meat and Poultry Inspection Act

2) **Code Citation:** 8 Ill. Adm. Code 125

3) **Section Number:** 125.147
   **Proposed Action:** New Section

4) **Statutory Authority:** Meat and Poultry Inspection Act [225 ILCS 650] and Section 16 of the Civil Administrative Code of Illinois [20 ILCS 5/16]

5) **A Complete Description of the Subjects and Issues Involved:** In order to maintain an "equal to" status with the federal meat and poultry products inspection programs as required by the Federal Meat Inspection Act and the Poultry Products Inspection Act and in accordance with Section 16 of the Meat and Poultry Inspection Act, the Department is proposing to adopt 9 CFR 500, Rules of Practice, as published at 64 FR 66541, November 29, 1999. This amendment lists the types of enforcement actions that the agency may take and identifies the circumstances under which each action may be taken.

6) **Will this rulemaking replace any emergency rulemaking in effect?** No

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 amendments pending on this Part?** No

10) **Statement of Statewide Policy Objective:** This rulemaking does not affect units of local governments.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** A 45-day written comment period will begin on the day the Notice of rulemaking appears in the *Illinois Register*. Please mail written comments on the proposed rulemaking to the attention of:

    Linda Rhodes
    Illinois Department of Agriculture
    State Fairgrounds, P. O. Box 19281
    Springfield, IL 62794-9281

    217/785-5713
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

217/785-4505 (fax)

12) Initial Regulatory Flexibility Analysis:

A) Types of small businesses, small municipalities and not-for-profit corporations affected: State licensed meat and poultry establishments

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

C) Types of professional skills necessary for compliance: No additional skills needed

13) Regulatory agenda on which this rulemaking was summarized: July 2005

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

NOTICE OF PROPOSED AMENDMENT

TITLE 8: AGRICULTURE AND ANIMALS
CHAPTER I: DEPARTMENT OF AGRICULTURE
SUBCHAPTER c: MEAT AND POULTRY INSPECTION ACT

PART 125
MEAT AND POULTRY INSPECTION ACT

SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR POULTRY INSPECTION

Section
125.10 Definitions
125.20 Incorporation by Reference of Federal Rules
125.30 Application for License; Approval
125.40 Official Number
125.50 Inspections; Suspension or Revocation of License
125.60 Administrative Hearings; Appeals (Repealed)
125.70 Assignment and Authority of Program Employees
125.80 Schedule of Operations; Overtime
125.90 Official Marks of Inspection, Devices and Certificates
125.100 Records and Reports
125.110 Exemptions
125.120 Disposal of Dead Animals and Poultry
125.130 Reportable Animal and Poultry Diseases
125.140 Detention; Seizure; Condemnation
125.141 Sanitation Standard Operating Procedures (SOP's)
125.142 Hazard Analysis and Critical Control Point (HACCP) Systems
125.143 Imported Products
125.144 Preparation and Processing Operations
125.145 Control of Listeria Monocytogenes in Ready-to-Eat Meat and Poultry Products
125.146 Consumer Protection Standards: Raw Products
125.147 Rules of Practice

SUBPART B: MEAT INSPECTION

Section
125.150 Livestock and Meat Products Entering Official Establishments
125.160 Equine and Equine Products
125.170 Facilities for Inspection
125.180 Sanitation (Repealed)
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT

125.190 Ante-Mortem Inspection
125.200 Post-Mortem Inspection
125.210 Disposal of Diseased or Otherwise Adulterated Carcasses and Parts
125.220 Humane Slaughter of Animals
125.230 Handling and Disposal of Condemned or Other Inedible Products at Official Establishment
125.240 Rendering or Other Disposal of Carcasses and Parts Passed for Cooking
125.250 Marking Products and Their Containers
125.260 Labeling, Marking and Containers
125.270 Entry into Official Establishment; Reinspection and Preparation of Product
125.280 Meat Definitions and Standards of Identity or Composition
125.290 Transportation
125.295 Imported Products (Repealed)
125.300 Special Services Relating to Meat and Other Products
125.305 Exotic Animal Inspection

SUBPART C: POULTRY INSPECTION

Section
125.310 Application of Inspection
125.320 Facilities for Inspection
125.330 Sanitation
125.340 Operating Procedures
125.350 Ante-Mortem Inspection
125.360 Post-Mortem Inspection; Disposition of Carcasses and Parts
125.370 Handling and Disposal of Condemned or Inedible Products at Official Establishments
125.380 Labeling and Containers
125.390 Entry of Articles Into Official Establishments; Processing Inspection and Other Reinspections; Processing Requirements
125.400 Definitions and Standards of Identity or Composition
125.410 Transportation; Sale of Poultry or Poultry Products

AUTHORITY: Implementing and authorized by the Meat and Poultry Inspection Act [225 ILCS 650] and Section 5-625 of the Civil Administrative Code of Illinois [20 ILCS 5/5-625].

DEPARTMENT OF AGRICULTURE
NOTICE OF PROPOSED AMENDMENT

NOTICE OF PROPOSED AMENDMENT

effective July 22, 1992; peremptory amendment at 16 Ill. Reg. 12234, effective July 24, 1992;
peremptory amendment at 16 Ill. Reg. 16337, effective October 19, 1992; peremptory
amendment at 16 Ill. Reg. 17165, effective October 21, 1992; peremptory amendment at 17 Ill.
Reg. 2063, effective February 12, 1993; peremptory amendment at 17 Ill. Reg. 15725, effective
September 7, 1993; peremptory amendment at 17 Ill. Reg. 16238, effective September 8, 1993;
peremptory amendment at 17 Ill. Reg. 18215, effective October 5, 1993; peremptory amendment
at 18 Ill. Reg. 304, effective December 23, 1993; peremptory amendment at 18 Ill. Reg. 2164,
effective January 24, 1994; amended at 18 Ill. Reg. 4622, effective March 14, 1994; peremptory
amendment at 18 Ill. Reg. 6442, effective April 18, 1994; peremptory amendment at 18 Ill. Reg.
8493, effective May 27, 1994; amended at 18 Ill. Reg. 11489, effective July 7, 1994; peremptory
amendment at 18 Ill. Reg. 12546, effective July 29, 1994; peremptory amendment at 18 Ill. Reg.
14475, effective September 7, 1994; amended at 18 Ill. Reg. 14924, effective September 26,
1994; peremptory amendment at 18 Ill. Reg. 15452, effective September 27, 1994; peremptory
amendment at 19 Ill. Reg. 1342, effective January 27, 1995; peremptory amendment at 19 Ill.
Reg. 4765, effective March 13, 1995; peremptory amendment at 19 Ill. Reg. 7067, effective May
8, 1995; peremptory amendment at 19 Ill. Reg. 14896, effective October 6, 1995; peremptory
amendment at 19 Ill. Reg. 15766, effective November 10, 1995; peremptory amendment at 19
Ill. Reg. 16866, effective December 22, 1995; peremptory amendment at 20 Ill. Reg. 5091,
effective March 19, 1996; peremptory amendment at 20 Ill. Reg. 10403, effective July 17, 1996;
amended at 20 Ill. Reg. 11928, effective September 1, 1996; peremptory amendment at 20 Ill.
Reg. 12634, effective September 5, 1996; peremptory amendment at 20 Ill. Reg. 15371, effective
November 13, 1996; peremptory amendment at 21 Ill. Reg. 1221, effective January 14, 1997;
peremptory amendment at 21 Ill. Reg. 1719, effective January 28, 1997; peremptory amendment
at 21 Ill. Reg. 6609, effective May 20, 1997; amended at 21 Ill. Reg. 11494, effective August 1,
1997; peremptory amendment at 21 Ill. Reg. 11788, effective August 8, 1997; peremptory
amendment at 21 Ill. Reg. 12686, effective August 28, 1997; peremptory amendment at 21 Ill.
Reg. 14575, effective October 22, 1997; peremptory amendment at 22 Ill. Reg. 3602, effective
February 2, 1998; peremptory amendment at 22 Ill. Reg. 5740, effective March 5, 1998;
peremptory amendment at 22 Ill. Reg. 9384, effective May 15, 1998; peremptory amendment at
22 Ill. Reg. 20645, effective November 16, 1998; amended at 23 Ill. Reg. 450, effective January
1, 1999; peremptory amendment at 23 Ill. Reg. 3851, effective March 11, 1999; peremptory
amendment at 23 Ill. Reg. 10880, effective August 19, 1999; peremptory amendment at 24 Ill.
Reg. 3933, effective February 22, 2000; peremptory amendment at 24 Ill. Reg. 5699, effective
March 14, 2000; peremptory amendment at 24 Ill. Reg. 6734, effective April 14, 2000; amended
at 24 Ill. Reg. 7197, effective April 27, 2000; peremptory amendment at 24 Ill. Reg. 14074,
effective August 30, 2000; peremptory amendment at 24 Ill. Reg. 14451, effective September 15,
2000; peremptory amendment at 25 Ill. Reg. 7341, effective April 26, 2001; peremptory
amendment at 25 Ill. Reg. 12434, effective September 13, 2001; peremptory amendment at 25
Ill. Reg. 15444, effective November 19, 2001; peremptory amendment at 26 Ill. Reg. 980,
effective January 11, 2002; peremptory amendment at 26 Ill. Reg. 7750, effective May 10, 2002;
DEPARTMENT OF AGRICULTURE

NOTICE OF PROPOSED AMENDMENT


SUBPART A: GENERAL PROVISIONS FOR BOTH MEAT AND/OR POULTRY INSPECTION

Section 125.147 Rules of Practice

The Department incorporates by reference 9 CFR 500.1, 500.2(a) and (b), 500.3, 500.4, 500.5(a)(1-4), (b), (c) and (e), 500.6 and 500.8.

(Source: Added at 29 Ill. Reg. _____, effective ____________.)
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part:** Electrologist Licensing Act

2) **Code Citation:** 68 Ill. Adm. Code 1246

3) **Section Numbers:**
   - 1246.10 Amendment
   - 1246.30 Amendment
   - 1246.50 Amendment
   - 1246.70 Amendment
   - 1246.80 Amendment

4) **Statutory Authority:** Electrologist Licensing Act [225 ILCS 412]

5) **A Complete Description of the Subjects and Issues Involved:** Section 1246.10 extends the date by which an individual can apply for licensure under the grandfather provision. Section 1246.70 changes the date when individuals shall comply with the continuing education requirement. This Section also explains under what circumstances an individual may request a waiver of CE. Other clean-up and technical changes are included in this proposed rulemaking.

6) **Does this rulemaking replace any emergency rulemaking currently in effect?** No

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 amendments pending on this Part?** No

10) **Statement of Statewide Policy Objective:** This rulemaking has no effect on local governments.

11) **Time, Place, and Manner in which interested persons may comment on this proposed rulemaking:** Interested persons may submit written comments to:

    Department of Financial and Professional Regulation
    Division of Professional Regulation
    Attention: Barb Smith
    320 West Washington, 3rd Floor
    Springfield, IL 62786
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

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

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

12) Initial Regulatory Flexibility Analysis:
   A) Types of small businesses, small municipalities and not for profit corporations affected: Those providing electrology services.
   B) Reporting, bookkeeping or other procedures required for compliance: None
   C) Types of professional skills necessary for compliance: Training in electrology is necessary for licensure.

13) Regulatory Agenda on which this rulemaking was summarized: July 2005

The full text of the Proposed Amendments begins on the next page:
Section 1246.10 Qualification for Licensure

a) An applicant may apply for licensure as an electrologist by filing an application on forms provided by the Department of Financial and Professional Regulation- Division of Professional Regulation (Division). For individuals who wish to apply under the grandfather provision, the application shall be postmarked no later than January 1, 2006 and shall include:

1) A complete work history documenting employment as an electrologist;

2) Verification that the applicant has received compensation for practicing electrology for a period of 3 years. This may be in the form of affidavits...
NOTICE OF PROPOSED AMENDMENTS

from at least 3 clients or business owners who can attest to applicant's practicing electrology for compensation;

3) Proof of one of the following:
   A) Current board certification by the American Electrology Association as a Certified Professional Electrologist (CPE) or Clinical Certified Electrologist (CCE) or certification from any other organization approved by the Division; or
   B) Completion of 30 hours of continuing education in electrology as set forth in Section 1246.70; and

4) the required fee set forth in Section 1246.30.

b) Individuals applying for licensure as an electrologist, except for those qualified under the grandfather provision, shall file an application with the Division, on forms provided by the Division, that the applicant has:

1) Completed 600 hours in the study of electrology over a period of not less than 16 weeks nor more than 2 consecutive years at a program approved by the Division. If an applicant completed a program before December 31, 2003, the program may be less than 600 hours if it is approved by the Division; and

2) Successfully completed the IBEC (International Board of Electrology Certification) examination.

(Source: Amended at 29 Ill. Reg. ______, effective ____________)

Section 1246.30 Application for Licensure by Acceptance of Examination

Applicants for licensure based on examination shall submit to the Division a properly completed application on forms provided by the Division, along with the following:

a) Proof of successful completion of the examination approved by the Division specified in Section 1246.20 of this Part; and

b) The required fee set forth in Section 1246.40.
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 29 Ill. Reg. _____, effective _____________)

Section 1246.50 Endorsement

a) An applicant for licensure as an electrologist who is licensed under the laws of another state shall file an application with the Division that shall include:

1) Documentation certifying that applicant meets the education requirements set forth in Section 1246.10(b);

2) Documentation from the jurisdiction of original licensure and the state by which the applicant is currently licensed, stating all jurisdictions in which the applicant has been licensed, certifying the time during which the applicant was licensed in that jurisdiction, whether the file on the applicant contains any disciplinary actions taken or pending, and the applicant's license number;

3) Proof of successful completion of the examination; a report of the applicant's examination record forwarded directly from the test reporting service;

4) Complete work history; and

5) The required fee.

b) The Division shall examine each endorsement application to determine whether the requirements and examination in the jurisdiction at the date of licensing were substantially equivalent to the requirements and examination then in force in this State and whether the applicant has otherwise complied with the Act.

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

(Source: Amended at 29 Ill. Reg. _____, effective _____________)

Section 1246.70 Continuing Education
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

For the April 2010 renewal and every renewal thereafter, in order to renew a license, the licensee shall be required to complete 30 hours of continuing education. One Continuing Education Unit (CEU) is defined as 10 contact hours of participation in an organized continuing education experience.

a) Qualifying continuing education activities are the following:

1) courses offered or approved by the American Electrology Association or its affiliates;

2) hospital or medical school sponsored educational offerings, provided the coursework is related to health issues of practitioners; and

3) credit-bearing college courses and other post-graduate classes for continuing education credit offered at a regionally accredited academic institution, provided the coursework is clearly related to electrology theory, technical and clinical aspects of electrolysis, electrology research, ethical or legal aspects of practicing electrolysis or health issues of electrologists;

4) any other courses approved by the Division.

b) Continuing education activities shall meet the following requirements:

1) the activity involves face-to-face instruction or a home study program;

2) the provider implements a mechanism to monitor and document physical attendance at such instruction or to verify licensee completion in the case of a home study program;

3) the provider retains written records for a period of 3 years from the participant's actual successful completion of the activity, including but not limited to: content description; instructor; date of activity; location of activity; list of participants; participant's evaluation of instruction presented; and number of contact hours; and

4) the provider issues a certificate of completion after the participant's successful completion of the activity. The certificate shall include the
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

participant's name, provider's name, title or subject area of the activity, date and location of attendance, and number of contact hours completed.

c) Certification of CE Requirements

1) Each renewal applicant shall certify on the renewal application full compliance with CE requirements as stated above.

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 compliance (e.g., certificate of attendance or completion). Evidence shall be required in the context of the Department's random audit in accordance with Section 60 of the Act.

d) Waiver of CE Requirements

1) Any renewal applicant seeking renewal of a license without having fully complied with these CE requirements shall file with the Division a renewal application along with the required fee, a statement setting forth the facts concerning non-compliance and a request for waiver of the CE requirements on the basis of these facts. A request for waiver shall be made prior to the renewal date. If the Division finds, from such affidavit or any other evidence submitted, that extreme good cause has been shown for granting a waiver, the Division shall waive enforcement of CE requirements for the renewal period for which the applicant has applied.

2) Extreme hardship shall be determined on an individual basis and be defined as an inability to devote sufficient hours to fulfilling the CE requirements during the applicable prerenewal period because of:

A) Full-time service in the armed forces of the United States of America during a substantial part of the prerenewal period;

B) An incapacitating illness documented by a statement from a currently licensed physician;

C) A physical inability to travel to the sites of approved programs documented by a currently licensed physician; and
DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION
DIVISION OF PROFESSIONAL REGULATION

NOTICE OF PROPOSED AMENDMENTS

D) Any other similar extenuating circumstance.

3) Any renewal applicant who, prior to the expiration date of the license, submits a request for a waiver, in whole or in part, pursuant to the provisions of this Section shall be deemed to be in good standing until the final decision on the application is made by the Division.

(Source: Amended at 29 Ill. Reg. ______, effective ____________)

Section 1246.80 Renewals

a) The first renewal date for licensure under the Electrologist Licensing Act [225 ILCS 412] (Act) shall be April 30, 2007. Thereafter, every license issued under the Act shall expire on April 30 of even numbered years. The holder of the license may renew the license during the month preceding the expiration date by paying the required fee and proof of 30 hours of continuing education in accordance with Section 1245.70.

b) It is the responsibility of each license holder to notify the Division of any change of address. Failure to receive a renewal form from the Division shall not constitute an excuse for failure to pay the renewal fee.

c) Practice on an expired license shall be considered the unlicensed practice of electrology and subject to discipline or other penalties set forth in Section 75 of the Act.

(Source: Amended at 29 Ill. Reg. ______, effective ____________)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Duck, Goose and Coot Hunting

2) **Code Citation**: 17 Ill. Adm. Code 590

3) **Section Numbers**:

<table>
<thead>
<tr>
<th>Section</th>
<th>Proposed Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>590.10</td>
<td>Amendment</td>
</tr>
<tr>
<td>590.15</td>
<td>Amendment</td>
</tr>
</tbody>
</table>

4) **Statutory Authority**: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10], and Migratory Bird Hunting (50 CFR 20).

5) **A Complete Description of the Subjects and Issues Involved**: Section 590.10 is being amended to update the list of non-toxic shot allowed for migratory bird hunting to be in compliance with federal regulations. Section 590.15 is being amended to ensure that all hunters entering drawings for waterfowl blinds are eligible to possess firearms.

6) **Will this rulemaking replace an emergency rulemaking?** No

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 amendments pending on this Part?** No

10) **Statement of Statewide Policy Objective**: This rulemaking does not affect units of local government.

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

    Jack Price, Legal Counsel
    Department of Natural Resources
    One Natural Resources Way
    Springfield IL   62702-1271

    217/782-1809
12) **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

13) **Regulatory Agenda on which this rulemaking was summarized:** January 2005

The full text of the Proposed Amendments begins on the next page:
DEPARTMENT OF NATURAL RESOURCES
NOTICE OF PROPOSED AMENDMENTS

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

PART 590
DUCK, GOOSE AND COOT HUNTING

Section
590.10 Statewide Regulations
590.15 Duck, Goose and Coot General Hunting Regulations on Department-Owned and -Managed Sites Listed in Sections 590.40 and 590.50
590.20 Permit Controlled Department Sites Only – Duck, Goose and Coot Hunting
590.25 Illinois Youth Waterfowl Hunting Permit Requirements (Repealed)
590.26 Illinois Youth Duck Hunting Permit Requirements (Repealed)
590.30 Duck, Goose and Coot General Hunting Regulations on all Department-Owned and -Managed Sites (Repealed)
590.40 Check Station Department Sites Only – Duck, Goose and Coot Hunting
590.50 Non-Check Station Department Sites Only – Duck, Goose and Coot Hunting
590.60 Various Other Department Sites – Duck, Goose and Coot Hunting
590.70 Ohio River
590.80 Early and Late Goose (all species) Hunting Regulations on Department Sites
590.EXHIBIT A The Non-Toxic Shot Zones of Illinois (Repealed)

AUTHORITY: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.1, 2.2, 2.18, 2.19, 2.20, 2.23, 2.33, 3.5, 3.6, 3.7, 3.8, and 3.10] and Migratory Bird Hunting (50 CFR 20).

DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENTS

Department of Natural Resources

Notice of Proposed Amendments

Section 590.10 Statewide Regulations

a) Pursuant to Section 2.18 of the Wildlife Code [520 ILCS 5/2.18], it shall be unlawful to take, possess, transport, or use migratory waterfowl except during such period of time and in such manner and numbers as may be provided in the Federal "Migratory Bird Treaty Act" (16 USC 703-711), the "Migratory Bird Hunting Stamp Act" (16 USC 1718 et seq.), and annual "Rules and Regulations for Migratory Bird Hunting" (50 CFR 20 and 21) (collectively referred to in this Part as federal regulations) (no incorporation in this Part includes later amendments or editions), or contrary to any State regulations made in the Wildlife Code. Violation is a Class B misdemeanor (see 520 ILCS 5/2.18).

b) The regulations in Section 2.33 of the Wildlife Code on illegal devices shall apply to this Part, unless federal regulations are more restrictive. Violation is a Class B misdemeanor (see 520 ILCS 5/2.33), except that violation of Section 2.33(g), (i), (o), (p), (y) and (cc) are Class A misdemeanors with a minimum $500 fine and a maximum $5,000 fine in addition to other statutory penalties.

c) Duck, goose and coot regulations are in accordance with Federal Regulations (50 CFR 20) unless the regulations in this Part are more restrictive. Violation is a Class B misdemeanor (see 520 ILCS 5/2.18).

d) It shall be unlawful while attempting to take migratory waterfowl or coots to have in possession any shotgun shells not approved as non-toxic by federal regulations. Violation is a petty offense (see 520 ILCS 5/2.18-1).

e) It shall be unlawful to possess any shotgun shell loaded with a shot size larger than number T steel; number BBB bismuth, Ultrashok High Density, or Hevi-Steel; number BB tungsten/iron, tungsten/matrix (Impact), or tungsten/polymer; number B Hevi-Shot, tungsten/bronze/iron (TBI), Xtended Range Hi-Density, or Dead Coyote; number 1 Silvex or Hevi-13; or number 3 Heavyweight tungsten-iron (HEVI-steel) BBB, bismuth BBB, tungsten-iron BB, tungsten-polymer BB, tungsten-matrix BB, tungsten-bronze iron (TBI) BB, tungsten-nickel-iron (HEVI-SHOT) B or tungsten-tin-bismuth (SILVEX) 1 when attempting to take waterfowl. Violation is a petty offense (see 520 ILCS 5/2.18-1).

f) Emergency Closure

The Department of Natural Resources (Department or DNR) will close the Canada goose season giving 48 hours notice when quotas established by federal regulations are reached, when harvest in any area is excessive due to extreme
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weather conditions or when a serious outbreak of infectious disease occurs, such as avian cholera or duck virus enteritis. Hunting Canada Geese after the season is closed is a Class B misdemeanor (see 520 ILCS 5/2.18). Possession of freshly killed wild geese during the closed season is a Class A misdemeanor (see 520 ILCS 5/2.33(cc)).

g) Closed Areas
Closed areas, including waterfowl refuges and rest areas, may be designated at certain sites in accordance with 17 Ill. Adm. Code 510. Boundaries of these closed areas will be posted. Violation is a petty offense (see 520 ILCS 5/2.20).

h) Commercial Migratory Waterfowl Hunting Area Permits

1) The holder of a permit in the counties of Alexander, Jackson, Union and Williamson shall forward information on harvest and hunters to the Department, by phone and on forms furnished by the Department, at times required by the Department. The holder of a permit in any other county shall forward information on harvest and hunters to the Department on forms furnished by the Department, at times required by the Department. The Department shall give the permit holder reasonable written notice of the dates reports are required. Permit holders are required to retain a copy of their harvest records for at least 2 years after expiration of their permit. Failure to timely supply such reports will make the permit holder subject to revocation of his permit and suspension of the privilege to hold the permit for up to 5 years. Violation is a petty offense (see 520 ILCS 5/3.6).

2) On any property where the principal waterfowl harvest is wild geese, it is the permit holder's duty to ensure that no more than 5 persons occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season. Violation is a petty offense (see 520 ILCS 5/3.8).

3) The Department may assign the maximum potential Canada goose harvest (number registered pits x 5 hunters x Canada goose bag limit) to the cumulative quota zone harvest for each day a club is late in reporting.

i) Waterfowl Hunting Zones:

1) North Zone – That portion of the State north of a line running east from the Iowa border along Illinois Route 92 to U.S. Interstate 280, east along
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U.S. Interstate 280 to U.S. Interstate 80, then east along U.S. Interstate 80 to the Indiana border.

2) Northern Illinois Quota Zone – DuPage, Kane, Lake, and McHenry counties, and those portions of LaSalle and Will counties north of I-80.

3) Central Zone – That portion of the State south of the Northern Zone boundary to the Modoc Ferry route on the Mississippi River and east along the Modoc Ferry Road to Modoc Road to St. Leo's Road to Illinois Route 3, then north to Illinois Route 159, then north to Illinois Route 161, then east to Illinois Route 4, then north to U.S. Interstate 70, then east along U.S. Interstate 70 to the Bond County line, then north and east along the Bond County line to Fayette County, then north and east along the Fayette County line to Effingham County, then east and south along the Effingham County line to U.S. Interstate 70, then east along U.S. Interstate 70 to the Indiana border.

4) Central Illinois Quota Zone – Calhoun, Cass, Fulton, Jersey, Knox, Mason, Morgan, Peoria, Pike, Tazewell, and Woodford counties, as well as those portions of LaSalle, Grundy, and Will counties south of I-80.

5) South Zone – From the southern boundary of the Central Zone south to the remainder of the State.

6) Northeastern Illinois Canada Goose Zone – All lands and waters in the counties of Cook, DuPage, Grundy, Kankakee, Kane, Kendall, Lake, McHenry and Will.

7) Southern Illinois Quota Zone – Alexander, Union, Williamson, and Jackson Counties.

j) No person during the open season shall take or attempt to take wild geese prior to ½ hour before sunrise nor after sunset. In the Southern Illinois Quota Zone (SIQZ), no person shall take or attempt to take wild geese after the hour of 3:00 p.m.; except, during the last 3 days of the Canada goose season and during any goose seasons that occur after the regular Canada goose season and during any Canada goose season set in September, hunting hours in the SIQZ shall close at statewide closing time. During special light goose seasons as indicated in subsection (n), statewide hunting hours shall be ½ hour before sunrise to ½ hour after sunset daily. Hunting prior to ½ hour before sunrise during the open season
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is a Class A misdemeanor (see 520 ILCS 2.33(y)). Hunting after ½ hour after sunset is a Class A misdemeanor (see 520 ILCS 2.33(y)). Hunting after closing hours is a Class B misdemeanor (see 520 ILCS 5/2.18).

k) On any property where the principal waterfowl harvest is wild geese in the Southern Illinois Quota Zone, no more than 5 persons shall occupy or attempt to take wild geese from any blind or pit at the same time during the Canada goose season. Violation is a petty offense (see 520 ILCS 5/3.8(b)(4)).

l) The following apply in the Northern and Central Illinois Quota Zones only:

1) It is unlawful to hunt Canada geese during seasons after September 15 without having in possession a current season's permit to hunt Canada geese, unless exempt from a State waterfowl stamp. Such permits are not transferrable and are not valid unless they contain the hunter's name, signature, date of birth, and the same State waterfowl stamp number that is on the State waterfowl stamp that is signed by the hunter or affixed to his/her license.

2) Immediately upon killing a Canada goose that will be taken into possession, hunters must mark with indelible ink, punch or slit the Permit to Hunt to indicate the date of kill (one date for each goose harvested) and zone where killed.

3) Hunters must report their kill on the same calendar day the geese are taken by calling 1-800-WETLAND (938-5263). Hunters must report the number of geese taken, date and zone where taken.

4) Violation is a Class B misdemeanor (see 520 ILCS 5/2.18).

m) Registration in the U.S. Fish and Wildlife Service Migratory Bird Harvest Information Program (HIP) is required for those persons who are required to have a hunting license before taking or attempting to take ducks, geese or coots. Instructions for registering are provided with issuance of hunting license. Violation is a petty offense (see 520 ILCS 5/3.1(f)).

n) If 50 CFR 20 or 21 allows light goose seasons to be liberalized, snow geese, blue geese and Ross' geese may be taken in accordance with federal regulations regarding hunting hours, method of taking and bag limits through March 31.
Section 590.15 Duck, Goose and Coot General Hunting Regulations on Department-Owned and -Managed Sites Listed in Sections 590.40 and 590.50

a) Definitions

1) Blind site – A position within 10 feet of numbered stake where blind must be constructed. Sites shall be located and marked by the Department.

2) Blind builder – Person who has been assigned a blind site as a result of the drawing.

3) Blind partner – Persons chosen by the builder to assist in construction and maintenance of the blind and to share its blind claiming and hunting privileges.

4) Drawing – Procedure by which blind sites are assigned.

5) Blind registration card – Card issued by the Department and tacked inside each blind listing names and addresses of blind builders.

6) Complete blind – A blind with all framework and siding constructed and in readiness for use, including final brushing.

7) Hunting party – An individual or group of hunters occupying a single boat, blind, or hunting site.

8) Dog Hide – A compartment or area within or attached to a blind that houses a dog used to retrieve downed waterfowl.

b) Blind Construction

1) Blinds must be at least 4 feet x 8 feet, but no higher than 14 feet from the water surface at normal pool level, to the top of the shooting box, sturdy enough to withstand daily usage, and must be maintained in good condition by blind builders throughout the duck season. Blinds shall be numbered and that number shall be visible from the outside of the blinds. Blinds must be placed within 10 feet of assigned Department marked site.
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2) Blinds built over water must be of platform construction with the platform constructed above normal water conditions or they may be floating blinds.

3) Blinds must be completed, including final brushing, 3 weeks in advance of opening date of regular duck season (except at Mississippi River Area Pools 25 and 26 blinds and final brushing must be completed 4 weeks in advance of opening date of regular duck season) after which time the Department shall inspect all blinds and blind sites and issue Blind Registration Cards to those which pass inspection. Blind builders shall not gain access to Redwing Slough/Deer Lake until the day following Labor Day. Blind builders must post Blind Registration Card in the blind prior to the first day of regular duck season. If adverse weather or water conditions make compliance with this rule difficult the site superintendent or the District Wildlife Manager may grant extensions.

4) Sites on which blinds have not been built, as well as sites on which blinds of an unsatisfactory quality have been built, shall be reassigned to alternates selected at a drawing or by a first come-first served allocation held on a day publicly announced by the Department. All reassigned blinds must be completed, including final brushing, 7 days prior to the opening date of the duck season on sites posted as being closed to trespassing 7 days prior to regular duck season. At Mississippi River Area Pools 25 and 26 reassigned blinds must be completed by sunset of the Sunday immediately preceding the opening day of regular duck season. On all other sites reassigned blinds must be completed, including final brushing, by the day before the opening day of the regular duck season.

5) Not more than 3 persons shall be registered for assignment of any one blind site. Blind builders shall submit partner names on a blind registration form as designated at the site drawing. After the designated time, no changes shall be accepted. As directed by the information sheet available at each site, the registration form must be filled out and returned within 30 days prior to the blind drawing date. Failure to do so shall result in forfeiture of blind.

6) No person shall be allowed to be a blind builder or partner on more than one public waterfowl blind managed by the Department.

7) Boat hides are required, except as noted in Sections 590.40 and 590.50, and must have minimum inside dimensions of 18' x 6', except all blinds
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allocated and constructed after January 1, 2005 must have minimum dimensions of 18' x 7½'. Boat hides shall be sturdy enough to withstand daily use considering the conditions of the site, and must be maintained in good condition throughout the season, and shall be completed including final brushing by 3 weeks prior to the opening day of duck season, except at Mississippi River Area Pools 25 and 26 boat hides and final brushing must be completed 4 weeks prior to the opening day of duck season; failure to meet these standards shall result in forfeiture of blind site.

8) Previous year's blind builders shall have until 7 days after the next allocation period drawing to salvage materials from their blinds except as indicated in Sections 590.40(a) and (b) and 590.50(a) and (b).

9) Blinds must include a dog hide that is on the same level as the blind. The dog hide can either be incorporated into the blind by providing a hole at floor level that measures at least 20 inches high by 20 inches wide or by providing a separate compartment that is attached to the blind. Hides attached to the blind should have a minimum floor space that measures 2 feet by 2 feet and should be at least 2.5 feet high with 2 openings. One opening should be between the blind and the dog hide, should measure at least 20 inches by 20 inches, and should be constructed at the same level as the blind floor. The water access opening should be at least 20 inches wide and 20 inches high. Hides either within the blind or attached should have an enforced ramp to water level that is at least 15 inches wide with cleats every 12 inches. Openings in the blind must be capable of being closed when not in use.

c) Use of blinds

1) Attempts to claim blinds by any manner other than actual occupation shall be considered in violation of this Part and shall be cause for arrest. The insertion of a boat into the boat hide and/or the spreading of decoys before a blind shall not be considered legal occupation of a blind.

2) No person shall hunt, or attempt to hunt, except from within a registered blind.

3) Persons under 16 years of age shall not hunt, or attempt to hunt, unless accompanied by an adult due to safety factors.
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4) Blinds shall not be locked.

5) Claiming or attempting to claim any blind which is legally occupied, and/or harassing, in any manner, the occupants of a blind which has been legally occupied, is unlawful.

6) No person shall fish within 250 yards of an occupied blind within the hunting area.

7) All hunting parties shall hunt over a spread of at least 12 decoys during duck season and Canada goose season. The decoys shall be staked, placed, or floating, be individually visible, be at least 8 inches long, and not be within a boat, blind or container.

8) At sites where a manned check station is in operation, hunters are required to deposit their hunting license and Federal and State Migratory Waterfowl Stamp at the check station while hunting. Persons exempt by law from having a hunting license and an Illinois stamp must deposit their Firearm Owner's Identification Card. Persons under 21 who do not have a card must be accompanied by an adult who has a valid card in his possession.

9) Cutting of vegetation greater than 4 inches d.b.h. will result in loss of the blind for the current allocation period.

d) Public Drawing

1) Time and place for all sites holding drawings shall be publicly announced by the Department.

2) A registrant for a drawing must be at least 16 years of age and possess a current or preceding year's Illinois hunting license, a current or preceding year's Illinois Migratory Waterfowl Stamp and a current or expired (within 12 months prior to the drawing) Firearm Owner's Identification Card unless exempted by law. Persons exempted by law from possessing a hunting license or waterfowl stamp must have a valid Firearm Owner's Identification Card. Persons who are under 21 years of age who do not have Firearm Owner's Identification Cards must be accompanied by an adult who has a valid Firearm Owner's Identification Card in his possession at the drawing. In order to be an eligible applicant for the...
drawing, the participant must not at the time of the drawing have his/her hunting privileges suspended or revoked by the Department or any other jurisdiction. Applicants must be present for the registration and drawing to be eligible for allocation of blind sites.

3) No person is eligible to draw for a waterfowl blind who has had his or her hunting privileges suspended by Illinois or any other state, or is prohibited from possessing a firearm due to a conviction of a State or Federal law, or is prohibited from possessing a firearm by action of law regardless of conviction status (such as homeland security, under order of protection, etc.). Any ineligible person who submits an application to draw for a waterfowl blind shall be refused, if known by the drawer at the time to be ineligible, or shall have his or her draw declared void upon discovery of ineligibility by the Department. A refused or voided application shall be referred to the appropriate State's Attorney for possible prosecution under the Criminal Code [720 ILCS 5].

e) Flood Rules
In the event that State managed sites are flooded to the point that public waterfowl blinds cannot be constructed or are no longer usable, the Department, by public announcement and/or posting, may permit waterfowl hunting under one of the following rules:

1) If the check station for that site is open, all rules apply, except that hunting will be allowed from boat, platform or floating blinds which must be located within 10 feet of the marked blind site.

2) If the check station is not operable, all rules apply except that hunting will be allowed from boat, platform or floating blinds which must be located within 10 feet of the marked blind site. Additionally, rules listed in Section 590.40(b)(1), (2), (3), (4) and (9) shall not be in force. Rules concerning blind claiming as listed in Section 590.50(b) shall apply.

3) If blind sites have not been marked and no check station is operable, the area will be open to hunting from platform, floating or boat blinds or by walk-in hunting, anywhere on the area except refuges and closed waterfowl rest areas. Preplacement of unattended decoys and/or unoccupied blinds or boat hides do not constitute lawful possession of a hunting site. All hunting parties must remain 200 yards apart and follow normal closing hours for the site.
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4) In all above flood circumstances, regulations requiring the construction of a separate boat hide and regulations regarding the minimum standards for blind construction shall be suspended for that season.

f) Violation of this Section is a petty offense (see 520 ILCS 5/2.20).

(Source: Amended at 29 Ill. Reg. _____, effective ___________)
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NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** The Taking of Wild Turkeys – Fall Gun Season

2) **Code Citation:** 17 Ill. Adm. Code 715

3) **Section Number:** Proposed Action:
   - 715.25 Amendment

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

5) **A Complete Description of the Subjects and Issues Involved:** The Department recently discovered that this Part contains inaccurate information regarding the issuance of free permits to bona fide equity members of limited liability companies. The Department has statutory authority to issue free deer permits to bonafide equity members of limited liability companies, but does not have statutory authority to issue free turkey permits to bonafide members of limited liability companies. These amendments are being filed to remove the inaccurate information.

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

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 amendments pending on this Part?** Yes
   - Section Numbers Proposed Action Illinois Register Citation
     - 715.30 Amendments 29 Ill. Reg. 6830; May 13, 2005
     - 715.40 Amendments 29 Ill. Reg. 6830; May 13, 2005

10) **Statement of Statewide Policy Objective:** This rulemaking does not affect units of local government.

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

    Jack Price, Legal Counsel
    Department of Natural Resources
    One Natural Resources Way
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Springfield IL 62702-1271

217/782-1809

12) 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

13) Regulatory Agenda on which this rulemaking was summarized: January 2005

The full text of the Proposed Amendment begins on the next page:
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TITLE 17: CONSERVATION
CHAPTER I: DEPARTMENT OF NATURAL RESOURCES
SUBCHAPTER b: FISH AND WILDLIFE

PART 715
THE TAKING OF WILD TURKEYS – FALL GUN SEASON

Section 715.25  Turkey Permit Requirements – Landowner/Tenant Permits

a) The "immediate family" is defined as the spouse, children, and parents permanently residing on the same property as the landowner or tenant.

b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.
c) Resident landowners who own 40 acres or more of land, and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. Non-resident Illinois landowners of 40 or more acres of land and members of their immediate family are eligible to receive a permit for their property only for a fee of $37.50. All landowners/tenants who do not reside on the property must possess a valid hunting license.

d) Landowners or tenants are not required to participate in the public drawing for permits and are not counted towards the total number of permits issued for a particular county.

e) Recipients of Landowner/Tenant permits to hunt their owned or leased property may apply for one additional county-wide permit beginning the third Monday in September from any permits remaining. Fees for this additional permit are set in Section 715.20(a).

f) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:

1) Submittal of a copy of property deed;

2) Submittal of a copy of contract for deed;

3) Submittal of a copy of most recent real estate tax statement upon which landowner's name appears;

4) Submittal of a copy of a Farm Service Agency 156EZ form; or

5) Submittal of a copy of a trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.

g) If you are applying for a tenant permit, you are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:

1) A lease (not a hunting rights lease) or rental agreement, file stamped as
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recorded by the county clerk, covering the current year; or
2) The authorized form from the Farm Service Agency.

h) If the property is owned or rented by more than one person: Only one landowner (and immediate family) or one tenant (and immediate family) will be issued a permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family may receive turkey permits.

i) Shareholder Landowner Permits

1) Bona fide equity shareholders of corporations or bona fide equity members of limited liability companies owning 40 or more acres of land in a county may apply for one permit to hunt the corporation or limited liability company lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, shall be issued based on ownership of lands by corporations or limited liability companies. Lands leased to corporations or limited liability companies shall not be considered as a basis for a permit for the shareholders/members of the lessee. Lands held in trust by corporations or limited liability companies shall not be considered as a basis for a permit by the shareholders/members of the trustee. If application is made for a permit based upon lands owned by the corporation or limited liability company, a duly authorized officer of the corporation or limited liability company must sign a notarized statement authorizing the applicant to hunt on the corporate or company lands for which a permit is being requested. This statement must identify the applicant as a bona fide equity shareholder or member as defined in this subsection (i)(2), identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation or limited liability company lands. This document must be attached to the application upon submittal to the Permit Office. The shareholder/member turkey permit shall be free to resident shareholders and the cost to nonresident shareholders shall be $37.50.

2) Bona fide equity shareholder means an individual who:

A) purchased, for market price, publicly sold stock shares in a corporation; purchased shares of a privately-held corporation for a value equal to the percentage of the appraised value of the

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corporate assets represented by the ownership in the corporation; or is a member of a closely-held family-owned corporation and has purchased or been gifted with shares of stock in the corporation accurately reflecting his or her percentage of ownership; and

B) intends to retain the ownership of the shares of stock for at least 5 years.

2) Bona fide equity member means an individual who:

A) became a member upon the formation of the limited liability company; or has purchased a distributional interest in a limited liability company for a value equal to the percentage of the appraised value of the limited liability company assets represented by the distributional interest in the limited liability company and subsequently becomes a member of the company pursuant to Article 30 of the Limited Liability Company Act; and

B) intends to retain the membership for at least 5 years.

j) Providing false or deceptive information is a Class A misdemeanor (see 520 ILCS 5/2.38).

(Source: Amended at 29 Ill. Reg. ______, effective _____________)
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part**: The Taking of Wild Turkeys – Fall Archery Season

2) **Code Citation**: 17 Ill. Adm. Code 720

3) **Section Number**: 720.25  
   **Proposed Action**: Amendment

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

5) **A Complete Description of the Subjects and Issues Involved**: The Department recently discovered that this Part contains inaccurate information regarding the issuance of free permits to bona fide equity members of limited liability companies. The Department has statutory authority to issue free deer permits to bonafide equity members of limited liability companies, but does not have statutory authority to issue free turkey permits to bonafide members of limited liability companies. These amendments are being filed to remove the inaccurate information.

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

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 amendments pending on this Part?** Yes

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10) **Statement of Statewide Policy Objective**: This rulemaking does not affect units of local government.

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

    Jack Price, Legal Counsel  
    Department of Natural Resources  
    One Natural Resources Way
12) 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

13) Regulatory Agenda on which this rulemaking was summarized: January 2005

The full text of the Proposed Amendment begins on the next page:
Section 720.25  Turkey Permit Requirements – Landowner/Tenant Permits

a)  The "immediate family" is defined as the spouse, children, and parents permanently residing on the same property as the landowner or tenant.
b) A tenant for the purpose of this Part is one who rents 40 acres or more land for commercial agricultural purposes under an agreement with a landowner. Commercial agriculture shall be defined as utilization of land for the raising of hay, grain crops or livestock for profit. A hunting rights lease, or other non-agricultural lease, is not valid for a landowner or tenant permit.

c) Resident landowners who own 40 acres or more of land, and resident tenants renting or leasing 40 acres or more of commercial agricultural land, and members of their immediate family may apply for one free turkey permit for their property only in counties open for turkey hunting. Non-resident Illinois landowners of 40 or more acres of land and members of their immediate family are eligible to receive a permit for their property only for a fee of $25. All landowners/tenants who do not reside on the property must possess a valid hunting license.

d) Proof of ownership for all landowner or tenant applications must be provided by one of the following methods:

1) Submittal of a copy of property deed;

2) Submittal of a copy of contract for deed;

3) Submittal of a copy of most recent real estate tax statement upon which landowner's name appears;

4) Submittal of a copy of a Farm Service Agency 156EZ form; or

5) Submittal of a copy of trust agreement which must indicate that the trust owns at least 40 acres and the applicant is a current income beneficiary of the trust.

e) If applying for a tenant permit, applicants are required to submit, in addition to the landowner certification and proof of ownership, a copy of one of the following:

1) A lease (not a hunting rights lease) or rental agreement, file stamped as recorded by the county clerk, covering the current year; or

2) The authorized form from the Farm Service Agency.

f) If the property is owned or rented by more than one person: Only one landowner (and immediate family) or one tenant (and immediate family) will be issued a
permit for every 40 acres of owned or rented land. For example, if 3 persons own 90 acres, only 2 of the landowners and their immediate family may receive turkey permits.

**g) Shareholder Landowner Permits**

1) Bona fide equity shareholders of corporations or bona fide equity members of limited liability companies owning 40 or more acres of land in a county may apply for one permit to hunt the corporation or limited liability company lands only. Only one permit per 40 acres, for a maximum number of 15 permits per county, shall be issued based on ownership of lands by corporations or limited liability companies. Lands leased to corporations or limited liability companies shall not be considered as a basis for a permit for the shareholders/members of the lessee. Lands held in trust by corporations or limited liability companies shall not be considered as a basis for a permit by the shareholders/members of the trustee. If application is made for a permit based upon lands owned by the corporation or limited liability company, a duly authorized officer of the corporation or limited liability company must sign a notarized statement authorizing the applicant to hunt on the corporate or company lands for which a permit is being requested. This statement must identify the applicant as a bona fide equity shareholder or member as defined in this subsection (g)(2), identify authorization to hunt and identify that no more than 15 authorizations will be requested per county for the corporation or limited liability company lands. This document must be attached to the application upon submittal to the Permit Office. The shareholder/member turkey permit shall be free to resident shareholders/members and the cost to nonresident shareholders/members shall be $25.

2) Bona fide equity shareholder means an individual who:

A) purchased, for market price, publicly sold stock shares in a corporation; purchased shares of a privately-held corporation for a value equal to the percentage of the appraised value of the corporate assets represented by the ownership in the corporation; or is a member of a closely-held family-owned corporation and has purchased or been gifted with shares of stock in the corporation accurately reflecting his or her percentage of ownership; and
DEPARTMENT OF NATURAL RESOURCES

NOTICE OF PROPOSED AMENDMENT

B) intends to retain the ownership of the shares of stock for at least 5 years.

2) **Bona fide equity member means an individual who:**

   A) became a member upon the formation of the limited liability company; or has purchased a distributional interest in a limited liability company for a value equal to the percentage of the appraised value of the limited liability company assets represented by the distributional interest in the limited liability company and subsequently becomes a member of the company pursuant to Article 30 of the Limited Liability Company Act; and

   B) intends to retain the membership for at least 5 years.

h) Providing false or deceptive information is a Class A misdemeanor (see 520 ILCS 5/2.38).

(Source: Amended at 29 Ill. Reg. ______, effective ____________)
ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Trifecta

2) **Code Citation:** 11 Ill. Adm. Code 306

3) **Section Number:** Proposed Action:
   306.30    Amend

4) **Statutory Authority:** 230 ILCS 5/9(b)

5) **A Complete Description of the Subjects and Issues Involved:** In the event of a late scratch, this rulemaking will provide additional and competitive wagering opportunities for fans by eliminating the need to cancel trifecta wagering. Currently, racetracks are prohibited from carding trifecta wagering on races with less than 6 betting interests. This rulemaking will permit racetracks to maintain trifecta wagering if the field size is reduced to 5 betting interests, provided there are no uncoupled entries.

6) **Will this rulemaking replace any emergency rulemakings currently in effect?** No

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 amendments pending in this Part?** No

10) **Statement of Statewide Policy Objective:** No local governmental units will be required to increase expenditures.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Written comments should be submitted, within 45 days after this Notice, to:

    Mickey Ezzo
    Illinois Racing Board
    100 West Randolph, Suite 7-701
    Chicago, Illinois  60601

    (312) 814-5017
    mickey_ezzo@irb.state.il.us

12) **Initial Regulatory Flexibility Analysis:**
ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

A) Types of small business affected: None

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was not anticipated when they were submitted.

The full text of the Proposed Amendment begins on the next page.
Section 306.30  Minimum Fields

a) Trifecta wagering shall not be scheduled on a race unless at least six betting interests are carded. In the event of a scratch, trifecta wagering on a race in which five betting interests remain is permissible, provided there are no uncoupled entries be prohibited on races with fewer than 6 betting interests at the start of the race.

b) This Section shall not be applicable to Stakes Races.

(Source: Amended at 29 Ill. Reg. ______, effective _____________)
NOTICE OF PROPOSED AMENDMENTS

1) **Heading of the Part**: Pick (N) Pools

2) **Code Citation**: 11 Ill. Adm. Code 308

3) **Section Numbers**:
   - 308.40 Amendment
   - 308.90 Amendment

4) **Statutory Authority**: 230 ILCS 5/9(b)

5) **A Complete Description of the Subjects and Issues Involved**: This rulemaking addresses the situation when a thoroughbred race scheduled for the turf is taken off the turf and run on the dirt track. Currently, if a horse is scratched, the wagering fan receives the post-time favorite. This rulemaking would make all wagering fans, that had a pick (n) wager where one of the races was taken off the turf, a winner for that race only.

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

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 amendments pending in this Part?** No

10) **Statement of Statewide Policy Objective**: No local governmental units will be required to increase expenditures.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking**: Written comments should be submitted, within 45 days after this Notice, to:

    Mickey Ezzo  
    Illinois Racing Board  
    100 West Randolph, Suite 7-701  
    Chicago, Illinois 60601

    (312) 814-5017  
    mickey_ezzo@irb.state.il.us

12) **Initial Regulatory Flexibility Analysis**:
ILLINOIS REGISTER

ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

A) Types of small business affected: None

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was not anticipated when they were submitted.

The full text of the Proposed Amendments begins on the next page.
ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

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

PART 308
PICK (N) POOLS

Section
308.10 Pick (n)
308.20 Pool Calculations
308.30 Dead Heats
308.40 Scratches
308.50 Cancellation of Races
308.60 Carryover Cap
308.70 Mandatory Distribution
308.80 Disclosure
308.90 Pick 3 Pools

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


Section 308.40 Scratches

a) Should a betting interest in any of the Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the closing of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.

b) Once wagering has closed for the first race of a Pick (n) pool, if a race is moved from the turf course to the dirt track, then all ticket holders are considered winners for that race for the Pick (n) pool.
NOTICE OF PROPOSED AMENDMENTS

(Source: Amended at 29 Ill. Reg. _____, effective ____________)

Section 308.90 Pick 3 Pools

a) The Pick 3 requires selection of the first-place finisher in each of three specified contests.

b) The net Pick 3 pool shall be distributed to winning wagers in the following precedence, based upon the official order of finish:

   1) As a single price pool to those whose selection finished first in each of the three contests; but if there are no such wagers, then

   2) As a single price pool to those who selected the first-place finisher in any two of the three contests; but if there are no such wagers, then

   3) As a single price pool to those who selected the first-place finisher in any one of the three contests; but if there are no such wagers, then

   4) The entire pool shall be refunded on Pick 3 wagers for those contests.

c) If there is a dead heat for first in any of the three contests involving:

   1) contestants representing the same betting interest, the Pick 3 pool shall be distributed as if no dead heat occurred.

   2) contestants representing two or more betting interests, the Pick 3 pool shall be distributed as a single price pool with each winning wager receiving an equal share of the profit.

d) Should a betting interest in any of the Pick 3 contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at the close of wagering on that contest, shall be substituted for the scratched betting interest for all purposes, including pool calculations. In the event that the Win pool total for two or more favorites is identical, the substitute selection shall be the betting interest with the lowest program number. The totalizator shall produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination.
e) Once wagering has closed for the first race of a Pick (n) pool, if a race is moved from the turf course to the dirt track, then all ticket holders are considered winners for that race for the Pick (n) pool.

fe) If two or three Pick 3 contests are cancelled or declared "no contest", the entire pool shall be refunded on Pick 3 wagers for those contests.

gf) If one of the Pick 3 contests is cancelled or declared "no contest", the Pick 3 pool will remain valid and shall be distributed in accordance with subsection (b)(2).

(Source: Amended at 29 Ill. Reg. ______, effective ____________)
ILLINOIS REGISTER            11763
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ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1) Heading of the Part: Superfecta

2) Code Citation: 11 Ill. Adm. Code 311

3) Section Number: Proposed Action:
   311.35 Amend

4) Statutory Authority: 230 ILCS 5/9(b)

5) A Complete Description of the Subjects and Issues Involved: In the event of a late scratch, this rulemaking will provide additional and competitive wagering opportunities for fans by eliminating the need to cancel superfecta wagering. Currently, racetracks are prohibited from carding superfecta wagering on races with less than 7 betting interests. This rulemaking will permit racetracks to maintain superfecta wagering if the field size is reduced to 6 betting interests, provided there are no uncoupled entries.

6) Will this rulemaking replace any emergency rulemaking currently in effect? No

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 amendments pending in this Part? Yes

10) Statement of Statewide Policy Objective: No local governmental units will be required to increase expenditures.

11) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Written comments should be submitted, within 45 days after this Notice, to:

       Mickey Ezzo
       Illinois Racing Board
       100 West Randolph, Suite 7-701
       Chicago, Illinois  60601

       (312) 814-5017
       mickey_ezzo@irb.state.il.us

12) Initial Regulatory Flexibility Analysis:
NOTICE OF PROPOSED AMENDMENT

A) Types of small business affected: None

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent regulatory agendas because: it was not anticipated when they were submitted.

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

NOTICE OF PROPOSED AMENDMENT

TITLE 11: ALCOHOL, HORSE RACING, AND LOTTERY

SUBTITLE B: HORSE RACING

CHAPTER I: ILLINOIS RACING BOARD

SUBCHAPTER a: GENERAL RULES

PART 311

SUPERFECTA

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

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


Section 311.35 Minimum Fields

a) Superfecta wagering shall not be scheduled on a race unless at least seven betting interests are carded. In the event of a scratch, superfecta wagering on a race in which six betting interests remain is permissible, provided there are no uncoupled entries, be prohibited on races with fewer than seven betting interests at the start of the race.

b) This Section shall not be applicable to thoroughbred stakes races or standardbred stakes races with a minimum purse of $50,000.

(Source: Amended at 29 Ill. Reg. ______, effective ____________)
**ILLINOIS RACING BOARD**

**NOTICE OF PROPOSED AMENDMENTS**

1) **Heading of the Part:** General Licensee Rules

2) **Code Citation:** 11 Ill. Adm. Code 1313

3) **Section Numbers:**

<table>
<thead>
<tr>
<th>Section Numbers</th>
<th>Proposed Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>1313.20</td>
<td>Amend</td>
</tr>
<tr>
<td>1313.70</td>
<td>Amend</td>
</tr>
</tbody>
</table>

4) **Statutory Authority:** 230 ILCS 5/9(b)

5) **A Complete Description of the Subjects and Issues Involved:**

   Requiring harness horses, entered in stakes races, to report to the detention barn by 12:00 noon the day of the race is currently a racetrack policy. This rulemaking will ensure that the current track policy is strictly enforced. The current IRB rule governing health certificates poses undue hardship on Illinois horsemen. This rulemaking will relieve the burden to the horsemen and race track operators and still maintain the health requirement mandated by the State of Illinois (Illinois Department of Agriculture).

6) **Will this proposed rulemaking replace any emergency rulemaking currently in effect?**
   No

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 amendments pending in this Part?**
   No

10) **Statement of Statewide Policy Objectives:**
    No local governmental units will be required to increase expenditures.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:**
    Written comments should be submitted, within 45 days after this Notice, to:

    Mickey Ezzo  
    Illinois Racing Board  
    100 West Randolph, Suite 7-701  
    Chicago, Illinois  60601  

    (312) 814-5017  
    mickey_ezzo@irb.state.il.us
12) Initial Regulatory Flexibility Analysis:

A) Types of small business affected: None

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the most recent two regulatory agendas because: it was not anticipated when they were submitted.

The full text of the Proposed Amendments begins on the next page:
NOTICE OF PROPOSED AMENDMENTS

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

PART 1313
GENERAL LICENSEE RULES

Section 1313.10 Worker's Compensation (Repealed)
1313.20 Health Regulations
1313.30 Observe Sanitary, Safety, Humane Rules
1313.40 Halter
1313.48 Safety Helmets
1313.50 Equipment Change and Records
1313.60 Sulky Performance Standards
1313.70 Horses in Paddock
1313.80 Body Alcohol Testing
1313.90 Deceased and Sick Horses
1313.100 Firearms
1313.110 Private Practice Prohibited
1313.120 Veterinarian Reports
1313.130 Clean Equipment

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


Section 1313.20 Health Regulations

A certificate of veterinary inspection and entry permit are not required for Illinois equine. Illinois equine traveling out of the State on an Illinois certificate of veterinary inspection are not
required to obtain a permit to return home. If, however, Illinois equine are out of the State longer than 30 days (i.e., boarding, training), a certificate of veterinary inspection issued by the state where the animal has been residing and an entry permit will be required. Once an animal has been out of the State longer than 30 days, it is no longer recognized as being an Illinois native animal. All equine entering Illinois for any reason other than slaughter must be accompanied by a negative test for equine infectious anemia (EIA) conducted within a year if the animal is more than one year of age, certificate of veterinary inspection issued by an accredited veterinarian within 30 days prior to entry, and an entry permit number issued by the Illinois Department of Agriculture. The organization licensee shall be responsible for compliance with this Section.

a) No horse will be allowed in at a race track where a meet is in progress or imminent unless a current, valid health certificate is presented for him. A health certificate is valid when it is made by a certified veterinarian licensed by the state where the exam and certificate are prepared. No horse will be permitted to start unless said certificate is on file with the racing secretary.

b) It is current if it is dated not more than 10 days prior to the date the horse described in the certificate arrives at an Illinois race track for the first time in a calendar year. When a horse is shipped from a Chicago area track to a track in Southern Illinois or from a track in Southern Illinois to a Chicago area track a new examination must be made and a new health certificate must be issued. In each instance the certificate shall include the temperature of the horse at the time he was examined. The race track operator putting on the meet is responsible for compliance with the rule.

e) Horses having a positive AGID (Coggins) Test must be removed from the race track under the direction of the state veterinarians.

(Source: Amended at 29 Ill. Reg. _____, effective ____________)

Section 1313.70 Horses in Paddock

a) All horses must be in the paddock, in their assigned stalls, between 4 hours and 6 hours before scheduled post time of the race in which the horse is entered, as determined by the Board. Horses racing in stakes races with a purse of $20,000 or greater and elimination races for stakes races with a purse of $40,000 or greater shall be in their assigned stalls in the paddock at 12:00 noon the day of the race. Failure to have a horse in the assigned stall at the designated deadline shall result in the horse being scratched, and the trainer of record shall be subject to a fine not less than $200 and not more than $500. The fine may be waived if the stewards
ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENTS

determine that a verifiable emergency (for example, inclement weather, medical emergency or trainer vehicle breakdown or accident) prevented the trainer from getting the horse to the racetrack at the designated deadline. The trainer shall submit appropriate written documentation of the emergency as determined by the stewards (for example, emergency room report, towing or repair bill or police report). Except for warm-up scores, no horse shall leave the paddock until called to post.

b) Persons entitled to admission to the paddock are:

1) Owners of horses competing on the date of the race.

2) Trainers of horses competing on the date of the race.

3) Drivers of horses competing on the date of the race.

4) Grooms and caretakers of horses competing on the date of the race.

5) Officials whose duties require their presence in the paddock or receiving barn.

c) No driver, trainer, groom, or caretaker, once admitted to the paddock or receiving barn, shall leave the same other than to warm up said horse until such race or races for which he was admitted is contested.

d) No person except an owner, who has another horse racing in a later race, or an official shall return to the paddock until all races of that program shall have been completed.

e) No more than two members of a registered stable, other than the driver, shall be entitled to admission to the paddock on any racing day.

(Source: Amended at 29 Ill. Reg. ______, effective ____________ )
ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

1) **Heading of the Part:** Horse Health Rules

2) **Code Citation:** 11 Ill. Adm. Code 1431

3) **Section Number:** Proposed Action:
   1431.10                        Amend

4) **Statutory Authority:** 230 ILCS 5/9(b)

5) **A Complete Description of the Subjects and Issues Involved:** The current IRB rule governing health certificates poses undue hardship on Illinois horsemen. This rulemaking will relieve the burden to the horsemen and race track operators and still maintain the health requirement mandated by the State of Illinois (Illinois Department of Agriculture).

6) **Will this rulemaking replace any emergency rulemaking currently in effect?** No

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 amendments pending in this Part?** No

10) **Statement of Statewide Policy Objectives:** No local governmental units will be required to increase expenditures.

11) **Time, Place and Manner in which interested persons may comment on this proposed rulemaking:** Written comments should be submitted, within 45 days after this Notice, to:
    Mickey Ezzo
    Illinois Racing Board
    100 West Randolph, Suite 7-701
    Chicago, Illinois 60601
    (312) 814-5017
    mickey_ezzo@irb.state.il.us

12) **Initial Regulatory Flexibility Analysis:**

   A) **Types of small business affected:** None
ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

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

C) Types of professional skills necessary for compliance: None

13) Regulatory Agenda which this rulemaking was summarized: This rulemaking was not included on either of the most recent two regulatory agendas because: it was not anticipated when they were submitted.

The full text of the Proposed Amendment begins on the next page:
ILLINOIS REGISTER 11773

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ILLINOIS RACING BOARD

NOTICE OF PROPOSED AMENDMENT

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

PART 1431
HORSE HEALTH RULES

Section 1431.10 Valid Health Certificate
1431.20 Pest Control
1431.30 Disposable Needles; Hypodermics
1431.40 Clean Equipment
1431.50 Equipment used on Animals
1431.60 Tongue Ties (Repealed)
1431.70 Health Rule Violations
1431.80 Establish Health Rules
1431.85 AGID (Coggins) Test
1431.90 Humane Treatment of Horses

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

SOURCE: Published in Rules and Regulations of Horse Racing (original date not cited in publication); codified at 5 Ill. Reg. 11006; amended at 20 Ill. Reg. 5886, effective April 15, 1996; amended at 29 Ill. Reg. ______, effective ____________.

Section 1431.10 Valid Health Certificate

A certificate of veterinary inspection and entry permit are not required for Illinois equine. Illinois equine traveling out of the State on an Illinois certificate of veterinary inspection are not required to obtain a permit to return home. If, however, Illinois equine are out of the State longer than 30 days (i.e., boarding, training), a certificate of veterinary inspection issued by the state where the animal has been residing and an entry permit will be required. Once an animal has been out of the State longer than 30 days, it is no longer recognized as being an Illinois native animal. All equine entering Illinois for any reason other than slaughter must be accompanied by a negative test for equine infectious anemia (EIA) conducted within a year if the animal is more than one year of age, certificate of veterinary inspection issued by an accredited veterinarian within 30 days prior to entry, and an entry permit number issued by the Illinois
Department of Agriculture. The organization licensee shall be responsible for compliance with this Section.

a) No horse will be allowed in at a race track where a meet is in progress or imminent unless a current, valid health certificate is presented for him. A health certificate is valid when it is made by a certified veterinarian licensed by the state where the exam and certificate are prepared. No horse will be permitted to start unless said certificate is on file with the state veterinarian.

b) It is current if it is dated not more than 10 days prior to the date the horse described in the certificate arrives at an Illinois race track for the first time in a calendar year. When a horse is shipped from a Chicago area track to a track in Southern Illinois or from a track in Southern Illinois to a Chicago area track, a new examination must be made and a new health certificate shall include the temperature of the horse at the time he was examined. The operator putting on a meet is responsible for compliance with this rule.

(Source: Amended at 29 Ill. Reg. ______, effective ____________)

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<table>
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<tr>
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<tbody>
<tr>
<td><strong>1)</strong></td>
<td><strong>Heading of the Part:</strong> Solicitation for Charity Act</td>
</tr>
<tr>
<td><strong>2)</strong></td>
<td><strong>Code Citation:</strong> 14 Ill. Adm. Code 400</td>
</tr>
<tr>
<td><strong>3)</strong></td>
<td><strong>Section Number:</strong> 400.Appendix A, Illustration D</td>
</tr>
<tr>
<td><strong>4)</strong></td>
<td><strong>Statutory Authority:</strong> Sections 2(h) and 4 of the Solicitation for Charity Act [225 ILCS 460/2(h) and 4]</td>
</tr>
<tr>
<td><strong>5)</strong></td>
<td><strong>Effective Date of Amendment:</strong> July 15, 2005</td>
</tr>
<tr>
<td><strong>6)</strong></td>
<td><strong>Does this rulemaking contain an automatic repeal date?</strong> No</td>
</tr>
<tr>
<td><strong>7)</strong></td>
<td><strong>Does this rulemaking contain incorporations by reference?</strong> No</td>
</tr>
<tr>
<td><strong>8)</strong></td>
<td>A copy of the adopted amendment, including material incorporated by reference, is on file and is available for public inspection in the Attorney General’s principal office in Chicago (12th Floor, James R. Thompson Center).</td>
</tr>
<tr>
<td><strong>9)</strong></td>
<td><strong>Notice of Proposal Published in Illinois Register:</strong> April 1, 2005; 29 Ill. Reg. 4530</td>
</tr>
<tr>
<td><strong>10)</strong></td>
<td><strong>Has JCAR issued a Statement of Objection to this rulemaking?</strong> No</td>
</tr>
<tr>
<td><strong>11)</strong></td>
<td><strong>Differences between proposal and final version:</strong> Part 2, E, of the form is changed to make clear that the total consultant fees that are to be reported are the total fees paid to each consultant rather than the total to all consultants. A few other non-substantive, drafting changes were also made.</td>
</tr>
<tr>
<td><strong>12)</strong></td>
<td><strong>Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?</strong> Yes.</td>
</tr>
<tr>
<td><strong>13)</strong></td>
<td><strong>Will this rulemaking replace any emergency amendment currently in effect?</strong> No</td>
</tr>
<tr>
<td><strong>14)</strong></td>
<td><strong>Are there any amendments pending on this Part?</strong> No</td>
</tr>
<tr>
<td><strong>15)</strong></td>
<td><strong>Summary and Purpose of Amendment:</strong> The purpose of this rulemaking is to update the annual report form used by charitable organizations (Form AG990-IL) and the instructions for completing the form. The form and instructions are also restated in an effort to cut down on mistakes and frequently asked questions.</td>
</tr>
</tbody>
</table>
ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

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

    Therese Harris, Chief
    Charitable Trust Bureau
    Office of the Attorney General
    100 West Randolph Street 3rd Floor
    
    Chicago, Illinois 60601
    (312) 814-2533

    The full text of the Adopted Amendment begins on the next page.
ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

TITLE 14: COMMERCE
SUBTITLE B: CONSUMER PROTECTION
CHAPTER II: ATTORNEY GENERAL

PART 400
SOLICITATION FOR CHARITY ACT

Section
400.10 General
400.20 Definitions
400.30 Registration
400.40 Religious Exemption
400.50 Not Subject Organizations (Repealed)
400.60 Annual Reports for Charitable Organizations
400.65 Mid-Year and Annual Reports for Professional Fund Raisers
400.70 Professional Fund Raiser Renewal
400.80 Professional Solicitor Renewal
400.85 Professional Fundraising Consultant Renewal
400.90 Public Records
400.100 Registration Not an Endorsement

400.APPENDIX A Charitable Organization Forms
400.ILLUSTRATION A Registration Statement and Instructions
400.ILLUSTRATION B Financial Information Form
400.ILLUSTRATION C Religious Organization Exemption Form
400.ILLUSTRATION D Annual Report and Instructions
400.ILLUSTRATION E Report of Individual Fundraising Campaign

400.APPENDIX B Professional Fund Raiser Forms
400.ILLUSTRATION A Registration Statement and Instructions
400.ILLUSTRATION B List of Charities and Contracts
400.ILLUSTRATION C Bond
400.ILLUSTRATION D Annual Financial Report
400.ILLUSTRATION E Report of Individual Fundraising Campaign
400.ILLUSTRATION F Professional Solicitor Compensation Report
400.ILLUSTRATION G Explanation of Professional Fundraising Fees

400.APPENDIX C Professional Solicitor Forms
400.ILLUSTRATION A Registration Statement

400.APPENDIX D Professional Fundraising Consultant Forms
400.ILLUSTRATION A Registration Statement

AUTHORITY: Implementing and authorized by the Solicitation for Charity Act [225 ILCS
NOTICE OF ADOPTED AMENDMENT

ILLINOIS CHARITABLE ORGANIZATION ANNUAL REPORT

Form AG990-IL

For Office Use Only

PMT #

AMT

INIT

ILLINOIS ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

Section 400. APPENDIX A   Charitable Organization Forms

Section 400. ILLUSTRATION D   Annual Report and Instructions

For Office Use Only

<table>
<thead>
<tr>
<th>PMT#</th>
<th>AMT</th>
<th>INIT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tr>
</tbody>
</table>

Attorney General  **LISA MADIGAN**
Charitable Trust Bureau, 100 West Randolph
3rd Floor, Chicago, Illinois 60601

**JIM RYAN**
State of Illinois

AMT  Charitable Trust Bureau, 100 West Randolph
3rd Floor, Chicago, Illinois 60601 CO #

INIT

Report for the Fiscal Period:
Beginning / /  Payable to
& Ending / /  the Illinois Charity

Make checks Payable to
Copy of IRS Return
Audited Financial Statements
Copy of Form IFC

$15.00 Annual Report Filing Fee
$100.00 Late Report Filing Fee

Federal ID #

Are contributions to the organization tax deductible? Yes No Date Organization was created: / /  

- **LEGAL**
- **MAIL**
- **ADDRESS**
- **CITY, STATE**
- **ZIP CODE**

- **I. SUMMARY OF ALL REVENUE ITEMS DURING THE YEAR:**
  - D) PUBLIC SUPPORT, CONTRIBUTIONS & PROGRAM SERVICE REV. (%GROSS AMTS)
  - E) GOVERNMENT GRANTS & MEMBERSHIP DUES
  - F) OTHER REVENUES
  - G) TOTAL REVENUE, INCOME AND CONTRIBUTIONS RECEIVED (ADD D, E, & F)

- **II. SUMMARY OF ALL EXPENDITURES DURING THE YEAR:**
  - H) OPERATING CHARITABLE PROGRAM EXPENSE
  - I) EDUCATION PROGRAM SERVICE EXPENSE
  - J) TOTAL CHARITABLE PROGRAM SERVICE EXPENSE (ADD H & I)
  - J1) JOINT COSTS ALLOCATED TO PROGRAM SERVICES (INCLUDED IN J):
  - K) GRANTS TO OTHER CHARITABLE ORGANIZATIONS
  - L) TOTAL CHARITABLE PROGRAM SERVICE EXPENDITURE (ADD J & K)
  - M) MANAGEMENT AND GENERAL EXPENSE
  - N) FUNDRAISING EXPENSE
  - O) TOTAL EXPENDITURES THIS PERIOD (ADD L, M, & N)

- **III. SUMMARY OF ALL PAID FUNDRAISER AND CONSULTANT ACTIVITIES:**
  - P) TOTAL AMOUNT RAISED BY PAID PROFESSIONAL FUNDRAISERS
  - Q) TOTAL FUNDRAISERS FEES AND EXPENSES
  - R) NET RECEIVED BY THE CHARITY (P MINUS Q–R)

- **IV. COMPENSATION TO THE (3) HIGHEST PAID PERSONS DURING THE YEAR:**
  - T) NAME, TITLE


ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

| U) NAME, TITLE | U) $ |
| V) NAME, TITLE | V) $ |

**V. CHARITABLE PROGRAM DESCRIPTION:** CHARITABLE PROGRAM (3 HIGHEST BY $ EXPENDED) CODE CATEGORIES

| W) DESCRIPTION | W) # |
| X) DESCRIPTION | X) # |
| Y) DESCRIPTION | Y) # |

List on back side of instructions CODE.
**NOTICE OF ADOPTED AMENDMENT**

<table>
<thead>
<tr>
<th>Question</th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Was the organization the subject of any court action, fine, penalty or judgment?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Has the organization or a current director, trustee, officer or employee thereof, ever been convicted by any court of any misdemeanor involving the misuse or misappropriation of funds or any felony?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Did the organization make a grant award or contribution to any organization in which any of its officers, directors or trustees owns an interest; or was it a party to any transaction in which any of its officers, directors or trustees has a material financial interest; or did any officer, director or trustee receive anything of value not reported as compensation?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Has the organization invested in any corporate stock in which any officer, director or trustee owns more than 10% of the outstanding shares?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Is any property of the organization held in the name of or commingled with the property of any other person or organization?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Did the organization use the services of a professional fundraiser? (Attach Form IFC)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7a. Did the organization allocate the cost of any solicitation mailing, advertisement or literature costs between program service and fundraising expenses?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7b. If &quot;YES&quot;, enter (i) the aggregate amount of these joint costs $, (ii) the amount allocated to program services $, (iii) the amount allocated to management and general $, and (iv) the amount allocated to fundraising $.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Did the organization expend its restricted funds for purposes other than restricted purposes?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>9. Has the organization ever been refused registration or had its registration or tax exemption suspended or revoked by any governmental agency?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>10. Was there or do you have any knowledge of any kickback, bribe, or any theft, defalcation, misappropriation, commingling or misuse of organizational funds?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>11. List the name, address and the account # of the financial institutions where the organization maintains its three largest accounts:</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**ALL ATTACHMENTS MUST ACCOMPANY THIS REPORT – SEE INSTRUCTIONS**

Under penalty of perjury, I (we) the undersigned declare and certify that I (we) have examined this annual report and the attached documents, including all the schedules and statements, and the facts therein stated are true and complete and filed with the Illinois Attorney General for the purpose of having the people of the State of Illinois rely thereupon. I hereby further authorize and agree to submit myself and the registrant hereby to the jurisdiction of the State of Illinois.

Be sure to include all fees due:

1) Reports are due within six months of your fiscal year end.

2) For fees due, see instructions. Reports with assets or revenues greater than $15,000 must submit $15.00 filing fee.

3) Reports that are late or incomplete are subject to a $100 penalty.
A COMPLETE ANNUAL FINANCIAL REPORT (AG990-IL with all required attachments and applicable fees) is due within six months after the organization's fiscal year end. A REPORT WILL NOT BE CONSIDERED FILED UNLESS IT IS COMPLETE. A COMPLETE ANNUAL FINANCIAL REPORT must include the following items:

As required by Illinois Law, every charity operating in Illinois, with limited exceptions, must register and file an annual financial report with the Illinois Attorney General's Office. (760 ILCS 55/1 et seq. and 225 ILCS 460/0.01 et seq.)

TO COMPLETE AN ANNUAL FINANCIAL REPORT FILING THE FOLLOWING ITEMS MUST BE SUBMITTED:

1. **$15.00 Annual Filing Fee** – Make check or money order payable to "ILLINOIS CHARITY BUREAU FUND." (No fee is required if the organization's gross revenue and assets were each less than $15,000. See below for simplified filing for small organizations.) An annual financial report submitted without proper fees will not be considered filed. Filing without proper fees will not be accepted.

   - **Soliciting Organizations** are required to pay a $15 Annual Report Filing Fee if gross contributions are greater than $15,000 or assets are greater than $25,000.

   - **Trust Organizations registered under the Charitable Trust Act only** are required to pay a $15 Annual Report Filing Fee if gross revenues or assets are greater than $25,000.

2. **Form AG990-IL** – amounts on this form should be typed in black and rounded to the nearest dollar. Complete all sections and line items applicable to the organization. See 6 below for Simplified Filing Option for Small Organizations. An annual financial report submitted with an incomplete Form AG990-IL will not be considered filed. An incomplete AG990-IL will be classified as not filed.

   A. **CO#:** Include CO# on the Form AG990-IL. Correct any incorrect name or address information if using preprinted form and highlight any corrections.

   B. **SIGNATURES:** The Form AG990-IL must be signed by two different officers (president or other authorized officer and the chief fiscal officer) or by two
trustees. One signature shall be accepted if there is only one trustee. A Form AG990-IL without required signatures is incomplete.

C. Part I, Line D: Report "contributions" as defined by the Solicitation for Charity Act. The Solicitation for Charity Act defines "contributions" to include the gross amounts of cash donations as well as gross sums paid by the public for merchandise, special events, rights or services of the organization. A Form AG990-IL that fails to report "contributions" as defined by the Solicitation for Charity Act is incomplete. (A complete definition of "contribution" under the Solicitation for Charity Act is shown on the back of these instructions.)

D.A. Part II, Line J: Report all program costs associated with a combined fundraising appeal to the extent such was allocated to Charitable Program Service Expense and entered on line J as Charitable Program Service Expense. The amount should equal the amount reported on the back of the AG990-IL form, question 7b(ii). You must have and maintain the documentation to support the allocations made.

E.B. Part III, Line S: List all fees paid to all fundraising consultants during the year. Attach a list of these consultants listing the name and address of the consultant and the total of all fees paid to each.

F. Part V, Lines W, X, Y Program Service Codes: Select up to three codes from those on the back of these instructions that best describe the program services for which the organization spent funds.

3. IRS Return or Report — (IRS form 990 (excluding Schedule B), 990EZ (excluding Schedule B), 990PF, 1041, 1120 or other) must be attached if required by the IRS. Submit a copy of the Federal Return you filed. If the organization you did not file a Federal return or report, explain why. Attach explanation. An annual financial report submitted without the required Federal return or report is incomplete.

4. Audited Financial Statements must be attached by a public charity—are required if gross contributions exceeded $150,000 or if the public charity raised contributions in excess of $25,000 through the services of organization used a paid professional fundraiser. The Solicitation for Charity Act defines contributions to which raised contributions in excess of $25,000. Contributions include the gross amounts of cash donations as well as gross sums paid by the public for merchandise, special events, rights or services of the organization, as well as cash donations. (A complete definition of "contribution"
ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

An annual financial report without required audited financial statements is incomplete.

5. Form IFC – Attorney General Report of Individual Fundraising Campaign – If the organization used a paid professional fundraiser, a separate Form IFC campaign report form is required for each campaign, and each must be signed by both the professional fundraiser and an officer or director of the organization. An annual financial report without the required Form IFC is incomplete.

6. Simplified Filing Option for Small Organizations:

- Soliciting Organizations with gross contributions and assets of $25,000 or less during the fiscal year may file an AG990-IL with all required signatures, disclosing only total revenue, total expenditures, and assets at the fiscal year end (Lines A, G and O of the AG990-IL). A $15 annual report filing fee is due only if gross contributions were more than $15,000.

- Trust Organizations registered solely under the Charitable Trust Act with gross revenue and assets of $25,000 or less during the fiscal year may file an AG990-IL with all required signatures, disclosing only total revenue, total expenditures, and assets at the fiscal year end (Lines A, G and O of the AG990-IL). A $15 annual report filing fee is not due.

60 DAY EXTENSION and LATE REPORT FILING FEES:

- A 60 day extension will be granted only upon the filing of a written request with the Attorney General prior to the report due date.

- If a proper and complete annual report (AG990-IL with all required attachments and applicable fees) or a written extension request is not received prior to the due date, a $100 late report filing fee (checks payable to the "Illinois Charity Bureau Fund") is required by Illinois law. The report cannot be accepted and will not be considered filed if it is late and the late fee is not paid.

Submit the complete annual financial report (AG990-IL with all required attachments and applicable fees) or written extension request to:

CO#: Include CO# on reports and all correspondence. Upon registration a charitable organization number was assigned (CO# 01 XXX, XXX), if not printed on the form, please
NOTICE OF ADOPTED AMENDMENT

insert your CO# on the top of the first page of the AG990-IL. Correct any preprinted name or address information that is incorrect or out of date.

2. PROGRAM SERVICE CODES: Select up to three codes from those on back of these instructions which best describe the program service(s) for which the organization spent funds. Enter description(s) and code number(s) in Part V of the AG990-IL.

3. SIGNATURES: The signatures of two different officers (president or other authorized officer and the chief fiscal officer) or of two trustees are required on the back side of the AG990-IL. One signature shall be accepted if there is only one officer or trustee.

4. DUE DATE: The annual financial report and fee are due within six months of the organization's fiscal or calendar year end. A sixty-day extension of the due date can be requested. The extension request must be in writing and received by our office prior to the due date.

5. LATE REPORT FILING FEE: If a proper and complete annual report along with all fees and attachments is not received prior to the due date, a $100.00 late report filing fee (checks payable to "Illinois Charity Bureau Fund") is required by Illinois law. The report cannot be accepted and will not be considered filed if it is late and the late fee is not paid.

6. File the original AG990-IL, one copy of the attachments, and applicable fees with the:

OFFICE OF THE ATTORNEY GENERAL
CHARITABLE TRUST BUREAU
ATTN: ANNUAL REPORT SECTION
100 WEST RANDOLPH STREET, 3rd FLOOR
CHICAGO, ILLINOIS  60601-3175
(312)814-2595
Section 1(b) of the Solicitation for Charity Act defines contributions as follows:

"Contribution." The promise or grant of any money or property of any kind or value, including the promise to pay, except payments by union members of an organization. Reference to the dollar amount of "contributions" in the Act means, in the case of promises to pay, or payments for merchandise or rights of any other description, the value of the total amount promised to be paid or paid for such merchandise or rights and not merely that portion of the purchase price to be applied to a charitable purpose. Contribution shall not include the proceeds from the sale of admission tickets by any not-for-profit music or dramatic arts organization that establishes, by such proof as the Attorney General may require, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USC 501 et seq.) and which is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis. For purposes of this definition, union member dues and donated services shall not be deemed contributions. (See 225 ILCS 460/1(b).)

Part V, Lines W, X, Y Program Service Codes:

Charitable activity code numbers (select up to three codes which best describe the activity and/or the program service for which your organization expends funds). Enter in Part V of the first page of the AG990-IL. Enter first the code which most accurately identifies you.

**SCHOOLS**
001 Pre-School
002 Elementary or High Schools
003 College & Universities
004 Trade Schools, Vocational Schools & Job Training

**PUBLIC EDUCATION OTHER THAN SCHOOLS**
010 Public Education by Mail
011 Seminars and Conferences
012 Other Educational Materials for the Public

**RELIGIOUS ACTIVITIES**
020 Church, Synagogue, etc.
021 Missionary Activities

**CULTURAL AND HISTORICAL**
030 Performing Arts (Ballet, Symphony, Theatre)
031 Art and/or Literature
032 Museum
033 Library
034 Historical Societies

**RECREATIONAL & SOCIAL ACTIVITIES**
040 Youth
041 Adult

**PUBLIC POLICY**
100 Legislative and Political Activities
101 Lobbying & Advocacy
102 Consumer Interest Group (non-education)
103 Peace
104 Other Public Policy

**HUMAN SERVICES**
110 Day Care Centers
111 Family and Individual Services
112 Neighborhood and Community Development
113 Nursing Services (i.e., Home Care)
114 Programs for Minority Advocacy
115 Programs for Needy Children
116 Rescue and Emergency Service
117 Services for the Aged
118 Services for Alcohol or Drug Abuse
119 Services for Blind Adults
120 Services for Blind Children
121 Services for Developmentally Disabled Adults
122 Services for Developmentally Disabled Children
123 Services for Handicapped Adults
124 Services for Handicapped Children
125 Services for the Hearing Impaired
126 Services for the Poor
NOTICE OF ADOPTED AMENDMENT

Music Groups & Youth Bands
Youth Clubs (i.e., Boy Scouts, Girl Scouts, 4-H, Boys Club, etc.)
Community Recreational Facilities

Scientific Research
Heart Disease Research
Cancer Research
Other Medical and Disease Research

Housing for Youth
Housing for the Poor
Housing for the Aged
Women Shelter
Housing for the Disabled

Firemen & Families
Law Enforcement Personnel & Families
Grants to Other Charitable Organizations
Furnished Services or Facilities to Other Organizations
Umbrella/Parent Organization

Scholarships and Student loans

Preservation/Conservation of Natural Resources
Prevention of Pollution

Legal Services and Legal Aid
Civil Rights Activities

(Source: Amended at 29 Ill. Reg. ______, effective July 15, 2005)
ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Charitable Trust Act

2) **Code Citation:** 14 Ill. Adm. Code 480

3) **Section Number:** 480.Exhibit C  Amendment

4) **Statutory Authority:** Section 7 of the Charitable Trust Act [760 ILCS 55/7]

5) **Effective Date of Rulemaking:** July 15, 2005

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

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file and is available for public inspection in the Attorney General’s principal office in Chicago (12th Floor, James R. Thompson Center).

9) **Notice of Proposal Published in Illinois Register:** April 1, 2005; 29 Ill. Reg. 4543

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

11) **Differences between proposal and final version:** Part 2, E, of the form is changed to make clear that the total consultant fees that are to be reported are the total fees paid to each consultant rather than the total to all consultants. A few other non-substantive, drafting changes were also made.

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

13) **Will this rulemaking replace any emergency amendments currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Amendment:** The purpose of this rulemaking is to update the annual report form used by charitable organizations (Form AG990-IL) and the instructions for completing the form. The form and instructions are also restated in an effort to cut down on mistakes and frequently asked questions.
NOTICE OF ADOPTED AMENDMENT

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

Therese Harris, Chief
Charitable Trust Bureau
Office of the Attorney General
100 West Randolph Street – 3rd Floor
Chicago, Illinois 60601

(312) 814-2533

The full text of the Adopted Amendment begins on the next page.
ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

TITLE 14: COMMERCE
SUBTITLE B: CONSUMER PROTECTION
CHAPTER II: ATTORNEY GENERAL

PART 480
CHARITABLE TRUST ACT

Section
480.10 General
480.20 Definitions
480.30 Registration
480.40 Organizations and Activities Exempt from Registration
480.50 Annual Reports
480.60 Public Records
480.EXHIBIT A Registration Statement and Instructions
480.EXHIBIT B Financial Information Form
480.EXHIBIT C Annual Report and Instructions

AUTHORITY: Implementing and authorized by the Charitable Trust Act [760 ILCS 55].

ILLINOIS REGISTER

ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

Section 480.EXHIBIT C  Annual Report and Instructions

For Office Use Only

ILLINOIS CHARITABLE ORGANIZATION ANNUAL REPORT
Form AG990-IL

Attorney General LISA MADIGAN
JIM RYAN
State of Illinois
Revised 4-99

Charitable Trust Bureau, 100 West Randolph
3rd Floor, Chicago, Illinois 60601
Report for the Fiscal Period:

Beginning / / & Ending / /

Makes Checks Payable to the Illinois Charity Bureau Fund

Federal ID # MO DAY YR

Are contributions to the organization tax deductible? □ Yes □ No Date Organization was created / /

LEGAL
NAME
MAIL
ADDRESS
CITY, STATE
ZIP CODE

<table>
<thead>
<tr>
<th></th>
<th>Year-end amounts</th>
<th>PERCENTAGE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>A) ASSETS</td>
<td></td>
<td>%</td>
<td>D) $</td>
</tr>
<tr>
<td>B) LIABILITIES</td>
<td></td>
<td>%</td>
<td>E) $</td>
</tr>
<tr>
<td>C) NET ASSETS</td>
<td></td>
<td>100%</td>
<td>G) $</td>
</tr>
</tbody>
</table>

I. SUMMARY OF ALL REVENUE ITEMS DURING THE YEAR:
D. PUBLIC SUPPORT CONTRIBUTIONS & PROGRAM SERVICE REV. (GROSS AMTS.)
E. GOVERNMENT GRANTS & MEMBERSHIP DUES
F. OTHER REVENUES
G. TOTAL REVENUE, Income AND CONTRIBUTIONS RECEIVED (ADD D, E, & F)

II. SUMMARY OF ALL EXPENDITURES DURING THE YEAR:
H. OPERATING CHARITABLE PROGRAM EXPENSE
I. EDUCATION PROGRAM SERVICE EXPENSE
J. TOTAL CHARITABLE PROGRAM SERVICE EXPENSE (ADD H & I)
J1. JOINT COSTS ALLOCATED TO PROGRAM SERVICES (INCLUDED IN J) $
K. GRANTS TO OTHER CHARITABLE ORGANIZATIONS
L. TOTAL CHARITABLE PROGRAM SERVICE EXPENDITURE (ADD J & K)
M. MANAGEMENT AND GENERAL EXPENSE
N. FUNDRAISING EXPENSE
O. TOTAL EXPENDITURES THIS PERIOD (ADD L, M, & N)

III. SUMMARY OF ALL PAID FUNDRAISER AND CONSULTANT ACTIVITIES:
(Attach Attorney General Report of Individual Fundraising Campaign Form IFC. One for each PFR.)

PROFESSIONAL FUNDRAISERS:
P. TOTAL AMOUNT RAISED BY PAID PROFESSIONAL FUNDRAISERS
Q. TOTAL FUNDRAISERS FEES AND EXPENSES
R. NET RECEIVED BY THE CHARITY (P MINUS Q = R)

PROFESSIONAL FUNDRAISING CONSULTANTS:
S. TOTAL AMOUNT PAID TO PROFESSIONAL FUNDRAISING CONSULTANTS

IV. COMPENSATION TO THE (3) HIGHEST PAID PERSONS DURING THE YEAR:
T. NAME, TITLE
## NOTICE OF ADOPTED AMENDMENT

<p>| | | |</p>
<table>
<thead>
<tr>
<th></th>
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</tr>
</thead>
<tbody>
<tr>
<td>U. NAME, TITLE</td>
<td>U) $</td>
<td></td>
</tr>
<tr>
<td>V. NAME, TITLE</td>
<td>V) $</td>
<td></td>
</tr>
<tr>
<td>V. CHARITABLE PROGRAM DESCRIPTION: CHARITABLE PROGRAM (3 HIGHEST BY $ EXPENDED) CODE CATEGORIES</td>
<td></td>
<td>List on back side of instructions CODE</td>
</tr>
<tr>
<td>W. DESCRIPTION</td>
<td>W) #</td>
<td></td>
</tr>
<tr>
<td>X. DESCRIPTION</td>
<td>X) #</td>
<td></td>
</tr>
<tr>
<td>Y. DESCRIPTION</td>
<td>Y) #</td>
<td></td>
</tr>
</tbody>
</table>
### NOTICE OF ADOPTED AMENDMENT

If the answer to any of the following is yes, attach a detailed explanation:

<table>
<thead>
<tr>
<th></th>
<th>YES</th>
<th>NO</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>WAS THE ORGANIZATION THE SUBJECT OF ANY COURT ACTION, FINE, PENALTY OR JUDGMENT?</td>
<td>![ ]</td>
</tr>
<tr>
<td>2.</td>
<td>HAS THE ORGANIZATION OR A CURRENT DIRECTOR, TRUSTEE, OFFICER OR EMPLOYEE THEREOF, EVER BEEN CONVICTED BY ANY COURT OF ANY MISDEMEANOR INVOLVING THE MISUSE OR MISAPPROPRIATION OF FUNDS OR ANY FELONY?</td>
<td>![ ]</td>
</tr>
<tr>
<td>3.</td>
<td>DID THE ORGANIZATION MAKE A GRANT AWARD OR CONTRIBUTION TO ANY ORGANIZATION IN WHICH ANY OF ITS OFFICERS, DIRECTORS OR TRUSTEES OWNS AN INTEREST, OR WAS IT A PARTY TO ANY TRANSACTION IN WHICH ANY OF ITS OFFICERS, DIRECTORS OR TRUSTEES HAS A MATERIAL FINANCIAL INTEREST; OR DID ANY OFFICER, DIRECTOR OR TRUSTEE RECEIVE ANYTHING OF VALUE NOT REPORTED AS COMPENSATION?</td>
<td>![ ]</td>
</tr>
<tr>
<td>4.</td>
<td>HAS THE ORGANIZATION INVESTED IN ANY CORPORATE STOCK IN WHICH ANY OFFICER, DIRECTOR OR TRUSTEE OWNS MORE THAN 10% OF THE OUTSTANDING SHARES?</td>
<td>![ ]</td>
</tr>
<tr>
<td>5.</td>
<td>IS ANY PROPERTY OF THE ORGANIZATION HELD IN THE NAME OF OR COMMINGLED WITH THE PROPERTY OF ANY OTHER PERSON OR ORGANIZATION?</td>
<td>![ ]</td>
</tr>
<tr>
<td>6.</td>
<td>DID THE ORGANIZATION USE THE SERVICES OF A PROFESSIONAL FUNDRAISER? (ATTACH FORM IFC)</td>
<td>![ ]</td>
</tr>
<tr>
<td>7a.</td>
<td>DID THE ORGANIZATION ALLOCATE THE COST OF ANY SOLICITATION MAILING, ADVERTISEMENT OR LITERATURE COSTS BETWEEN PROGRAM SERVICE AND FUNDRAISING EXPENSES?</td>
<td>![ ]</td>
</tr>
<tr>
<td>7b.</td>
<td>If &quot;YES&quot;, enter (i) the aggregate amount of these joint costs $; (ii) the amount allocated to program services $; (iii) the amount allocated to management and general $; and (iv) the amount allocated to fundraising $</td>
<td>![ ]</td>
</tr>
<tr>
<td>8.</td>
<td>DID THE ORGANIZATION EXPEND ITS RESTRICTED FUNDS FOR PURPOSES OTHER THAN RESTRICTED PURPOSES?</td>
<td>![ ]</td>
</tr>
<tr>
<td>9.</td>
<td>HAS THE ORGANIZATION EVER BEEN REFUSED REGISTRATION OR HAD ITS REGISTRATION OR TAX EXEMPTION SUSPENDED OR REVOKED BY ANY GOVERNMENTAL AGENCY?</td>
<td>![ ]</td>
</tr>
<tr>
<td>10.</td>
<td>WAS THERE OR DO YOU HAVE ANY KNOWLEDGE OF ANY KICKBACK, BRIBE, OR ANY THEFT, DEFALCATION, MISAPPROPRIATION, COMMINGLING OR MISUSE OF ORGANIZATIONAL FUNDS?</td>
<td>![ ]</td>
</tr>
<tr>
<td>11.</td>
<td>LIST THE NAME, ADDRESS AND THE ACCOUNT # OF THE FINANCIAL INSTITUTIONS WHERE THE ORGANIZATION MAINTAINS ITS THREE LARGEST ACCOUNTS:</td>
<td>![ ]</td>
</tr>
</tbody>
</table>

**12. NAME AND TELEPHONE NUMBER OF CONTACT PERSON:**

---

**ALL ATTACHMENTS MUST ACCOMPANY THIS REPORT – SEE INSTRUCTIONS**

Under penalty of perjury, I (we) the undersigned declare and certify that I (we) have examined this annual report and the attached documents, including all the schedules and statements, and the facts therein stated are true and complete and filed with the Illinois Attorney General for the purpose of having the people of the State of Illinois rely upon. I hereby further authorize and agree to submit myself and the registrant hereby to the jurisdiction of the State of Illinois.

Be sure to include all fees due:

1) Reports are due within six months of your fiscal year end.

2) For fees due, see instructions. Reports with assets or revenues greater than $15,000 must submit $15.00 filing fee.

3) Reports that are late or incomplete are subject to a

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<tbody>
<tr>
<td>PRESIDENT or TRUSTEE (PRINT NAME)</td>
<td>SIGNATURE</td>
<td>DATE</td>
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<tr>
<td>TREASURER or TRUSTEE (PRINT NAME)</td>
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</tr>
<tr>
<td>PREPARER (PRINT NAME)</td>
<td>SIGNATURE</td>
<td>DATE</td>
<td></td>
</tr>
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</table>
ATTORNEY GENERAL
NOTICE OF ADOPTED AMENDMENT

$100.00 PENALTY.

A COMPLETE ANNUAL FINANCIAL REPORT (AG990-IL with all required attachments and applicable fees) is due within six months after the organization's fiscal year end. A REPORT WILL NOT BE CONSIDERED FILED UNLESS IT IS COMPLETE. A COMPLETE ANNUAL FINANCIAL REPORT must include the following items: As required by Illinois Law, every charity operating in Illinois, with limited exceptions, must register and file an annual financial report with the Illinois Attorney General's Office. (760 ILCS 55/1 et seq. and 225 ILCS 460/0.01 et seq.) TO COMPLETE AN ANNUAL FINANCIAL REPORT FILING THE FOLLOWING ITEMS MUST BE SUBMITTED:

1. $15.00 Annual Filing Fee – Make check or money order payable to "ILLINOIS CHARITY BUREAU FUND." (No fee is required if the organization's gross revenue and assets were each less than $15,000. See below for simplified filing for small organizations.) An annual financial report submitted without proper fees will not be considered filed. Filing without proper fees will not be accepted.

   - Soliciting Organizations are required to pay a $15 Annual Report Filing Fee if gross contributions are greater than $15,000 or assets are greater than $25,000.

   - Trust Organizations registered under the Charitable Trust Act only are required to pay a $15 Annual Report Filing Fee if gross revenues or assets are greater than $25,000.

2. Form AG990-IL – Amounts on this form should be typed in black and rounded to the nearest dollar. Complete all sections and line items applicable to the organization. See 6 below for Simplified Filing Option for Small Organizations. An annual financial report submitted with an incomplete Form AG990-IL will not be considered filed. An incomplete AG990-IL will be classified as not filed.

   A. CO#: Include CO# on the Form AG990-IL. Correct any incorrect name or address information if using preprinted form and highlight any corrections.
ATTORNEY GENERAL

NOTICE OF ADOPTED AMENDMENT

B. SIGNATURES: The Form AG990-IL must be signed by two different officers (president or other authorized officer and the chief fiscal officer) or by two trustees. One signature shall be accepted if there is only one trustee. A Form AG990-IL without required signatures is incomplete.

C. Part I, Line D: Report "contributions" as defined by the Solicitation for Charity Act. The Solicitation for Charity Act defines "contributions" to include the gross amounts of cash donations as well as gross sums paid by the public for merchandise, special events, rights or services of the organization. A Form AG990-IL that fails to report "contributions" as defined by the Solicitation for Charity Act is incomplete. (A complete definition of "contribution" under the Solicitation for Charity Act is shown on the back of these instructions.)

D. Part II, Line J1: Report all program costs associated with a combined fundraising appeal to the extent such was allocated to Charitable Program Service Expense and entered on line J as Charitable Program Service Expense. The amount should equal the amount reported on the back of the AG990-IL form, question 7b(ii). You must have and maintain the documentation to support the allocations made.

E. Part III, Line S: List all fees paid to all fundraising consultants during the year. Attach a list of these consultants listing the name and address of the consultant and the total of all fees paid to each.

F. Part V, Lines W, X, Y Program Service Codes: Select up to three codes from those on the back of these instructions that best describe the program services for which the organization spent funds.

3. IRS Return or Report — IRS form 990 (excluding Schedule B), 990EZ (excluding Schedule B), 990PF, 1041, 1120 or other, must be attached if required by the IRS—submit a copy of the Federal Return you filed. If the organization did not file a Federal return or report, explain why. Attach an explanation. An annual financial report submitted without the required Federal return or report is incomplete.

4. Audited Financial Statements must be attached by a public charity—are required if gross contributions exceeded $150,000 or if the public charity raised contributions in excess of $25,000 through the services of a paid professional fundraiser. The Solicitation for Charity Act defines contributions to which raised contributions in excess of $25,000. Contributions include the gross amounts of cash donations as well as
NOTICE OF ADOPTED AMENDMENT

gross sums paid by the public for merchandise, special events, rights or services of the organization, as well as each donation. (A complete definition of "contribution" under the Solicitation for Charity Act is shown on the back of these instructions.) An annual financial report without required audited financial statements is incomplete.

5. **Form IFC — Attorney General Report of Individual Fundraising Campaign** — If the organization used a paid professional fundraiser, a separate Form IFC campaign report form is required for each campaign, and each must be signed by both the professional fundraiser and an officer or director of the organization. An annual financial report without the required Form IFC is incomplete.

6. **Simplified Filing Option for Small Organizations:**

- **Soliciting Organizations** with gross contributions and assets of $25,000 or less during the fiscal year may file an AG990-IL with all required signatures, disclosing only total revenue, total expenditures, and assets at the fiscal year end (Lines A, G and O of the AG990-IL). A $15 annual report filing fee is due only if gross contributions were more than $15,000.

- **Trust Organizations registered solely under the Charitable Trust Act** with gross revenue and assets of $25,000 or less during the fiscal year may file an AG990-IL with all required signatures, disclosing only total revenue, total expenditures, and assets at the fiscal year end (Lines A, G and O of the AG990-IL). A $15 annual report filing fee is not due.

**60 DAY EXTENSION and LATE REPORT FILING FEES:** ADDITIONAL INSTRUCTIONS:

1. A 60 day extension will be granted only upon the filing of a written request with the Attorney General prior to the report due date.

2. If a proper and complete annual report (AG990-IL with all required attachments and applicable fees) or a written extension request is not received prior to the due date, a $100 late report filing fee (checks payable to the "Illinois Charity Bureau Fund") is required by Illinois law. The report cannot be accepted and will not be considered filed if it is late and the late fee is not paid.

Submit the complete annual financial report (AG990-IL with all required attachments and applicable fees) or written extension request to:
NOTICE OF ADOPTED AMENDMENT

CO#: Include CO# on reports and all correspondence. Upon registration a charitable organization number was assigned (CO# 01 XXX, XXX), if not printed on the form, please insert your CO# on the top of the first page of the AG990-IL. Correct any preprinted name or address information that is incorrect or out of date.

2. PROGRAM SERVICE CODES: Select up to three codes from those on back of these instructions which best describe the program service(s) for which the organization spent funds. Enter description(s) and code number(s) in Part V of the AG990-IL.

3. SIGNATURES: The signatures of two different officers (president or other authorized officer and the chief fiscal officer) or of two trustees are required on the back side of the AG990-IL. One signature shall be accepted if there is only one officer or trustee.

4. DUE DATE: The annual financial report and fee are due within six months of the organization’s fiscal or calendar year end. A sixty-day extension of the due date can be requested. The extension request must be in writing and received by our office prior to the due date.

5. LATE REPORT FILING FEE: If a proper and complete annual report along with all fees and attachments is not received prior to the due date, a $100.00 late report filing fee (checks payable to "Illinois Charity Bureau Fund") is required by Illinois law. The report cannot be accepted and will not be considered filed if it is late and the late fee is not paid.

6. File the original AG990-IL, one copy of the attachments, and applicable fees with the:

OFFICE OF THE ATTORNEY GENERAL
CHARITABLE TRUST BUREAU
ATTN: ANNUAL REPORT SECTION
100 WEST RANDOLPH STREET, 3rd FLOOR
CHICAGO, ILLINOIS  60601-3175
(312)814-2595
Section 1(b) of the Solicitation for Charity Act defines contributions as follows:

"Contribution." The promise or grant of any money or property of any kind or value, including the promise to pay, except payments by union members of an organization. Reference to the dollar amount of "contributions" in the Act means, in the case of promises to pay, or payments for merchandise or rights of any other description, the value of the total amount promised to be paid or paid for such merchandise or rights and not merely that portion of the purchase price to be applied to a charitable purpose. Contribution shall not include the proceeds from the sale of admission tickets by any not-for-profit music or dramatic arts organization that establishes, by such proof as the Attorney General may require, that it has received an exemption under Section 501(c)(3) of the Internal Revenue Code (26 USC 501 et seq.) and which is organized and operated for the presentation of live public performances of musical or theatrical works on a regular basis. For purposes of this definition, union member dues and donated services shall not be deemed contributions. (See 225 ILCS 460/1(b).)

Part V, Lines W, X, Y Program Service Codes:

Charitable activity code numbers (select up to three codes which best describe the activity and/or the program service for which your organization expends funds). Enter in Part V of the first page of the AG990-IL. Enter first the code which most accurately identifies you.

<table>
<thead>
<tr>
<th>Schools</th>
<th>Public Policy</th>
<th>Human Services</th>
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</thead>
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<td>100 Legislative and Political Activities</td>
<td>110 Day Care Centers</td>
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<tr>
<td>002  Elementary or High Schools</td>
<td>101 Lobbying &amp; Advocacy</td>
<td>111 Family and Individual Services</td>
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<td>003  College &amp; Universities</td>
<td>102 Consumer Interest Group (non-education)</td>
<td>112 Neighborhood and Community Development</td>
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<tr>
<td>004  Trade Schools, Vocational Schools &amp; Job Training</td>
<td>103 Peace</td>
<td>113 Nursing Services (i.e., Home Care)</td>
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<td></td>
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<td>114 Programs for Minority Advocacy</td>
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<td></td>
<td>115 Programs for Needy Children</td>
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<td>116 Rescue and Emergency Service</td>
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<td>117 Services for the Aged</td>
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<td>118 Services for Alcohol or Drug Abuse</td>
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<td>119 Services for Blind Adults</td>
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<td>120 Services for Blind Children</td>
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<tr>
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<td></td>
<td>121 Services for Developmentally Disabled Adults</td>
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<td></td>
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<td>122 Services for Developmentally Disabled Children</td>
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<tr>
<td></td>
<td></td>
<td>123 Services for Handicapped Adults</td>
</tr>
<tr>
<td></td>
<td></td>
<td>124 Services for Handicapped Children</td>
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<td></td>
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<td>125 Services for the Hearing Impaired</td>
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<td></td>
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<td>126 Services for the Poor</td>
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<td>127 Services for Veterans</td>
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</table>

<table>
<thead>
<tr>
<th>Religious Activities</th>
<th>Recreational &amp; Social Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>020  Church, Synagogue, etc.</td>
<td>040 Youth</td>
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<tr>
<td>021  Missionary Activities</td>
<td>041 Adult</td>
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<td></td>
<td>042 Music Groups &amp; Youth Bands</td>
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</table>

<table>
<thead>
<tr>
<th>Public Education Other Than Schools</th>
<th>Cultural and Historical</th>
</tr>
</thead>
<tbody>
<tr>
<td>010  Public Education by Mail</td>
<td>030 Performing Arts (Ballet, Symphony, Theatre)</td>
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<tr>
<td>011  Seminars and Conferences</td>
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<tr>
<td>012  Other Educational Materials for the Public</td>
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</tr>
<tr>
<td>020  Church, Synagogue, etc.</td>
<td>033 Library</td>
</tr>
<tr>
<td>021  Missionary Activities</td>
<td>034 Historical Societies</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Cultural and Historical</th>
<th>Recreational &amp; Social Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>030 Performing Arts (Ballet, Symphony, Theatre)</td>
<td>040 Youth</td>
</tr>
<tr>
<td>031 Art and/or Literature</td>
<td>041 Adult</td>
</tr>
<tr>
<td>032 Museum</td>
<td>042 Music Groups &amp; Youth Bands</td>
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### NOTICE OF ADOPTED AMENDMENT

<table>
<thead>
<tr>
<th>Code</th>
<th>Description</th>
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<tbody>
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<td>Youth Clubs (i.e., Boy Scouts, Girl Scouts, 4-H, Boys Club, etc.)</td>
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<td>Community Recreational Facilities</td>
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<td>050</td>
<td>Scientific Research</td>
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<tr>
<td>051</td>
<td>Heart Disease Research</td>
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<tr>
<td>052</td>
<td>Cancer Research</td>
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<tr>
<td>053</td>
<td>Other Medical and Disease Research</td>
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<td>060</td>
<td>Hospitals</td>
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<tr>
<td>061</td>
<td>Nursing Homes</td>
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<tr>
<td>062</td>
<td>Health Clinics</td>
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<td>063</td>
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<td>064</td>
<td>Hospice</td>
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<tr>
<td>070</td>
<td>Animal Shelter, Humane Society and/or Anti-cruelty Society</td>
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<td>Prevention of Pollution</td>
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<td>090</td>
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<td>091</td>
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<td>300</td>
<td>(Write in Description)</td>
</tr>
</tbody>
</table>

(Source: Amended at 29 Ill. Reg. ______, effective July 15, 2005)
NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Merit and Fitness

2) **Code Citation:** 80 Ill. Adm. Code 302

3) **Section Number:** Adopted Action: 302.795 New

4) **Statutory Authority:** Implementing and authorized by the Personnel Code [20 ILCS 415]

5) **Effective Date of Amendment:** July 14, 2005

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

7) **Does this rulemaking contain incorporations by reference?** No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) **Date Notice of Proposal was Published in the Illinois Register:** July 16, 2004; 28 Ill. Reg. 9808

10) **Has JCAR issued a Statement of Objection to the Amendment?** No

11) **Differences between proposal and final version.** As recommended by JCAR, the rulemaking was expanded upon. The first and only paragraph was labeled item (a); then items (b) through (f) were added to elaborate on circumstances warranting an administrative leave, the duration of an administrative leave, the specific use and purpose of an administrative leave and the agencies' reporting responsibilities relating to administrative leaves. Other non-substantive, technical, grammatical and punctuation changes were made.

12) **Have all of the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR?** Yes

13) **Will this amendment replace any emergency amendment currently in effect?** No

14) **Are there any amendments pending on this Part?** No

15) **Summary and Purpose of Amendment:** Historically, administrative leave has been governed by and interpreted from Section 302.640 (Suspension Totaling Not More than
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

Thirty Days in any Twelve Month Period). As such, application of administrative leave has been inconsistent across affected agencies. This new Section offers a specific point of reference and direction for administrative leave authorization and application.

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

Gina Wilson
Illinois Department of Central Management Services
720 Stratton Office Building
Springfield IL 62706

(217)785-1793

17) Does this amendment require the preview of the Procurement Policy Board as specified in Section 5-25 of the Illinois Procurement Code [30 ILCS 50/5-25]? No

The full text of the Adopted Amendment begins on the next page.
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND
POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 302
MERIT AND FITNESS

**SUBPART A: APPLICATION AND EXAMINATION**

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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302.180 Limitations on Trainee Appointments

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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302.830 Expiration of Term Appointment
302.840 Renewal Procedures
302.841 Renewal Procedures for Incumbents on the Effective Date of Section 8b18 of the Personnel Code (Repealed)
302.842 Effective Date of Reappointment or Termination (Repealed)
302.846 Change in Position Factors Affecting Term Appointment Exclusion
302.850 Reconsideration Request
302.860 Renewal Procedure for Incumbents Subject to Public Act 83-1369
302.863 Renewal of Certified or Probationary Incumbents in Exempted Positions

AUTHORITY: Implementing and authorized by the Personnel Code [20 ILCS 415].

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF ADOPTED AMENDMENT


SUBPART K: DISCHARGE AND DISCIPLINE

Section 302.795 Administrative Leave

a) With the approval of the Director of Central Management Services, an agency head may relieve an employee from duty when extraordinary circumstances and the best interest of the agency and the State of Illinois will be served in doing so.

b) Circumstances warranting this leave must be of an extraordinary nature and are limited to those situations where no alternative means, such as suspension or temporary reassignment of an employee, will adequately protect the best interest of the agency and the State of Illinois.

c) Duration of an administrative leave shall be no longer than necessary to protect the best interest of the agency and the State of Illinois. The leave shall initially be for no longer than 60 calendar days, but may be extended for additional periods of time, not to exceed 60 days each, so long as necessary to protect the best interest of the agency and the State of Illinois.

d) Administrative leave shall not be used as an alternative to Suspension Pending Decision on Discharge or Suspension Pending Judicial Verdict pursuant to Section 302.710 and Section 302.785 of this Part.

e) Administrative leave shall not be allowed in lieu of vacation, sick leave, personal business leave or any other type of paid or unpaid leave when the other leave is appropriate, nor shall administrative leave be used to circumvent rules governing limits on other leaves available to an employee.

f) The agency will immediately provide the affected employee written notice of the administrative leave, and the agency will also immediately report any administrative leave to the Department of Central Management Services.

(Source: Added at 29 Ill. Reg. ______, effective July 14, 2005)
Healing of the Part: Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities

Code Citation: 83 Ill. Adm. Code 590

Section Number: 590.10
Adopted Action: Amendment

Statutory Authority: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3]

Effective Date of Amendment: August 1, 2005

Does this rulemaking contain an automatic repeal date? No

Does this rulemaking contain incorporations by reference? Yes

A copy of the adopted amendment, including any material incorporated by reference, is on file in the Commission's Springfield office and is available for public inspection.

Notice of Proposal Published in Illinois Register: 2/14/05; 29 Ill. Reg. 2139

Has JCAR issued a Statement of Objection to this amendment? No

Differences between proposal and final version: None

Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreement letter issued by JCAR? No changes were required.

Will this rulemaking replace any emergency amendment currently in effect? No

Are there any amendments pending on this Part? No

Summary and Purpose of Amendment: The Illinois Commerce Commission has adopted 83 Ill. Adm. Code 590 to incorporate by reference certain federal safety standards. This complies with Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3], which requires the Commission's rules to be as inclusive and as stringent as the federal safety standards and compatible with the federal safety standards. Since the last amendment of Part 590 in 2003, the United States Department of Transportation completed rulemakings that amended its safety standards in 49 CFR 192, which the Commission has incorporated
by reference in Part 590. It is appropriate to incorporate the United States Department of Transportation amendments into Part 590.

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

Conrad S. Rubinkowski  
Office of General Counsel  
Illinois Commerce Commission  
527 East Capitol Avenue  
Springfield, IL 62701  
(217)785-3922

The full text of the Adopted Amendment begins on the next page:
NOTICE OF ADOPTED AMENDMENT

TITLE 83: PUBLIC UTILITIES
CHAPTER 1: ILLINOIS COMMERCE COMMISSION
SUBCHAPTER d: GAS UTILITIES

PART 590
MINIMUM SAFETY STANDARDS FOR TRANSPORTATION
OF GAS AND FOR GAS PIPELINE FACILITIES

Section 590.10 Standards

AUTHORITY: Implementing and authorized by Section 3 of the Illinois Gas Pipeline Safety Act [220 ILCS 20/3].


Section 590.10 Standards

a) The Illinois Commerce Commission adopts the standards contained in 49 CFR 191.23, 192, 193 and 199 as of January 1, 2005, as its minimum safety standards for the transportation of gas and for gas pipeline facilities.

b) No later amendment or editions are incorporated by this Part.

(Source: Amended at 29 Ill. Reg. ______, effective August 1, 2005)
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

1) **Heading of the Part:** Public Schools Evaluation, Recognition and Supervision

2) **Code Citation:** 23 Ill. Adm. Code 1

3) **Section Number:** 1.240
   **Adopted Action:** Amendment

4) **Statutory Authority:** 105 ILCS 5/2-3.6, 14C-8, and Art. 21

5) **Effective Date of Rulemaking:** July 13, 2005

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

7) **Does this rulemaking contain incorporations by reference?** This rulemaking does not contain an incorporation by reference pursuant to Section 5-75 of the Illinois Administrative Procedure Act.

A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

8) **Notice of Proposal Published in Illinois Register:** March 11, 2005; 29 Ill. Reg. 3414

9) **Has JCAR issued a Statement of Objection to this amendment?** No

10) **Differences between proposal and final version:** None

11) **Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR?** No changes were requested by JCAR, and no agreements letter was issued.

12) **Will this rulemaking replace any emergency amendments currently in effect?** No

13) **Are there any amendments pending on this Part?** Yes

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NOTICE OF ADOPTED AMENDMENT

1.745 Amendment 29 Ill. Reg. 4790; April 8, 2005
1.755 Amendment 29 Ill. Reg. 4790; April 8, 2005
1.100 Amendment 29 Ill. Reg. 7891; June 3, 2005
1.210 Repeal 29 Ill. Reg. 7891; June 3, 2005
1.220 Repeal 29 Ill. Reg. 7891; June 3, 2005
1.230 Repeal 29 Ill. Reg. 7891; June 3, 2005
1.240 Amendment 29 Ill. Reg. 7891; June 3, 2005
1.245 Amendment 29 Ill. Reg. 7891; June 3, 2005
1.250 Repeal 29 Ill. Reg. 7891; June 3, 2005
1.260 Repeal 29 Ill. Reg. 7891; June 3, 2005
1.270 Repeal 29 Ill. Reg. 7891; June 3, 2005
1.290 Amendment 29 Ill. Reg. 7891; June 3, 2005
1.310 Amendment 29 Ill. Reg. 7891; June 3, 2005
1.320 Amendment 29 Ill. Reg. 7891; June 3, 2005
1.330 Amendment 29 Ill. Reg. 7891; June 3, 2005
1.420 Amendment 29 Ill. Reg. 7891; June 3, 2005
1.440 Amendment 29 Ill. Reg. 7891; June 3, 2005
1.520 Repeal 29 Ill. Reg. 7891; June 3, 2005
1.530 Amendment 29 Ill. Reg. 7891; June 3, 2005
1.10 Amendment 29 Ill. Reg. 9574; July 8, 2005
1.20 Amendment 29 Ill. Reg. 9574; July 8, 2005
1.30 Amendment 29 Ill. Reg. 9574; July 8, 2005
1.40 Amendment 29 Ill. Reg. 9574; July 8, 2005
1.50 Amendment 29 Ill. Reg. 9574; July 8, 2005
1.60 New Section 29 Ill. Reg. 9574; July 8, 2005
1.70 New Section 29 Ill. Reg. 9574; July 8, 2005
1.75 New Section 29 Ill. Reg. 9574; July 8, 2005
1.80 Amendment 29 Ill. Reg. 9574; July 8, 2005
1.85 Amendment 29 Ill. Reg. 9574; July 8, 2005
1.90 Amendment 29 Ill. Reg. 9574; July 8, 2005
1.95 New Section 29 Ill. Reg. 9574; July 8, 2005

15) **Summary and Purpose of Amendment:** It has become apparent that, in at least one instance, access to a public early childhood education program has been denied to a child because of the child’s immigration status. The Governor’s Office and the State Board of Education were asked to intervene on behalf of the child’s family, and ISBE was directed to take action to prohibit denials of access such as this.

Free public education is guaranteed regardless of immigration status under the U.S. Supreme Court’s 1982 decision in *Plyler v. Doe*. The present amendment to Part 1 will
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

make this protection explicit in the rules of the State Board of Education.

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

   Donna Luallen, Division Administrator
   Accountability Division
   Illinois State Board of Education
   100 North First Street
   Springfield, Illinois 62777-0001

   (217) 782-2948

The full text of the Adopted Amendment begins on the next page:
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

TITLE 23: EDUCATION AND CULTURAL RESOURCES
SUBTITLE A: EDUCATION
CHAPTER I: STATE BOARD OF EDUCATION
SUBCHAPTER a: PUBLIC SCHOOL RECOGNITION

PART 1
PUBLIC SCHOOLS EVALUATION, RECOGNITION AND SUPERVISION

SUBPART A: SCHOOL RECOGNITION REQUIREMENTS

Section 1.10 Public School Accountability Framework
1.20 Operational Requirements
1.30 Quality Assurance Reviews
1.40 Student Performance and School Improvement Requirements (Repealed)
1.50 State Assessment
1.60 Operational Compliance (Repealed)
1.70 Effective Dates of Accreditation (Repealed)
1.80 Academic Early Warning and Watch Lists
1.85 Revisions to School Improvement Plans
1.90 System of Rewards and Recognition
1.100 Waiver and Modification of State Board Rules and School Code Mandates

SUBPART B: SCHOOL GOVERNANCE

Section 1.210 Powers and Duties
1.220 Duties of Superintendent
1.230 Board of Education and the School Code
1.240 Equal Opportunities for all Students
1.245 Waiver of School Fees
1.250 District to Comply with 23 Ill. Adm. Code 180
1.260 Commemorative Holidays to be Observed by Public Schools
1.270 Book and Material Selection
1.280 Discipline
1.285 Requirements for the Use of Isolated Time Out and Physical Restraint
1.290 Absenteeism and Truancy Policies

SUBPART C: SCHOOL DISTRICT ADMINISTRATION
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

Section
1.310 Administrative Responsibilities
1.320 Duties
1.330 Hazardous Materials Training

SUBPART D: THE INSTRUCTIONAL PROGRAM

Section
1.410 Determination of the Instructional Program
1.420 Basic Standards
1.430 Additional Criteria for Elementary Schools
1.440 Additional Criteria for High Schools
1.445 Required Course Substitute
1.450 Special Programs
1.460 Credit Earned Through Proficiency Examinations
1.462 Uniform Annual Consumer Education Proficiency Test
1.465 Ethnic School Foreign Language Credit and Program Approval
1.470 Adult and Continuing Education
1.480 Correctional Institution Educational Programs

SUBPART E: SUPPORT SERVICES

Section
1.510 Transportation
1.520 School Food Services
1.530 Health Services
1.540 Pupil Personnel Services (Repealed)

SUBPART F: STAFF CERTIFICATION REQUIREMENTS

Section
1.610 Personnel Required to be Qualified
1.620 Accreditation of Staff (Repealed)
1.630 Noncertificated Personnel
1.640 Requirements for Different Certificates (Repealed)
1.650 Transcripts of Credits
1.660 Records of Professional Personnel

SUBPART G: STAFF QUALIFICATIONS
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

Section
1.705 Minimum Requirements for Teachers (Repealed)
1.710 Requirements for Elementary Teachers
1.720 Requirements for Teachers of Middle Grades
1.730 Minimum Requirements for Secondary Teachers and Specified Subject Area Teachers in Grades Six (6) and Above through June 30, 2004
1.735 Requirements to Take Effect from July 1, 1991, through June 30, 2004
1.736 Requirements to Take Effect from July 1, 1994, through June 30, 2004
1.737 Minimum Requirements for the Assignment of Teachers in Grades 9 through 12 Beginning July 1, 2004
1.740 Standards for Reading through June 30, 2004
1.745 Requirements for Reading Teachers and Reading Specialists at all Levels as of July 1, 2004
1.750 Standards for Media Services through June 30, 2004
1.755 Requirements for Library Information Specialists Beginning July 1, 2004
1.760 Standards for Pupil Personnel Services
1.762 Supervision of Speech-Language Pathology Assistants
1.770 Standards for Special Education Personnel
1.780 Standards for Teachers in Bilingual Education Programs
1.781 Requirements for Bilingual Education Teachers in Grades K-12
1.782 Requirements for Teachers of English as a Second Language in Grades K-12
1.790 Substitute Teacher

1.APPENDIX A Professional Staff Certification
1.APPENDIX B Certification Quick Reference Chart
1.APPENDIX C Glossary of Terms (Repealed)
1.APPENDIX D State Goals for Learning
1.APPENDIX E Evaluation Criteria – Student Performance and School Improvement Determination (Repealed)
1.APPENDIX F Criteria for Determination – Student Performance and School Improvement (Repealed)
1.APPENDIX G Criteria for Determination – State Assessment (Repealed)

STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT


SUBPART B: SCHOOL GOVERNANCE

Section 1.240 Equal Opportunities for all Students

All students within a school district must be provided equal opportunities in all education programs and services provided by the system (Section 10-20.12 of the School Code).

a) No school system may exclude or segregate any pupil from a school because of color, race, or nationality (Section 10-22.5 of the School Code). Further, no school system may deny access to its schools or programs to students who lack documentation of their immigration status or legal presence in the United States (Plyler v. Doe, 457 U.S. 202 (1982)).

b) Each school district shall submit periodic reports as required by the State Board of Education detailing pupil attendance, faculty assignments, and actions taken and planned to prevent and eliminate segregation.

c) Each school district shall be in compliance with 23 Ill. Adm. Code 200 (Sex Equity).
STATE BOARD OF EDUCATION

NOTICE OF ADOPTED AMENDMENT

d) Each school district shall be in compliance with 23 Ill. Adm. Code 375 (Student Records).

e) Each school district shall charge tuition in an amount not exceeding 110% of the previous year's per capita cost, to nonresident students. Pupils who become nonresidents during a school term shall not be charged tuition for the remainder of the term (Section 10-20.12a of the School Code).

f) Each school district shall loan textbooks to students whose parents are unable to buy them (Section 10-20.13 of the School Code) and shall waive all fees for parents who are unable to afford them in accordance with a written policy adopted by the district under Section 1.245 of this Part.

g) Any school district containing one or more attendance centers having students of limited English-speaking fluency shall establish a program in transitional bilingual education according to 23 Ill. Adm. Code 228 (Transitional Bilingual Education).

h) The establishment and operation of all special education shall follow 23 Ill. Adm. Code 226 (Special Education).

i) Each school district whose Chapter 1 weighted average daily attendance (WADA) is between 1,000 and 50,000 shall annually file a plan with the State Board of Education. This plan must be in compliance with 23 Ill. Adm. Code 201 (Disadvantaged Students Funds Plan-Districts Between 1,000 and 50,000 ADA).

j) Each school district whose Chapter 1 weighted average daily attendance (WADA) is 50,000 or more shall annually file a plan with the State Board of Education. This plan must be in compliance with 23 Ill. Adm. Code 202 (Disadvantaged Students Funds Plan − Districts over 50,000 ADA).

(Source: Amended at 29 Ill. Reg. ______, effective July 13, 2005)
STATE UNIVERSITIES RETIREMENT SYSTEM
OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

1) Heading of the Part: Universities Retirement

2) Code Citation: 80 Ill.Adm.Code 1600

3) Section Number: Proposed Action:
   1600.55 New Section

4) Statutory Authority: 40 ILCS 5/15-177

5) Effective Date of Amendment: July 12, 2005

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

7) Does this amendment contain incorporations by reference? No

8) A copy of the adopted amendment, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

9) Notices of Proposed Published in the Illinois Register: February 18, 2005; 29 Ill. Reg. 2677

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

11) Differences between proposal and final version: None

12) Have all the changes agreed upon by the agency and JCAR been made as indicated in the agreements issued by JCAR? There were no changes suggested since the second notice.

13) Will this amendment replace any emergency amendment currently in effect? No

14) Are there any amendments pending on this Part? Yes

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<td>29 II. Reg. 3012; February 25, 2005</td>
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<td>1600.123</td>
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STATE UNIVERSITIES RETIREMENT SYSTEM
OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

15) Summary and Purpose of Amendment: A new rule promulgated, in accordance with Section 15-157, to allow participants in the defined benefit plans to make contributions for military service.

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

Dan M. Slack, General Counsel
State Universities Retirement System
1901 Fox Drive,
Champaign, IL  61820

(217) 378-8877 or (217) 378-8855

The full text of the Adopted Amendment begins on the next page:
STATE UNIVERSITIES RETIREMENT SYSTEM
OF THE STATE OF ILLINOIS

NOTICE OF ADOPTED AMENDMENT

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE D: RETIREMENT SYSTEMS
CHAPTER II: STATE UNIVERSITIES RETIREMENT SYSTEM

PART 1600
UNIVERSITIES RETIREMENT

SUBPART A: MISCELLANEOUS PROCEDURES

Section
1600.10 Definitions
1600.20 Dependency of Beneficiaries
1600.30 Crediting Interest on Employee Contributions and Other Reserves
1600.40 Election to Make Contributions Covering Leave of Absence at Less Than 50% Pay
1600.50 Election to Pay Contributions Based Upon Employment Which Preceded Certification as a Participant
1600.55 Election to Make Contributions Covering Periods of Military Leave
1600.60 Sick Leave Accrual Schedule
1600.70 Procedures to be followed in Medical Evaluation of Disability Claims
1600.80 Rules of Practice-Nature and Requirements of Formal Hearings
1600.90 Excess Benefit Arrangement
1600.100 Freedom of Information Act
1600.110 Open Meetings Act
1600.120 Twenty Percent Limitation on Final Rate of Earnings Increases
1600.121 Determination of Final Rate of Earnings Period
1600.130 Procurement
1600.137 Overpayment Recovery
1600.140 Making Preliminary Estimated Payments

SUBPART B: QUALIFIED ILLINOIS DOMESTIC RELATIONS ORDERS

Section
1600.150 Definitions
1600.151 Requirements for a Valid Qualified Illinois Domestic Relations Order
1600.152 Curing Minor Deficiencies
1600.153 Filing a QILDRO with the System
1600.154 Modified QILDROs
1600.155 Benefits Affected by a QILDRO
NOTICE OF ADOPTED AMENDMENT

1600.156 Effect of a Valid QILDRO
1600.157 QILDROs Against Persons Who Became Members Prior to July 1, 1999
1600.158 Alternate Payee's Address
1600.159 Electing Form of Payment
1600.160 Automatic Annual Increases
1600.161 Expiration of a QILDRO
1600.162 Reciprocal Systems QILDRO Policy Statement
1600.163 Providing Benefit Information for Divorce Purposes

1600. APPENDIX A Chart Outlining Hearing Procedures (Repealed)

AUTHORITY: Implementing and authorized by 40 ILCS 5/15-177.


SUBPART A: MISCELLANEOUS PROCEDURES

Section 1600.55 Election to Make Contributions Covering Periods of Military Leave

a) Under Section 15-157(d) of the Illinois Pension Code [40 ILCS 5/15-157(d)], if the Board, by rule permits, and subject to such conditions and limitations as may be specified in those rules, a participant may make other additional contributions of such percentage of earnings or amounts as the participant shall elect in a written notice received by the Board.

b) "Military leave", as used in this Section means periods during which a participant is placed on leave by an employer for active duty in the uniformed services of the United States while a participating employee under this System; and
1) returns to employment covered by this System at the expiration of the leave, or within 30 days after the termination of a disability that occurs during the leave; or

2) is precluded from meeting the conditions set forth in subsection (b)(1) because of disability or death.

c) A participant may elect to make contributions to the System for any period of military leave or portion thereof, as designated by the participant. The contributions must be made at the rates provided in subsections (a) through (c) of Section 15-157 of the Illinois Pension Code [40 ILCS 5/15-157(a)-(c)] based upon the participant's basic compensation on the last date as a participating employee prior to the military leave.

d) The participant may make contributions while on military leave. No contributions may be made for military leave under this Section after the earliest of the following:

1) the date of receipt of a retirement annuity;

2) the date of receipt of a disability retirement allowance;

3) the date of the participant's death; or

4) a period beginning with the date of reemployment that is no longer than three times the period of military service, but not to exceed 5 years.

e) If the participant makes a contribution under this Section, but is later found to have failed to meet the conditions set forth in this Section, the payment made shall be refunded without interest.

(Source: Added at 29 Ill. Reg. 11819, effective July 12, 2005)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) **Heading of the Part**: Skilled Nursing and Intermediate Care Facilities

2) **Code Citation**: 77 Ill. Adm. Code 300

3) **Section Numbers**
   - 300.330  Amendment
   - 300.615  Amendment
   - 300.620  Amendment
   - 300.625  New Section
   - 300.627  New Section
   - 300.630  Amendment
   - 300.3300 Amendment

4) **Statutory Authority**: Nursing Home Care Act [210 ILCS 45]

5) **Effective Date of Emergency Amendment(s)**: July 12, 2005

6) **If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire**: N/A

7) **Date filed with the Index Department**: July 12, 2005

8) A copy of the emergency amendment, 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**: Section 5-45 of the Illinois Administrative Procedure Act defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare," and that "requires adoption of a rule upon fewer days than is required by Section 5-40." This emergency rulemaking fits that category, and is being undertaken to implement House Bill 2062/PA 94-163, effective July 11, which requires emergency rulemaking within 30 days after the Act takes effect. PA 94-163 addresses what the Department of Public Health sees as a grave threat to the public interest, health, safety and welfare, namely, identified offenders, defined as registered sex offenders or anyone serving a term of parole, mandatory supervised release, or probation for a felony offense, residing in nursing homes unbeknownst to the nursing home, other residents, family members, and visitors. The rulemaking also addresses additional screening, care plan, and placement requirements for identified offenders to mandate that facilities weigh these additional factors before accepting the client for residency. Because of the extreme nature of the threat and the requirements of the legislation, the Department believes that these rules must be adopted.
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

in a shorter time frame than is normally allowed under the regular rulemaking procedures of the Administrative Procedure Act.

10) A complete Description of the Subjects and Issues Involved: The Skilled Nursing and Intermediate Care Facilities Code (77 Ill. Adm. Code 300) regulates nursing home licensure. Section 300.330 (Definitions) is being amended to include a definition of "identified offenders." Section 330.615 (Determination of Need Screening) is being amended to require pre-admission screening to include criminal background checks on new residents and to require facilities to review assessment documentation to ensure that the individual meets requirements in Section 300.620 and a new Section 300.625. Section 300.620 (Admission and Discharge Policies) is being amended to require nursing homes to ensure that identified offenders meet all of the requirements of Section 330.615 and Section 300.625. Section 300.625 (Identified Offenders) adds the minimum requirements that nursing homes must meet in order to admit identified offenders as residents and provisions for the identification of identified offenders who are current residents. Section 300.627 (Transferring) is being added to require the full disclosure of the status of identified offenders when they are transferred between facilities regulated by the Department. Section 300.630 (Contract Between Resident and Facility) is being amended to require full disclosure of a resident’s status as an identified offender and to alert the prospective resident of the facility’s ability or inability to care for the resident. Section 300.3300 (Transfer or Discharge) is being amended to require facilities to demonstrate an inability to care for the identified offender before involuntarily discharging him or her.

11) Are there any proposed amendments to this Part pending? Yes

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12) Statement of Statewide Policy Objectives: This emergency rulemaking will create a State mandate on facilities operated by units of local government.

13) Information and questions regarding these amendments shall be directed to:
NOTICE OF EMERGENCY AMENDMENTS

Susan Meister
Administrative Rules Coordinator
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, Illinois 62761

217-782-2043
rules@idph.state.il.us

The full text of the Emergency Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 300
SKILLED NURSING AND INTERMEDIATE CARE FACILITIES CODE

SUBPART A: GENERAL PROVISIONS

Section
300.110 General Requirements
300.120 Application for License
300.130 Licensee
300.140 Issuance of an Initial License for a New Facility
300.150 Issuance of an Initial License Due to a Change of Ownership
300.160 Issuance of a Renewal License
300.163 Alzheimer's Special Care Disclosure
300.165 Criteria for Adverse Licensure Actions
300.170 Denial of Initial License
300.175 Denial of Renewal of License
300.180 Revocation of License
300.190 Experimental Program Conflicting With Requirements
300.200 Inspections, Surveys, Evaluations and Consultation
300.210 Filing an Annual Attested Financial Statement
300.220 Information to Be Made Available to the Public By the Department
300.230 Information to Be Made Available to the Public By the Licensee
300.240 Municipal Licensing
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

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The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

*Abuse* – any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

*Access* – the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;
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*Inspect the clinical and other records of a resident with the express written consent of the resident;*

*Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)*

Act – as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 300.680 of this Part as a physical restraint.

Addition – any construction attached to the original building which increases the area or cubic content of the building.

Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning – a notice to a facility issued by the Department under Section 300.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator – the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)
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Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate – means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly – any person providing direct personal care, training or habilitation services to residents.

Alteration – any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident – a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].
Autism – a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel – all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement – when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification – treatment to be used to establish or change behavior patterns.

Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)
Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Professional Regulation to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives – service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 300.680 of this Part.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist – any person licensed to practice dentistry, including persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department – as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide – any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to
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DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability – means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1 of the Act)

Dietetic Service Supervisor – a person who:

is a dietitian; or
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is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels
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of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care – a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled – when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility – a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other
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places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration
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\textit{project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];}

\textit{Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or}

\textit{An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3]. (Section 1-113 of the Act)}

Facility, Long-Term Care, for Residents Under 22 Years of Age – when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care – when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing – when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post-acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – means on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes
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policies concerning its operation and the welfare of the individuals it serves.

*Guardian* – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5].
(Section 1-114 of the Act)

Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health *Information Management Consultant* – a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) – the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged – any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90\text{ninety} percent of whom are 60 or more years of age.

Hospitalization – the care and treatment of a person in a hospital as an inpatient.

*Identified Offender* – a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense. (Section 1-114.01 of the Act)
Individual Education Program (IEP) – a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) – a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior – impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.
MENTALLY RETARDED AND MENTAL RETARDATION — subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

MISAPPROPRIATION OF PROPERTY — using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

MOBILE NONAMBULATORY — unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

MOBILE RESIDENT — any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

MONITOR — a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

NEGLECT — a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

- the alleged failure causing injury or deterioration is ongoing or repetitious;
- a resident required medical treatment as a result of the alleged failure;
- the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.
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New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization – the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse – a registered nurse or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant – any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit – a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].
Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner – the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered – a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].
Physical Restraint — any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant — a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist — a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician — any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License — an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist — a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist — a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional — a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional — a person who meets the educational, technical and ethical
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criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours – any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse – a person with a valid license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation – for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character – having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident – person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director – the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative – a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a
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minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room – a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory – same as adequate.

Seclusion – the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Sheltered Care – maintenance and personal care. (Section 1-124 of the Act)

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation – any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story – when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the
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topmost floor and the upper surface of the roof above.

*Student Intern* means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

- an academic credit requirement in a high school or undergraduate institution;
- immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance — meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 300.140(a)(3) and 300.150(a)(3).

Substantial Failure — the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 300.165(b)(1).

Sufficient — same as adequate.

Supervision — authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist — a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out — removing an individual from a situation that results in undesirable
behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

*Title XVIII* — *Title XVIII of the Federal Social Security Act as now or hereafter amended.* (Section 1-126 of the Act)

*Title XIX* — *Title XIX of the Federal Social Security Act as now or hereafter amended.* (Section 1-127 of the Act)

*Transfer* — a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

*Type A Violation* — a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

*Type B Violation* — a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

*Unit* — an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

*Universal Progress Notes* — a common record with periodic narrative documentation by all persons involved in resident care.

*Valid License* — a license which is unsuspended, unrevoked and unexpired.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days)

**SUBPART C: POLICIES**

**Section 300.615 Determination of Need and Background Screening**

**EMERGENCY**
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a) For the purpose of this Section only, a nursing facility is any bed licensed as a skilled nursing or intermediate care facility bed, or a location certified to participate in the Medicare program under Title XVIII of the Social Security Act or Medicaid program under Title XIX of the Social Security Act.

b) All persons seeking admission to a nursing facility must be screened to determine the need for nursing facility services prior to being admitted, regardless of income, assets, or funding source. (Section 2-201.5(a) of the Act) A screening assessment is not required provided one of the conditions in Section 140.642(c) of the Department of Healthcare and Family Services' Public Aid's rules entitled "Medical Payment" (89 Ill. Adm. Code 140.642(c)) is met.

c) Any person who seeks to become eligible for medical assistance from the Medical Assistance program under the Illinois Public Aid Code to pay for long-term care services while residing in a facility shall be screened in accordance with 89 Ill. Adm. Code 140.642(b)(4). (Section 2-201.5(a) of the Act)

d) Screening shall be administered through procedures established by administrative rule by the agency responsible for screening. (Section 2-201.5(a) of the Act) The Illinois Department on Aging is responsible for the screening required in subsection (b) of this Section for individuals 60 years of age or older who are not developmentally disabled or do not have a severe mental illness. The Illinois Department of Human Services is responsible for the screening required in subsection (b) of this Section for all individuals 18 through 59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental illness. The Illinois Department of Healthcare and Family ServicesPublic Aid or its designee is responsible for the screening required in subsection (c) of this Section.

e) In addition to the screening required by Section 2-201.5(a) of the Act, identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of Sections 300.620 and 300.625 of this Part. (Section 2-201.5(b) of the Act) In addition, such screening must include a request for criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635] and, if the individual is an identified offender, the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].
f) The facility must review the screenings and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 300.620 and 300.625 of this Part. The facility is responsible for the development of a treatment plan appropriate to the needs of the identified offender prior to admission. Information compiled concerning identified offenders must not be further disseminated except to the resident, law enforcement agencies, the parole office, the Department, and other facilities licensed by the Department.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days)

Section 300.620 Admission, Retention, and Discharge Policies

EMERGENCY

a) On or before July 21, 2005, a licensed facility shall be required to compare its residents against the Illinois Department of Corrections and Illinois State Police registered sex offender databases. The licensed facility shall notify the Department within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases. (Section 3-202.3(3) and (4) of the Act)

b) No resident determined by professional evaluation to be in need of services not readily available in a particular facility, or through arrangement with a qualified outside resource, shall be admitted to or kept in that facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.

c) Each facility shall have a policy concerning the admission of persons needing prenatal and/or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house and/or outside resources (see Section 300.3220).

d) Each facility shall have a policy concerning the admission and retention of identified offenders, consistent with the facility's capabilities to accept and care
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for these residents. The policy also must include the procedure to be implemented for the retention or discharge of a resident upon notice that a resident is an identified offender.

e) No person shall be admitted to or kept in the facility:

   1) Who is mentally ill, in need of mental treatment, and at risk because the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future as a result of the mental illness, as determined by professional evaluation. All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

   2) Who is destructive of property, himself, or others, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

   3) Who is an identified offender unless the screening requirements of Section 300.615(e) and the requirements of this Section and Section 300.625 are met.

f) No resident shall be admitted to the facility who is developmentally disabled and who needs programming for such conditions, as described in the rules governing intermediate care facilities for the developmentally disabled (77 Ill. Adm. Code 350). Such persons shall be admitted only to facilities licensed as intermediate care facilities for the developmentally disabled under 77 Ill. Adm. Code 350, or, if the person is under 18, to a long-term care facility for persons under 22 years of age that is licensed under 77 Ill. Adm. Code 390. Persons from 18 to 21 years of age in need of such care may be kept in either facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

g) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.

h) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.

i) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's
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 Persons with communicable, contagious, or infectious diseases may be admitted under the conditions and in accordance with the procedures specified in Section 300.1020.

 A facility shall not admit more residents than the number authorized by the license issued to it.

 Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days)

Section 300.625 Identified Offenders

EMERGENCY

 On or before July 21, 2005, a licensed facility must compare its current residents against the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections registered sex offender database. In addition, on or before January 1, 2006, the facility must initiate for current residents a request for criminal history record information according to the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If identified offenders are present in the facility, the facility shall comply with all of the following requirements:

1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders being cared for by the facility. If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release (Section 2-110 of the Act). Reasonable access under this provision shall not interfere with the identified offender's medical care.
2) The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections registered sex offender database, the Department of State Police, and local law enforcement agencies.

3) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)

4) If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record. In addition, facilities must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation whether the probation officer has complied with Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110].

5) The facility must meet with local law enforcement officials to establish and institute policies and procedures regarding the identified offender's status in the facility, including compliance with Section 300.695 of this Part.

b) The facility must inform the Division of Long-Term Care Field Operations in the Department’s Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act), including all information that the Illinois Department of Corrections is required to file with the facility under Section 3-14-1(c-5) of the Unified Code of Corrections.

c) Facilities must maintain written documentation of the verification of the identified offender status of all residents.

d) All facilities must, no less frequently than every six months, and again within 90 days before the licensure renewal date, perform all of the steps set forth in subsection (a).
For current residents, the facility must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of admission to the facility under the requirements of this subsection. Before retaining an identified offender in the facility the facility must conduct risk assessment and review the screenings of the identified offender to determine the appropriateness of admission to the facility under the requirements of this subsection as soon as criminal history record information is available.

1) An individualized assessment of the care and supervision needs, if any, specific to the criminal offense;

2) The results of the screening conducted pursuant to Section 300.615 of this Part;

3) The amount of supervision required by the individual to ensure the safety of all residents in the facility;

4) The physical and mental abilities of the individual;

5) The current medical assessments of the individual;

6) Whether the care plan addresses the individual's needs in relation to his or her status as an identified offender;

7) Whether the approaches developed in the care plan are proactive and are appropriate and effective in dealing with any behaviors specific to identified offenders; and

8) Whether the facility has qualified staff to meet the needs of the individual and required level of supervision at all times.

Upon admission of the identified offender to a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident's needs in an individualized care plan that reflects the risk assessment of the individual pursuant to subsection (e).

If the resident is a registered sex offender, he or she must have his or her own room meeting the criteria of this subsection. In addition, if the facility's risk assessment determines that an identified offender who is not a registered sex
offender must have his or her own room, then all the criteria of this subsection must be met.

1) The room must be in direct view of the main nurses' station.
2) The room must be separate from rooms of residents who are at risk.
3) The resident must not share his or her room with any other resident.

h) The facility must, on a monthly basis, evaluate care plans for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.

i) Incident reports must be submitted to the Department in compliance with Section 300.690 of this Part. The facility must continually review its placement determination of identified offenders based on ongoing incident reports. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility must transfer or discharge the identified offender in accordance with Section 300.3300 of this Part.

j) The facility must notify the appropriate law enforcement agency, Prisoner Review Board, Department of Corrections, or local sheriff's department of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.

k) The facility must develop procedures to address the removal of a resident from identified offender status.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days)
a) When a resident who is an identified offender is transferred to another facility regulated by the Department, the transferring facility must immediately notify the Department and the receiving facility that the individual is an identified offender before making the transfer.

b) This notification must include all of the documentation required under Section 300.625 of this Part. The receiving facility must comply with all of the admission and retention requirements of Section 300.625 of this Part to complete its discharge planning.

c) In addition, the transferring facility shall provide copies of the following information to the Department and the facility where the person becomes a resident:

1) The mittimus and any pre-sentence investigation reports;

2) The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];

3) Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];

4) Reports of disciplinary infractions and dispositions;

5) Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and

6) The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)

d) This information shall be provided no later than 3 days after the person becomes a resident of the facility. (Section 3-14-1 of the Unified Code of Corrections) This information must not be further disseminated, except to the resident, law enforcement agencies, the parole office, the Department, and facilities licensed by the Department.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days)

Section 300.630 Contract Between Resident and Facility
EMERGENCY

a) Contract Execution

1) Before a person is admitted to a facility, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds, a written contract shall be executed between a licensee and the following in order of priority:

   A) The person, or if the person is a minor, his parent or guardian; or

   B) The person's guardian, if any, or agent, if any, as defined in Section 2-3 of the Illinois Power of Attorney Act; or

   C) A member of the person's immediate family. (Section 2-202(a) of the Act)

2) An adult person shall be presumed to have the capacity to contract for admission to a long-term care facility unless he has been adjudicated a "disabled person" within the meaning of Section 11a-2 of the Probate Act of 1975, or unless a petition for such an adjudication is pending in a circuit court of Illinois. (Section 2-202(a) of the Act)

3) If there is no guardian, agent or member of the person's immediate family available, able or willing to execute the contract required by Section 2-202 of the Act and a physician determines that a person is so disabled as to be unable to consent to placement in a facility, or if a person has already been found to be a "disabled person," but no order has been entered allowing residential placement of the person, that person may be admitted to a facility before the execution of a contract required by that Section; provided that a petition for guardianship or for modification of guardianship is filed within 15 days after the person's admission to a facility, and provided further that such a contract is executed within ten days after the disposition of the petition. (Section 2-202(a) of the Act)

4) No adult shall be admitted to a facility if he objects, orally or in writing, to such admission, except as otherwise provided in Chapters III and IV of the Mental Health and Developmental Disabilities Code, or Section 11a-14.1 of the Probate Act of 1975. (Section 2-202(a) of the Act)
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5) If on the effective date of this Part, a person has not executed a contract as required by Section 2-202 of the Act, then such a contract shall be executed by, or on behalf of, the person, within ten days of the effective date of this Part, unless a petition has been filed for guardianship or modification of guardianship. If a petition for guardianship or modification of guardianship has been filed, and there is no guardian, agent or a member of the person's immediate family available, able, or willing to execute the contract at that time, then a contract shall be executed within ten days of the disposition of such petition.

b) The contract shall be clearly and unambiguously entitled, "Contract Between Resident and (name of facility)."

c) Before a licensee (any facility licensed under the Act) enters a contract under Section 2-202 of the Act, it shall provide the prospective resident and his guardian, if any, with written notice of the licensee's policy regarding discharge of a resident whose private funds for payment of care are exhausted. (Section 2-202(a) of the Act)

d) A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Sections 3-401 through 3-423 of the Act. (Section 2-202(b) of the Act)

e) At the time of the resident's admission to the facility, a copy of the contract shall be given to the resident, his guardian, if any, and any other person who executed the contract. (Section 2-202(c) of the Act)

f) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such signature. The nursing home administrator may sign as the agent of the licensee.

g) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section. If any person other than the principal signatory is to be held individually responsible for payments due under the contract, that person shall also sign the contract on a separate signature line labeled "signature of responsible party" or "signature of guarantor."

h) The contract shall include a definition of "responsible party" or "guarantor," which describes in full the liability incurred by any such person.
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i) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support. (Section 2-202(d) of the Act)

j) The original or a copy of the contract shall be maintained in the facility and be made available upon request to representatives of the Department and the Department of Healthcare and Family Services/Public Aid. (Section 2-202(e) of the Act)

k) The contract shall be written in clear and unambiguous language and shall be printed in not less than 12 point type. (Section 2-202(f) of the Act)

l) The contract shall specify the term of the contract. (Section 2-202(g)(1) of the Act) The term can be until a certain date or event. If a certain date is specified in the contract, an addendum can extend the term of the contract to another date certain or on a month-to-month basis.

m) The contract shall specify the services to be provided under the contract and the charges for the services. (Section 2-202(g)(2) of the Act) A paragraph shall itemize the services and products to be provided by the facility and express the costs of the itemized services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee. The contract may provide that the charges for services may be changed with thirty (30) days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days after the receipt of the written notice of the change. The written notice shall become an addendum to the contract.

n) The contract shall specify the services that may be provided to supplement the contract and the charges for the services. (Section 2-202(g)(3) of the Act)

1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established in subsection (m) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed, then such additional cost shall be specified in the contract.
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2) If the cost of any itemized service or product to be provided to the resident by the facility or related institutions cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract. But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract.

3) The contract may provide that the charges for services and products not covered by the rate or fee established in subsection (m) may be changed with thirty (30) days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days after the receipt of the written notice of the change. The written notice shall become an addendum to the contract.

o) The contract shall specify the sources liable for payments due under the contract. (Section 2-202(g)(4) of the Act)

p) The contract shall specify the amount of deposit paid. (Section 2-202(g)(5) of the Act) Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract shall specify when such deposit shall be paid by the resident, and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions, the deposit shall be returned to the resident. If the deposit is nonrefundable, the contract shall provide express notice of such nonrefundability.

q) The contract shall specify the rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 2-211 of the Act. (Section 2-202(g)(6) of the Act)

r) The contract shall designate the name of the resident's representative, if any. The resident shall provide the facility with a copy of the written agreement between the resident and the resident's representative which authorizes the resident's
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representative to inspect and copy the resident's records and authorizes the resident's representative to execute the contract on behalf of the resident required by Section 2-202 of the Act. (Section 2-202(h) of the Act)

s) The contract shall provide that if the resident is compelled by a change in physical or mental health to leave the facility, the contract and all obligations under it shall terminate on seven days notice. No prior notice of termination of the contract shall be required, however, in the case of a resident's death. The contract shall also provide that in all other situations, a resident may terminate the contract and all obligations under it with 30 days notice. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This provision shall not apply to life-care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life nor to continuing-care contracts through which a facility agrees to supplement all available forms of financial support in providing maintenance and care for a resident throughout the remainder of the resident's life. (Section 2-202(i) of the Act)

t) All facilities that offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, conditioned upon the transfer of an entrance fee to the provider of such services in addition to or in lieu of the payment of regular periodic charges for the care and services involved, for a term in excess of one year or for life pursuant to a life care contract, shall meet all of the provisions of the Life Care Facilities Act (Ill. Rev. Stat. 1991, ch. 111½, par. 41601 et seq.) [210 ILCS 40], including the obtaining of a permit from the Department, before they may enter into such contracts. (Section 2(c) of the Life Care Facilities Act)

u) In addition to all other contract specifications contained in this Section, admission contracts shall also specify:

1) whether the facility accepts Medicaid clients;

2) whether the facility requires a deposit of the resident or his family prior to the establishment of Medicaid eligibility;

3) in the event that a deposit is required, a clear and concise statement of the procedure to be followed for the return of such deposit to the resident or the appropriate family member or guardian of the person;
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4) That all deposits made to a facility by a resident, or on behalf of a resident, shall be returned by the facility within 30 days after establishment of Medicaid eligibility, unless such deposits must be drawn upon or encumbered in accordance with Medicaid eligibility requirements established by the Illinois Department of Healthcare and Family Services Public Aid. (Section 2-202(j) of the Act)

v) The contract also shall require a prospective resident to state whether he or she is an identified offender. The contract shall alert the prospective resident of the facility's ability or inability to care for the prospective resident if he or she is an identified offender.

w) It shall be a business offense for a facility to knowingly and intentionally both retain a resident's deposit and accept Medicaid payments on behalf of the resident. (Section 2-202(k) of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days)

SUBPART P: RESIDENT'S RIGHTS

Section 300.3300 Transfer or Discharge

a) A resident may be voluntarily discharged from a facility after he gives the administrator, a physician, or a nurse of the facility written notice of his desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of his guardian or if the resident is a minor, his parent unless there is a court order to the contrary. In such cases, upon the resident's discharge, the facility is relieved from any responsibility for the resident's care, safety or well-being. (Section 2-111 of the Act)

b) Each resident's rights regarding involuntary transfer or discharge from a facility shall be as described in subsections (c) through (y) of this Section.

c) Reasons for Transfer or Discharge

1) A facility may involuntarily transfer or discharge a resident only for one
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or more of the following reasons:

A) for medical reasons;

B) for the resident's physical safety;

C) for the physical safety of other residents, the facility staff or facility visitors;

D) for either late payment or nonpayment for the resident's stay, except as prohibited by Title XVIII and XIX of the Federal Social Security Act. For purposes of this Section, "late payment" means non-receipt of payment after submission of a bill. If payment is not received within 45 days after submission of a bill, the facility may send a notice to the resident and responsible party requesting payment within 30 days. If payment is not received within such 30 days, the facility may thereupon institute transfer or discharge proceedings by sending a notice of transfer or discharge to the resident and responsible party by registered or certified mail. The notice shall state, in addition to the requirements of Section 3-403 of the Act and subsection (e) of this Section, that the responsible party has the right to pay the amount of the bill in full up to the date the transfer or discharge is to be made and then the resident shall have the right to remain in the facility. Such payment shall terminate the transfer or discharge proceedings. This subsection (c)(1)(D) does not apply to those residents whose care is provided under the Illinois Public Aid Code; and (Section 3-401 of the Act)

E) for the demonstrated inability of the facility to meet the requirements of Sections 300.615, 300.620, and 300.625 specific to the particular identified offender.

2) Prohibition of Discrimination

A) A facility participating in the medical assistance program is prohibited from failing or refusing to retain as a resident any person because the resident is a recipient of or an applicant for the medical assistance program. For the purposes of this Section, a recipient or applicant shall be considered a resident in the facility
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during any hospital stay totaling ten days or less following a hospital admission. The day on which a resident is discharged from the facility and admitted to the hospital shall be considered the first day of the ten-day period. (Section 3-401.1(a) of the Act)

B) A facility which violates subsection (c)(2)(B) of this Section shall be guilty of a business offense and fined not less than $500 nor more than $1,000 for the first offense and not less than $1,000 nor more than $5,000 for each subsequent offense. (Section 3-401.1(b) of the Act)

d) Involuntary transfer or discharge of a resident from a facility shall be preceded by the discussion required under subsection (j) of this Section and by a minimum written notice of 21 days. The 21-day requirement shall not apply in any of the following instances:

1) When an emergency transfer or discharge is mandated by the resident's health care needs and is in accord with the written orders and medical justification of the attending physician; (Section 3-402(a) of the Act)

2) When the transfer or discharge is mandated by the physical safety of other residents as documented in the clinical record. (Section 3-402(b) of the Act)

e) The notice required by subsection (d) of this Section shall be on a form prescribed by the Department and shall contain all of the following:

1) The stated reason for the proposed transfer or discharge; (Section 3-403(a) of the Act)

2) The effective date of the proposed transfer or discharge; (Section 3-403(b) of the Act)

3) A statement in not less than 12-point type, which reads:

"You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may file a request for a hearing with the Department of Public Health within ten days after receiving this notice. If you request a hearing, it will be held not later than ten days after your request, and you generally will not be
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transferred or discharged during that time. If the decision following the hearing is not in your favor, you generally will not be transferred or discharged prior to the expiration of 30 days following receipt of the original notice of the transfer or discharge. A form to appeal the facility's decision and to request a hearing is attached. If you have any questions, call the Department of Public Health at the telephone number listed below." (Section 3-403(c) of the Act)

4) A hearing request form, together with a postage paid, preaddressed envelope to the Department; and (Section 3-403(d) of the Act)

5) The name, address, and telephone number of the person charged with the responsibility of supervising the transfer or discharge. (Section 3-403(e) of the Act)

f) A request for a hearing made under subsection (e) of this Section shall stay a transfer pending a hearing or appeal of the decision, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-404 of the Act)

g) A copy of the notice required by subsection (d) of this Section shall be placed in the resident's clinical record and a copy shall be transmitted to the Department, the resident, the resident's representative, and, if the resident's care is paid for in whole or part through Title XIX, to the Department of Healthcare and Family Services/Public Aid. (Section 3-405 of the Act)

h) When the basis for an involuntary transfer or discharge is the result of an action by the Department of Healthcare and Family Services/Public Aid with respect to a recipient of Title XIX and a hearing request is filed with the Department of Healthcare and Family Services/Public Aid, the 21-day written notice period shall not begin until a final decision in the matter is rendered by the Department of Healthcare and Family Services/Public Aid or a court of competent jurisdiction and notice of that final decision is received by the resident and the facility. (Section 3-406 of the Act)

i) When nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to redeem up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (Section 3-407 of the Act)
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j) The planned involuntary transfer or discharge shall be discussed with the resident, the resident's representative and person or agency responsible for the resident's placement, maintenance, and care in the facility. The explanation and discussion of the reasons for involuntary transfer or discharge shall include the facility administrator or other appropriate facility representative as the administrator's designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made a part of the resident's clinical record. (Section 3-408 of the Act)

k) The facility shall offer the resident counseling services before the transfer or discharge of the resident. (Section 3-409 of the Act)

l) A resident subject to involuntary transfer or discharge from a facility, the resident's guardian or if the resident is a minor, his parent shall have the opportunity to file a request for a hearing with the Department within ten days following receipt of the written notice of the involuntary transfer or discharge by the facility. (Section 3-410 of the Act)

m) The Department of Public Health, when the basis for involuntary transfer or discharge is other than action by the Department of Healthcare and Family Services with respect to the Title XIX Medicaid recipient, shall hold a hearing at the resident's facility not later than ten days after a hearing request is filed, and render a decision within 14 days after the filing of the hearing request. (Section 3-411 of the Act)

n) The hearing before the Department provided under subsection (m) of this Section shall be conducted as prescribed under Sections 3-703 through 3-712 of the Act. In determining whether a transfer or discharge is authorized, the burden of proof in this hearing rests on the person requesting the transfer or discharge. (Section 3-412 of the Act)

o) If the Department determines that a transfer or discharge is authorized under subsection (c) of this Section, the resident shall not be required to leave the facility before the 34th day following receipt of the notice required under subsection (d) of this Section, or the tenth day following receipt of the Department's decision, whichever is later, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-413 of the Act)
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The Department of Healthcare and Family Services shall continue Title XIX Medicaid funding during the appeal, transfer, or discharge period for those residents who are Title XIX recipients affected by subsection (c) of this Section. (Section 3-414 of the Act)

The Department may transfer or discharge any resident from any facility required to be licensed under this Act when any of the following conditions exist:

1) Such facility is operating without a license; (Section 3-415(a) of the Act)

2) The Department has suspended, revoked or refused to renew the license of the facility as provided under Section 3-119 of the Act; (Section 3-415(b) of the Act)

3) The facility has requested the aid of the Department in the transfer or discharge of the resident and the Department finds that the resident consents to transfer or discharge; (Section 3-415(c) of the Act)

4) The facility is closing or intends to close and adequate arrangement for relocation of the resident has not been made at least 30 days prior to closure; or (Section 3-415(d) of the Act)

5) The Department determines that an emergency exists which requires immediate transfer or discharge of the resident. (Section 3-415(e) of the Act)

In deciding to transfer or discharge a resident from a facility under subsection (q) of this Section, the Department shall consider the likelihood of serious harm which may result if the resident remains in the facility. (Section 3-416 of the Act)

The Department shall offer transfer or discharge and relocation assistance to residents transferred or discharged under subsections (c) through (q) of this Section including information on available alternative placements. Residents shall be involved in planning the transfer or discharge and shall choose among the available alternative placements, except that where an emergency makes prior resident involvement impossible, the Department may make a temporary placement until a final placement can be arranged. Residents may choose their final alternative placement and shall be given assistance in transferring to such
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place. No resident may be forced to remain in a temporary or permanent placement. Where the Department makes or participates in making the relocation decision, consideration shall be given to proximity to the resident's relatives and friends. The resident shall be allowed three visits to potential alternative placements prior to removal, except where medically contraindicated or where the need for immediate transfer or discharge requires reduction in the number of visits. (Section 3-417 of the Act)

t) The Department shall prepare resident transfer or discharge plans to assure safe and orderly removals and protect residents' health, safety, welfare and rights. In nonemergencies, and, where possible, in emergencies, the Department shall design and implement such plans in advance of transfer or discharge. (Section 3-418 of the Act)

u) The Department may place relocation teams in any facility from which residents are being discharged or transferred for any reason, for the purpose of implementing transfer or discharge plans. (Section 3-419 of the Act)

v) In any transfer or discharge conducted under subsections (q) through (t) of this Section the Department shall:

1) Provide written notice to the facility prior to the transfer or discharge. The notice shall state the basis for the order of transfer or discharge and shall inform the facility of its right to an informal conference prior to transfer or discharge under this Section, and its right to a subsequent hearing under subsection (x) of this Section. If a facility desires to contest a nonemergency transfer or discharge, prior to transfer or discharge it shall, within four working days after receipt of the notice, send a written request for an informal conference to the Department. The Department shall, within four working days from the receipt of the request, hold an informal conference in the county in which the facility is located. Following this conference, the Department may affirm, modify or overrule its previous decision. Except in an emergency, transfer or discharge may not begin until the period for requesting a conference has passed or, if a conference is requested, until after a conference has been held; and (Section 3-420(a) of the Act)

2) Provide written notice to any resident to be removed, to the resident's representative, if any, and to a member of the resident's family, where practicable, prior to the removal. The notice shall state the reason for
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which transfer or discharge is ordered and shall inform the resident of the resident's right to challenge the transfer or discharge under subsection (x) of this Section. The Department shall hold an informal conference with the resident or the resident's representative prior to transfer or discharge at which the resident or the representative may present any objections to the proposed transfer or discharge plan or alternative placement. (Section 3-420(b) of the Act)

w) In any transfer or discharge conducted under subsection (q)(5) of this Section, the Department shall notify the facility and any resident to be removed that an emergency has been found to exist and removal has been ordered, and shall involve the residents in removal planning if possible. Following emergency removal, the Department shall provide written notice to the facility, to the resident, to the resident's representative, if any, and to a member of the resident's family, where practicable, of the basis for the finding that an emergency existed and of the right to challenge removal under subsection (x) of this Section. (Section 3-421 of the Act)

x) Within ten days following transfer or discharge, the facility or any resident transferred or discharged may send a written request to the Department for a hearing under Section 3-703 of the Act to challenge the transfer or discharge. The Department shall hold the hearing within 30 days after receipt of the request. Where a challenge is by a resident, the hearing shall be held at a location convenient to the resident. If the facility prevails, it may file a claim against the State under the Court of Claims Act [705 ILCS 505] for payments loss less expenses saved as a result of the transfer or discharge. No resident transferred or discharged may be held liable for the charge for care which would have been made had the resident remained in the facility. If a resident prevails, the resident may file a claim against the State under the Court of Claims Act (Ill. Rev. Stat. 1987, ch. 37, pars. 439.1 et seq.) for any excess expenses directly caused by the order to transfer or discharge. The Department shall assist the resident in returning to the facility if assistance is requested. (Section 3-422 of the Act)

y) Any owner of a facility licensed under the Act shall give 90 days notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent of the residents. Such notice shall be given to the Department, to any resident who must be transferred or discharged, to the resident's representative, and to a member of the resident's family, where
practicable. Notice shall state the proposed date of closing and the reason for closing. The facility shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternate placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the facility as provided under subsection (u) of this Section. (A, B) (Section 3-423 of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days)
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1) **Heading of the Part**: Sheltered Care Facilities Code

2) **Code Citation**: 77 Ill. Adm. Code 330

3) **Section Numbers**: Emergency Action:

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4) **Statutory Authority**: Nursing Home Care Act [210 ILCS 45]

5) **Effective Date of Emergency Amendments**: July 12, 2005

6) **If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire**: N/A

7) **Date filed with the Index Department**: July 12, 2005

8) A copy of the emergency rulemaking, 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**: Section 5-45 of the Illinois Administrative Procedure Act defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare," and that "requires adoption of a rule upon fewer days than is required by Section 5-40." This emergency rulemaking fits that category, and is being undertaken to implement House Bill 2062/PA-94-163, effective July 11, which requires emergency rulemaking within 30 days after the Act takes effect. PA 94-163 addresses what the Department of Public Health sees as a grave threat to the public interest, health, safety and welfare, namely, identified offenders, defined as registered sex offenders or anyone serving a term of parole, mandatory supervised release, or probation for a felony offense, residing in sheltered care facilities unbeknownst to the facility, other residents, family members, and visitors. The rulemaking also addresses additional assessments, care plan, and placement requirements for identified offenders to mandate that facilities weigh these additional factors before accepting the client for residency. Because of the extreme nature of the threat and the requirements of the Act, the Department believes that these rules must be adopted in a
shorter time frame than is normally allowed under the regular rulemaking procedures of the Administrative Procedure Act.

10) **A complete Description of the Subjects and Issues Involved:** The Sheltered Care Facilities Code (77 Ill. Adm. Code 330) regulates sheltered care facilities licensure. Section 330.330 (Definitions) is being amended to include a definition of "identified offenders." Section 330.715 (Pre-Admission Assessment) is being added to require pre-admission assessment to include criminal background checks on new residents and the require facilities to review assessment documentation to ensure that the individual meets requirements in Section 330.720 and a new Section 330.725. Section 330.720 (Admission and Discharge Policies) is being amended to require sheltered care facilities to ensure that identified offenders meet all of the requirements of Section 330.715 and Section 330.725. Section 330.725 (Identified Offenders) adds the minimum requirements that sheltered care facilities must meet in order to admit identified offenders as residents. Section 330.727 (Transferring) is being added to require the full disclosure of the status of identified offenders when they are transferred between facilities regulated by the Department. Section 330.730 (Contract Between Resident and Facility) is being amended to require full disclosure of a resident's status as an identified offender and to alert the prospective resident of the facility's ability or inability to care for the resident. Section 330.4300 (Transfer or Discharge) is being amended to require facilities to demonstrate an inability to care for the identified offender before involuntarily discharging him or her.

11) **Are there any proposed amendments to this Part pending?** Yes

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12) **Statement of Statewide Policy Objectives:** This emergency rulemaking will create a State mandate on facilities operated by units of local government.

13) **Information and questions regarding these amendments shall be directed to:**

   Susan Meister
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Administrative Rules Coordinator
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, Illinois 62761

217-782-2043
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NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 330
SHELTERED CARE FACILITIES CODE

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].
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18130, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3541, effective November 15, 2003; amended at 28 Ill. Reg. 11195, effective July 22, 2004; emergency amendment at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days.

SUBPART A: GENERAL PROVISIONS

Section 330.330 Definitions

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse — any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Access — the right to:
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Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act – as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 330.1145 as a physical restraint.

Addition – any construction attached to the original building which increases the area or cubic content of the building.

Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.
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Administrative Warning – a notice to a facility issued by the Department under Section 330.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator – the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate – means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly – any person providing direct personal care, training or habilitation services to residents.

Alteration – any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident – a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant – any person making application for a license. (Section 1-107 of the Act)
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Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Autism – a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel – all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement – when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification – treatment to be used to establish or change behavior patterns.

Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as
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a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives – service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 330.1145 of this Part.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist – any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].
Department – as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide – any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability – means a severe, chronic disability of a person which:

- is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

- is manifested before the person attains age 22;

- is likely to continue indefinitely;

- results in substantial functional limitations in 3 or more of the following areas of major life activity:
  - self-care,
  - receptive and expressive language,
  - learning,
  - mobility,
  - self-direction,
  - capacity for independent living, and
  - economic self-sufficiency; and

- reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of
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*lifelong or extended duration and are individually planned and coordinated.* (Section 3-801.1, 801.8 of the Act)

Dietetic Service Supervisor – a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – *the Director of Public Health or designee.* (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – *the full release of any resident from a facility.* (Section 1-111 of the Act)
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Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care – a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled – when used in this Part is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility – a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22
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of the Counties Code [55 ILCS 5] or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210
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ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3].

(Facility, Long-Term Care, for Residents Under 22 Years of Age – when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care – when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing – when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post-acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of
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time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Information Management Consultant – a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) – the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged – any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization – the care and treatment of a person in a hospital as an inpatient.
Identified Offender – a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense. (Section 1-114.01 of the Act)

Individual Education Program (IEP) – a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) – a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.
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Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior – impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Mentally Retarded and Mental Retardation – subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident’s authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory – unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident – any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect – a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or medical condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or
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a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization – the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

Nurse – a registered nurse or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Assistant – any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit – a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective – an expected result or condition that involves a relatively short period
of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner – the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person,
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whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered – a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint – any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant – a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist – a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician – any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License – an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional – a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

- Be a physician as defined in this Section.
- Be a registered nurse as defined in this Section.
- Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or
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language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional – a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours – any time between the hours of 10 A.M. and 8 P.M. daily. (Section 1-121 of the Act)

Registered Nurse – a person with a valid Illinois license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation – for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character – having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident – person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director – the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination
and monitoring of the residents' overall plans of care in an intermediate care facility.

*Resident's Representative* – a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)

Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room – a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory – same as adequate.

Seclusion – the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

*Sheltered Care – maintenance and personal care.* (Section 1-124 of the Act)

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

*Stockholder of a Corporation – any person who, directly or indirectly,*
beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Story – when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

Student Intern – means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

- an academic credit requirement in a high school or undergraduate institution,
- or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance – meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 330.140(a)(3) and 330.150(a)(3).

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 330.165(b)(1).

Sufficient – same as adequate.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.
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Therapeutic Recreation Specialist – a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII – Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX – Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer – a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit – an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes – a common record with periodic narrative documentation by all persons involved in resident care.

Valid License – a license which is unsuspended, unrevoked and unexpired.
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(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days)

SUBPART C: POLICIES

Section 330.715 Pre-admission Assessment

EMERGENCY

a) Identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of Sections 330.720 and 330.725 of this Part. (Section 2-201.5(b) of the Act) Pre-admission assessment must include a request for criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635] and, if the individual is an identified offender, the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].

b) The facility must review the assessment and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 330.720 and 330.725 of this Part. The facility is responsible for the development of a treatment plan appropriate to the needs of the identified offender prior to admission. Information compiled concerning identified offenders must not be further disseminated except to the resident, law enforcement agencies, the parole office, the Department, and other facilities licensed by the Department.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days)

Section 330.720 Admission and Discharge Policies

EMERGENCY

a) Admission Restrictions

1) No resident determined by professional evaluation to be in need of nursing care shall be admitted to or kept in a sheltered care facility. Neither shall any such resident be kept in a distinct part designated and classified for sheltered care.

2) Homes in Chicago licensed as Residential Care (Half-Way) Homes shall
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accept and keep only persons requiring residential care. Residential care is defined as maintenance and oversight. Oversight is defined as general watchfulness and appropriate action to meet the total needs of residents, exclusive of nursing or personal care, as defined in Chapter 136.1 of the "Municipal Code of the City of Chicago". Oversight shall include, at a minimum, social, recreational, and employment opportunities for residents who, by reason of previous physical or mental disability, or in the opinion of a licensed physician, are in need of residential care.

b) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to, or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house or outside resources.

c) Each facility shall have a policy concerning the admission and retention of identified offenders, consistent with the facility's capabilities to accept and care for these residents. The policy also must include the procedure to be implemented for the retention or discharge of a resident upon notice that a resident is an identified offender.

de) No resident shall be admitted to or kept in the facility:

1) Who is mentally ill, in need of mental treatment, and at risk because the person is reasonably expected to self-inflict serious physical harm or to inflict serious physical harm on another person in the near future as a result of the mental illness, as determined by professional evaluation;

2) Who is destructive of property or himself; or

3) Who has serious mental or emotional problems based on medical diagnosis;

4) Who is an identified offender unless the assessment requirements of Section 330.715 and the requirements of this Section and Section 330.725 are met.

e) On or before July 21, 2005, a licensed facility shall be required to compare its residents against the Illinois Department of Corrections and Illinois State Police
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registered sex offender databases. The licensed facility shall notify the Department within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases. (Section 3-202.3(3) and (4) of the Act)

(Section 330.725  Identified Offenders

EMERGENCY

a) On or before July 21, 2005, a licensed facility must compare its current residents against the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections registered sex offender database. In addition, on or before January 1, 2006, the facility must initiate for current residents a request for criminal history record information according to the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If identified offenders are present in the facility, the facility shall comply with all of the following requirements:

(b) Children under 18 years of age shall not be cared for in a facility for adults.

g) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is incompetent, by the resident's guardian.

(h) No resident shall be admitted with a communicable, contagious or infectious disease as set forth in Section 330.1130 of this Part.

(i) A facility shall not admit more residents than the number authorized by the license issued to it.

(j) Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days)
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1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders being cared for by the facility. If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release (Section 2-110 of the Act). Reasonable access under this provision shall not interfere with the identified offender’s medical care.

2) The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections registered sex offender database, the Department of State Police, and local law enforcement agencies.

3) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)

4) If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record. In addition, facilities must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation whether the probation officer has complied with Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110].

5) The facility must meet with local law enforcement officials to establish and institute policies and procedures regarding the identified offender's status in the facility, including compliance with Section 330.785 of this Part.

b) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender
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_databases_ (Section 3-202.3 of the Act), including all information that the Illinois Department of Corrections is required to file with the facility under Section 3-14-1(c-5) of the Unified Code of Corrections.

c) Facilities must maintain written documentation of the verification of the identified offender status of all residents.

d) All facilities must, no less frequently than every six months, and again within 90 days before the licensure renewal date, perform all of the steps set forth in subsection (a).

e) For current residents, the facility must conduct a risk assessment and review the pre-admission assessment of the identified offender to determine the appropriateness of admission to the facility under the requirements of this subsection. Before retaining an identified offender in the facility, the facility must conduct risk assessment and review the screenings of the identified offender to determine the appropriateness of admission to the facility under the requirements of this subsection as soon as criminal history record information is available.

1) An individualized assessment of the care and supervision needs, if any, specific to the criminal offense;

2) The results of the assessment conducted pursuant to Section 330.715 of this Part;

3) The amount of supervision required by the individual to ensure the safety of all residents in the facility;

4) The physical and mental abilities of the individual;

5) The current medical assessments of the individual;

6) Whether the care plan addresses the individual's needs in relation to his or her status as an identified offender;

7) Whether the approaches developed in the care plan are proactive and are appropriate and effective in dealing with any behaviors specific to identified offenders; and
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8) Whether the facility has qualified staff to meet the needs of the individual and required level of supervision at all times.

f) Upon admission of the identified offender to a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident's needs in an individualized care plan that reflects the risk assessment of the individual pursuant to subsection (e).

g) If the resident is a registered sex offender, he or she must have his or her own room meeting the criteria of this subsection. In addition, if the facility's risk assessment determines that an identified offender who is not a registered sex offender must have his or her own room, then all the criteria of this subsection must be met.

1) The room must be in direct view of the main nurses' station.

2) The room must be separate from rooms of residents who are at risk.

3) The resident must not share his or her room with any other resident.

h) The facility must, on a monthly basis, evaluate care plans for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.

i) Incident reports must be submitted to the Department in compliance with Section 330.780 of this Part. The facility must continually review its placement determination of identified offenders based on ongoing incident reports. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility must transfer or discharge the identified offender in accordance with Section 330.4300 of this Part.

j) The facility must notify the appropriate law enforcement agency, Prisoner Review Board, Department of Corrections, or local sheriff's department of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.
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k) The facility must develop procedures to address the removal of a resident from identified offender status.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days)

Section 330.727 Transferring EMERGENCY

a) When a resident who is an identified offender is transferred to another facility regulated by the Department, the transferring facility must immediately notify the Department and the receiving facility that the individual is an identified offender before making the transfer.

b) This notification must include all of the documentation required under Section 330.725 of this Part. The receiving facility must comply with all of the admission and retention requirements of Section 330.725 of this Part to complete its discharge planning.

c) In addition, the transferring facility shall provide copies of the following information to the Department and the facility where the person becomes a resident:

1) The mittimus and any pre-sentence investigation reports;

2) The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];

3) Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];

4) Reports of disciplinary infractions and dispositions;

5) Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and

6) The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)
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d) This information shall be provided no later than 3 days after the person becomes a resident of the facility. (Section 3-14-1 of the Unified Code of Corrections) This information must not be further disseminated, except to the resident, law enforcement agencies, the parole office, the Department, and facilities licensed by the Department.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days)

Section 330.730 Contract Between Resident and Facility
EMERGENCY

a) Contract Execution

1) Before a person is admitted to a facility, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds, a written contract shall be executed between a licensee and the following in order of priority:

A) The person, or if the person is a minor, his parent or guardian; or

B) The person's guardian, if any, or agent, if any, as defined in Section 2-3 of the Illinois Power of Attorney Act; or

C) A member of the person's immediate family. (Section 2-202(a) of the Act)

2) An adult person shall be presumed to have the capacity to contract for admission to a long-term care facility unless he has been adjudicated a "disabled person" within the meaning of Section 11a-2 of the Probate Act of 1975, or unless a petition for such an adjudication is pending in a circuit court of Illinois. (Section 2-202(a) of the Act)

3) If there is no guardian, agent or member of the person's immediate family available, able or willing to execute the contract required by Section 2-202 of the Act and a physician determines that a person is so disabled as to be unable to consent to placement in a facility, or if a person has already been found to be a "disabled person," but no order has been entered allowing residential placement of the person, that person may be
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admitted to a facility before the execution of a contract required by that Section; provided that a petition for guardianship or for modification of guardianship is filed within 15 days after the person's admission to a facility, and provided further that such a contract is executed within ten days after the disposition of the petition. (Section 2-202(a) of the Act)

4) No adult shall be admitted to a facility if he objects, orally or in writing, to such admission, except as otherwise provided in Chapters III and IV of the Mental Health and Developmental Disabilities Code or Section 11a-14.1 of the Probate Act of 1975. (Section 2-202(a) of the Act)

5) If on the effective date of this Part, a person has not executed a contract as required by Section 2-202 of the Act, then such a contract shall be executed by, or on behalf of, the person, within ten days of the effective date of this Part, unless a petition has been filed for guardianship or modification of guardianship. If a petition for guardianship or modification of guardianship has been filed, and there is no guardian, agent or member of the person's immediate family available, able, or willing to execute the contract at that time, then a contract shall be executed within ten days of the disposition of such petition.

b) The contract shall be clearly and unambiguously entitled, "Contract Between Resident and (name of facility)."

c) Before a licensee (any facility licensed under the Act) enters a contract under Section 2-202 of the Act, it shall provide the prospective resident and his guardian, if any, with written notice of the licensee's policy regarding discharge of a resident whose private funds for payment of care are exhausted. (Section 2-202(a) of the Act)

d) A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Sections 3-401 through 3-423 of the Act. (Section 2-202(b) of the Act)

e) At the time of the resident's admission to the facility, a copy of the contract shall be given to the resident, his guardian, if any, and any other person who executed the contract. (Section 2-202(c) of the Act)

f) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such
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signature. The nursing home administrator may sign as the agent of the licensee.

g) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section. If any person other than the principal signatory is to be held individually responsible for payments due under the contract, that person shall also sign the contract on a separate signature line labeled "signature of responsible party" or "signature of guarantor."

h) The contract shall include a definition of "responsible party" or "guarantor," which describes in full the liability incurred by any such person.

i) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support. (Section 2-202(d) of the Act)

j) The original or a copy of the contract shall be maintained in the facility and be made available upon request to representatives of the Department and the Department of Healthcare and Family Services (Public Aid). (Section 2-202(e) of the Act)

k) The contract shall be written in clear and unambiguous language and shall be printed in not less than 12 point type. (Section 2-202(f) of the Act)

l) The contract shall specify the term of the contract. (Section 2-202(g)(1) of the Act) The term can be until a certain date or event. If a certain date is specified in the contract, an addendum can extend the term of the contract to another date certain or on a month-to-month basis.

m) Services Provided and Charges

1) The contract shall specify the services to be provided under the contract and the charges for the services. (Section 2-202(g)(2) of the Act)

2) A paragraph shall itemize the services and products to be provided by the facility and express the costs of the itemized services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee.

3) The contract may provide that the charges for services may be changed with thirty (30) days advance written notice to the resident or the person
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executing the contract on behalf of the resident. The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days after the receipt of the written notice of the change. The written notice shall become an addendum to the contract.

n) The contract shall specify the services that may be provided to supplement the contract and the charges for the services. (Section 2-202(g)(3) of the Act)

1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established in subsection (m) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed, then such additional cost shall be specified in the contract.

2) If the cost of any itemized service or product to be provided to the resident by the facility or related institutions cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract. But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract.

3) The contract may provide that the charges for services and products not covered by the rate or fee established in subsection (m) may be changed with thirty (30) days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days after the receipt of the written notice of the change. The written notice shall become an addendum to the contract.

o) The contract shall specify the sources liable for payments due under the contract. (Section 2-202(g)(4) of the Act)

p) Deposit Provisions
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1) The contract shall specify the amount of deposit paid. (Section 2-202(g)(5) of the Act)

2) Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract shall specify when such deposit shall be paid by the resident, and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions, the deposit shall be returned to the resident. If the deposit is nonrefundable, the contract shall provide express notice of such nonrefundability.

q) The contract shall specify the rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 2-211 of the Act. (Section 2-202(g)(6) of the Act)

r) The contract shall designate the name of the resident's representative, if any. The resident shall provide the facility with a copy of the written agreement between the resident and the resident's representative which authorizes the resident's representative to inspect and copy the resident's records and authorizes the resident's representative to execute the contract on behalf of the resident required by Section 2-202 of the Act. (Section 2-202(h) of the Act)

s) The contract shall provide that if the resident is compelled by a change in physical or mental health to leave the facility, the contract and all obligations under it shall terminate on seven days notice. No prior notice of termination of the contract shall be required, however, in the case of a resident's death. The contract shall also provide that in all other situations, a resident may terminate the contract and all obligations under it with 30 days notice. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This provision shall not apply to life-care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life nor to continuing-care contracts through which a facility agrees to supplement all available forms of financial support in providing maintenance and care for a resident throughout the remainder of the resident's life. (Section 2-202(i) of the Act)
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t) All facilities that offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, conditioned upon the transfer of an entrance fee to the provider of such services in addition to or in lieu of the payment of regular periodic charges for the care and services involved, for a term in excess of one year or for life pursuant to a life care contract, shall meet all of the provisions of the Life Care Facilities Act (Ill. Rev. Stat. 1991, ch. 111½, par. 4160-1 et seq.) [210 ILCS 40], including the obtaining of a permit from the Department, before they may enter into such contracts. (Section 2(c) of the Life Care Facilities Act)

u) In addition to all other contract specifications contained in this Section, admission contracts shall also specify:

1) whether the facility accepts Medicaid clients;

2) whether the facility requires a deposit of the resident or his family prior to the establishment of Medicaid eligibility;

3) in the event that a deposit is required, a clear and concise statement of the procedure to be followed for the return of such deposit to the resident or the appropriate family member or guardian of the person;

4) that all deposits made to a facility by a resident, or on behalf of a resident, shall be returned by the facility within 30 days of the establishment after of Medicaid eligibility, unless such deposits must be drawn upon or encumbered in accordance with Medicaid eligibility requirements established by the Illinois Department of Healthcare and Family ServicesPublic Aid. (Section 2-202(j) of the Act)

v) The contract also shall require a prospective resident to state whether he or she is an identified offender. The contract shall alert the prospective resident of the facility's ability or inability to care for the prospective resident if he or she is an identified offender.

w) It shall be a business offense for a facility to knowingly and intentionally both retain a resident's deposit and accept Medicaid payments on behalf of the resident. (Section 2-202(k) of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days)
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SUBPART Q: RESIDENT'S RIGHTS

Section 330.4300 Transfer or Discharge

EMERGENCY

a) A resident may be voluntarily discharged from a facility after he gives the administrator, a physician, or a nurse of the facility written notice of his desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of his guardian or if the resident is a minor, his parent unless there is a court order to the contrary. In such cases, upon the resident's discharge, the facility is relieved from any responsibility for the resident's care, safety or well-being. (Section 2-111 of the Act)

b) Each resident's rights regarding involuntary transfer or discharge from a facility shall be as described in subsections (c) through (y) of this Section.

c) Reasons for Transfer or Discharge

1) A facility may involuntarily transfer or discharge a resident only for one or more of the following reasons:

A) for medical reasons

B) for the resident's physical safety

C) for the physical safety of other residents, the facility staff or facility visitors

D) for either late payment or nonpayment for the resident's stay, except as prohibited by Title XVIII and XIX of the Federal Social Security Act. For purposes of this Section, "late payment" means non-receipt of payment after submission of a bill. If payment is not received within 45 days after submission of a bill, the facility may send a notice to the resident and responsible party requesting payment within 30 days. If payment is not received within such 30 days, the facility may thereupon institute transfer or discharge proceedings by sending a notice of transfer or discharge to the resident and responsible party by registered or certified mail. The
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Notice shall state, in addition to the requirements of Section 3-403 of the Act and subsection (e) of this Section, that the responsible party has the right to pay the amount of the bill in full up to the date the transfer or discharge is to be made and then the resident shall have the right to remain in the facility. Such payment shall terminate the transfer or discharge proceedings. This subsection (c)(1)(D) does not apply to those residents whose care is provided under the Illinois Public Aid Code: and (B) (Section 3-401 of the Act)

E) for the demonstrated inability of the facility to meet the requirements of Sections 330.715, 330.720, and 330.725 specific to the particular identified offender.

2) Prohibition of Discrimination

A) A facility participating in the medical assistance program is prohibited from failing or refusing to retain as a resident any person because the resident is a recipient of or an applicant for the medical assistance program. For the purposes of this Section, a recipient or applicant shall be considered a resident in the facility during any hospital stay totaling ten days or less following a hospital admission. The day on which a resident is discharged from the facility and admitted to the hospital shall be considered the first day of the ten-day period. (Section 3-401.1(a) of the Act)

B) A facility which violates subsection (c)(2)(A) of this Section shall be guilty of a business offense and fined not less than $500 nor more than $1,000 for the first offense and not less than $1,000 nor more than $5,000 for each subsequent offense. (Section 3-401.1(b) of the Act)

d) Involuntary transfer or discharge of a resident from a facility shall be preceded by the discussion required under subsection (j) of this Section and by a minimum written notice of 21 days. The 21-day requirement shall not apply in any of the following instances:

1) When an emergency transfer or discharge is mandated by the resident's health care needs and is in accord with the written orders and medical justification of the attending physician; (Section 3-402(a) of the Act)
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2) When the transfer or discharge is mandated by the physical safety of other residents as documented in the clinical record. (Section 3-402(b) of the Act)

e) The notice required by subsection (d) of this Section shall be on a form prescribed by the Department and shall contain all of the following:

1) The stated reason for the proposed transfer or discharge; (Section 3-403(a) of the Act)

2) The effective date of the proposed transfer or discharge; (Section 3-403(b) of the Act)

3) A statement in not less than 12-point type, which reads: "You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may file a request for a hearing with the Department of Public Health within ten days after receiving this notice. If you request a hearing, it will be held not later than ten days after your request, and you generally will not be transferred or discharged during that time. If the decision following the hearing is not in your favor, you generally will not be transferred or discharged prior to the expiration of 30 days following receipt of the original notice of the transfer or discharge. A form to appeal the facility's decision and to request a hearing is attached. If you have any questions, call the Department of Public Health at the telephone number listed below." (Section 3-403(c) of the Act)

4) A hearing request form, together with a postage paid, preaddressed envelope to the Department; and (Section 3-403(d) of the Act)

5) The name, address, and telephone number of the person charged with the responsibility of supervising the transfer or discharge. (Section 3-403(e) of the Act)

f) A request for a hearing made under subsection (e) of this Section shall stay a transfer pending a hearing or appeal of the decision, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-404 of the Act)
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g) A copy of the notice required by subsection (d) of this Section shall be placed in the resident's clinical record and a copy shall be transmitted to the Department, the resident, the resident's representative, and, if the resident's care is paid for in whole or part through Title XIX, to the Department of Healthcare and Family Services-Public Aid. (Section 3-405 of the Act)

h) When the basis for an involuntary transfer or discharge is the result of an action by the Department of Healthcare and Family Services-Public Aid with respect to a recipient of Title XIX and a hearing request is filed with the Department of Healthcare and Family Services-Public Aid, the 21-day written notice period shall not begin until a final decision in the matter is rendered by the Department of Healthcare and Family Services-Public Aid or a court of competent jurisdiction and notice of that final decision is received by the resident and the facility. (Section 3-406 of the Act)

i) When nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to redeem up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (Section 3-407 of the Act)

j) The planned involuntary transfer or discharge shall be discussed with the resident, the resident's representative and person or agency responsible for the resident's placement, maintenance, and care in the facility. The explanation and discussion of the reasons for involuntary transfer or discharge shall include the facility administrator or other appropriate facility representative as the administrator's designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in the discussions and made a part of the resident's clinical record. (Section 3-408 of the Act)

k) The facility shall offer the resident counseling services before the transfer or discharge of the resident. (Section 3-409 of the Act)

l) A resident subject to involuntary transfer or discharge from a facility, the resident's guardian or if the resident is a minor, his parent shall have the opportunity to file a request for a hearing with the Department within ten days following receipt of the written notice of the involuntary transfer or discharge by the facility. (Section 3-410 of the Act)
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m) The Department of Public Health, when the basis for involuntary transfer or discharge is other than action by the Department of Healthcare and Family Services with respect to the Title XIX Medicaid recipient, shall hold a hearing at the resident's facility not later than ten days after a hearing request is filed, and render a decision within 14 days after the filing of the hearing request. (Section 3-411 of the Act)

n) The hearing before the Department provided under subsection (m) of this Section shall be conducted as prescribed under Sections 3-703 through 3-712 of the Act. In determining whether a transfer or discharge is authorized, the burden of proof in this hearing rests on the person requesting the transfer or discharge. (Section 3-412 of the Act)

o) If the Department determines that a transfer or discharge is authorized under subsection (c) of this Section, the resident shall not be required to leave the facility before the 34th day following receipt of the notice required under subsection (d) of this Section, or the tenth day following receipt of the Department's decision, whichever is later, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and(2) of this Section develops in the interim. (B) (Section 3-413 of the Act)

p) The Department of Healthcare and Family Services shall continue Title XIX Medicaid funding during the appeal, transfer, or discharge period for those residents who are Title XIX recipients affected by subsection (c) of this Section. (Section 3-414 of the Act)

q) The Department may transfer or discharge any resident from any facility required to be licensed under this Act when any of the following conditions exist:

1) Such facility is operating without a license; (Section 3-415(a) of the Act)

2) The Department has suspended, revoked or refused to renew the license of the facility as provided under Section 3-119 of the Act; (Section 3-415(b) of the Act)

3) The facility has requested the aid of the Department in the transfer or discharge of the resident and the Department finds that the resident consents to transfer or discharge; (Section 3-415(c) of the Act)
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4) The facility is closing or intends to close and adequate arrangement for relocation of the resident has not been made at least 30 days prior to closure; or (Section 3-415(d) of the Act)

5) The Department determines that an emergency exists which requires immediate transfer or discharge of the resident. (Section 3-415(e) of the Act)

r) In deciding to transfer or discharge a resident from a facility under subsection (q) of this Section, the Department shall consider the likelihood of serious harm which may result if the resident remains in the facility. (Section 3-416 of the Act)

s) The Department shall offer transfer or discharge and relocation assistance to residents transferred or discharged under subsections (c) through (q) of this Section including information on available alternative placements. Residents shall be involved in planning the transfer or discharge and shall choose among the available alternative placements, except that where an emergency makes prior resident involvement impossible, the Department may make a temporary placement until a final placement can be arranged. Residents may choose their final alternative placement and shall be given assistance in transferring to such place. No resident may be forced to remain in a temporary or permanent placement. Where the Department makes or participates in making the relocation decision, consideration shall be given to proximity to the resident's relatives and friends. The resident shall be allowed three visits to potential alternative placements prior to removal, except where medically contraindicated or where the need for immediate transfer or discharge requires reduction in the number of visits. (Section 3-417 of the Act)

t) The Department shall prepare resident transfer or discharge plans to assure safe and orderly removals and protect residents' health, safety, welfare and rights. In nonemergencies and, where possible, in emergencies, the Department shall design and implement such plans in advance of transfer or discharge. (Section 3-418 of the Act)

u) The Department may place relocation teams in any facility from which residents are being discharged or transferred for any reason, for the purpose of implementing transfer or discharge plans. (Section 3-419 of the Act)

v) In any transfer or discharge conducted under subsections (q) through (t) of this Section the Department shall:
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1) Provide written notice to the facility prior to the transfer or discharge. The notice shall state the basis for the order of transfer or discharge and shall inform the facility of its right to an informal conference prior to transfer or discharge under this Section, and its right to a subsequent hearing under subsection (x) of this Section. If a facility desires to contest a nonemergency transfer or discharge, prior to transfer or discharge it shall, within four working days after receipt of the notice, send a written request for an informal conference to the Department. The Department shall, within four working days from the receipt of the request, hold an informal conference in the county in which the facility is located. Following this conference, the Department may affirm, modify or overrule its previous decision. Except in an emergency, transfer or discharge may not begin until the period for requesting a conference has passed or, if a conference is requested, until after a conference has been held; and (Section 3-420(a) of the Act)

2) Provide written notice to any resident to be removed, to the resident's representative, if any, and to a member of the resident's family, where practicable, prior to the removal. The notice shall state the reason for which transfer or discharge is ordered and shall inform the resident of the resident's right to challenge the transfer or discharge under subsection (x) of this Section. The Department shall hold an informal conference with the resident or the resident's representative prior to transfer or discharge at which the resident or the representative may present any objections to the proposed transfer or discharge plan or alternative placement. (Section 3-420(b) of the Act)

w) In any transfer or discharge conducted under subsection (q)(5) of this Section, the Department shall notify the facility and any resident to be removed that an emergency has been found to exist and removal has been ordered, and shall involve the residents in removal planning if possible. Following emergency removal, the Department shall provide written notice to the facility, to the resident, to the resident's representative, if any, and to a member of the resident's family, where practicable, of the basis for the finding that an emergency existed and of the right to challenge removal under subsection (x) of this Section. (Section 3-421 of the Act)

x) Within ten days following transfer or discharge, the facility or any resident transferred or discharged may send a written request to the Department for a
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hearing under Section 3-703 of the Act to challenge the transfer or discharge. The Department shall hold the hearing within 30 days after receipt of the request. Where a challenge is by a resident, the hearing shall be held at a location convenient to the resident. If the facility prevails, it may file a claim against the State under the Court of Claims Act [705 ILCS 505] for payments lost less expenses saved as a result of the transfer or discharge. No resident transferred or discharged may be held liable for the charge for care which would have been made had the resident remained in the facility. If a resident prevails, the resident may file a claim against the State under the Court of Claims Act (Ill. Rev. Stat. 1987, ch. 37, pars. 439.1 et seq.) for any excess expenses directly caused by the order to transfer or discharge. The Department shall assist the resident in returning to the facility if assistance is requested. (Section 3-422 of the Act)

y) Any owner of a facility licensed under this Act shall give 90 days notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent of the residents. Such notice shall be given to the Department, to any resident who must be transferred or discharged, to the resident's representative, and to a member of the resident's family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The facility shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternate placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the facility as provided under subsection (u) of this Section. (A, B) (Section 3-423 of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11879, effective July 12, 2005, for a maximum of 150 days)
1) **Heading of the Part:** Illinois Veterans' Homes Code

2) **Code Citation:** 77 Ill. Adm. Code 340

3) **Section Numbers:**
   - 340.1000 Amendment
   - 340.1305 New Section
   - 340.1310 Amendment
   - 340.1315 New Section
   - 340.1317 New Section
   - 340.1420 Amendment
   - 340.1470 Amendment

4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **Effective Date of Emergency Amendments:** July 12, 2005

6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire: N/A

7) **Date filed with the Index Department:** July 12, 2005

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:** Section 5-45 of the Illinois Administrative Procedure Act defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare," and that "requires adoption of a rule upon fewer days than is required by Section 5-40." This emergency rulemaking fits that category, and is being undertaken to implement House Bill 2062/PA 94-163, effective July 11, which requires emergency rulemaking within 30 days after the Act takes effect. PA 94-163 addresses what the Department of Public Health sees as a grave threat to the public interest, health, safety and welfare, namely, identified offenders, defined as registered sex offenders or anyone serving a term of parole, mandatory supervised release, or probation for a felony offense, residing in veterans' homes unbeknownst to the facility, other residents, family members, and visitors. The rulemaking also addresses additional assessments, care plan, and placement requirements after for identified offenders to mandate that facilities weigh these additional factors before accepting the client for residency. Because of the extreme nature of the threat and the requirements of the Act, the Department believes that these rules must be adopted in a
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shorter time frame than is normally allowed under the regular rulemaking procedures of the Administrative Procedure Act.

10) A Complete Description of the Subjects and Issues Involved: The Illinois Veterans' Home Code (77 Ill. Adm. Code 340) regulates veterans' homes licensure. Section 340.1000 (Definitions) is being amended to include a definition of "identified offenders." Section 340.1305 (Pre-Admission Assessment) is being added to require pre-admission assessment to include criminal background checks on new residents and the require facilities to review assessment documentation to ensure that the individual meets requirements in Section 340.1310 and a new Section 340.1315. Section 340.1310 (Admission and Discharge Policies) is being amended to require veterans' homes to ensure that identified offenders meet all of the requirements of Section 340.1305 and Section 340.1315. Section 340.1315 (Identified Offenders) adds the minimum requirements that veterans' homes must meet in order to admit identified offenders as residents. Section 340.1317 (Transferring) is being added to require the full disclosure of the status of identified offenders when they are transferred between facilities regulated by the Department. Section 340.1420 (Contract Between Resident and Facility) is being amended to require full disclosure of a resident's status as an identified offender and to alert the prospective resident of the facility's ability or inability to care for the resident. Section 340.1470 (Transfer or Discharge) is being amended to require facilities to demonstrate an inability to care for the identified offender before involuntarily discharging him or her.

11) Are there any proposed amendments to this Part pending? Yes

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12) Statement of Statewide Policy Objective: This emergency rulemaking will create a State mandate on facilities operated by units of local government.

13) Information and questions regarding these emergency amendments shall be directed to:

Susan Meister
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Administrative Rules Coordinator
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, Illinois 62761

217-782-2043
rules@idph.state.il.us

The full text of the Emergency Amendments begins on the next page:
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NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 340
ILLINOIS VETERANS' HOMES CODE

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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].


SUBPART A: GENERAL PROVISIONS

Section 340.1000 Definitions

Abuse – any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.
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Access — The right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act — as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program — a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior — the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment — a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 340.1580 as a physical restraint.

Adequate — enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.
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Administrative Warning – a notice to a facility issued by the Department under Section 340.1220 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a Type A or Type B violation.

Administrator – the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate – means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide – any person providing direct personal care, training or habilitation services to residents.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Speech-
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Language Pathology and Audiology Practice Act [225 ILCS 110].

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior or maintain a resident, that is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 340.1580 of this Part.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist – any person licensed to practice dentistry, including persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].
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Department – as used in this Part means the Illinois Department of Public Health.

Developmental Disability – means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.1 of the Act)

Dietetic Service Supervisor – a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic
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Association; or is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.
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Emergency – a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility or Long-Term Care Facility – a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];
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Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3].

(Section 1-113 of the Act)

Financial Resources – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term
objectives directed toward its attainment.

Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

Health Information Management Consultant – a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Hospitalization – the care and treatment of a person in a hospital as an in-patient.

Identified Offender – a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense. (Section 1-114.01 of the Act)

Illinois Veterans' Home – a facility operated by or under the authority of the Illinois Department of Veterans' Affairs. (Section 1-113(1) of the Act)

Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. The Interdisciplinary Team includes at least the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – a person who is charged with the
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general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect – a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.
New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Nurse – a registered nurse or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65]. (Section 1-118 of the Act)

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed
physician, are in need of residential care.

Owner — the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person — any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care — assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered — a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint — any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant — a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist — a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician — any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License — an initial license issued for a period of 120 days during
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which time the Department will determine the qualifications of the applicant.

Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Professional – a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours – any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse – a person with a valid license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation – for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Resident – person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director – the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative – a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the
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Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory – same as adequate.

Seclusion – the retention of a resident alone in a room with a door which the resident cannot open.

Self Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

Stockholder of a Corporation – any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)

Student Intern – means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

an academic credit requirement in a high school or undergraduate institution, or

immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided
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that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance, which results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 340.1130(b)(1).

Sufficient – same as adequate.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity. Unless otherwise stated in this Part, the supervisor must be on the premises if the person does not meet assistant level (two-year training program) qualifications specified in these definitions.

Therapeutic Recreation Specialist – a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII – Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX – Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer – a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and
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maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Universal Progress Notes – a common record with periodic narrative documentation by all persons involved in resident care.

Valid License – a license which is unsuspended, unrevoked and unexpired.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

SUBPART B: POLICIES AND FACILITY RECORDS

Section 340.1305 Pre-admission Assessment

a) Identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of Sections 340.1310 and 340.1315 of this Part. (Section 2-201.5(b) of the Act) Pre-admission assessment must include a request for criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635] and, if the individual is an identified offender, the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].

b) The facility must review the assessments and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 340.1310 and 340.1315 of this Part. The facility is responsible for the development of a treatment plan appropriate to the needs of the identified offender prior to admission. Information compiled concerning identified offenders must not be further disseminated except to the resident, law enforcement agencies, the parole office, the Department, and other facilities licensed by the Department.
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(Source: Added by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

Section 340.1310 Admission and Discharge Policies

EMERGENCY

a) On or before July 21, 2005, a licensed facility shall be required to compare its residents against the Illinois Department of Corrections and Illinois State Police registered sex offender databases. The licensed facility shall notify the Department within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases. (Section 3-202.3(3) and (4) of the Act)

b) No resident determined by professional evaluation to be in need of services not readily available in a particular facility, or distinct part of a facility, or through arrangement with a qualified outside resource, shall be admitted to or kept in that facility, provided that all involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act. The Department defines a "qualified outside source" as one recognized as meeting professional standards for services provided.

c) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning keeping of persons who become pregnant while they are residents of the facility. If these policies permit these persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to these persons from in-house or outside resources. (See Section 340.1550.)

d) Residents with a history of aggressive or self-abusive behavior may be admitted only if the facility has in place appropriate, effective and individualized programs to manage the resident's behaviors and adequate, properly trained and supervised staff to administer the programs.

e) Each facility shall have a policy concerning the admission and retention of identified offenders, consistent with the facility's capabilities to accept and care for these residents. The policy also must include the procedure to be implemented for the retention or discharge of a resident upon notice that a resident is an identified offender.
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f) No person shall be admitted to or kept in the facility who is an identified offender unless the requirements of Section 340.1305, this Section and Section 340.1315 are met.

g) Persons under 18 years of age may not be cared for in a facility for adults without prior written approval from the Department.

h) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident or, if the resident is incompetent, by the resident's guardian.

i) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.

j) A facility shall document all leaves and temporary transfers. Such documentation shall include date, time, condition of resident, person to whom the resident was released, planned destination, anticipated date of return, and any special instructions on medication dispensed.

k) Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

Section 340.1315 Identified Offenders

EMERGENCY

a) On or before July 21, 2005, a licensed facility must compare its current residents against the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections registered sex offender database. In addition, on or before January 1, 2006, the facility must initiate for current residents a request for criminal history record information according to the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If identified offenders are present in the facility, the facility shall comply with all of the following requirements:
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1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders being cared for by the facility. If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release (Section 2-110 of the Act). Reasonable access under this provision shall not interfere with the identified offender's medical care.

2) The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections registered sex offender database, the Department of State Police, and local law enforcement agencies.

3) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)

4) If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record. In addition, facilities must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation whether the probation officer has complied with Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110].

5) The facility must meet with local law enforcement officials to establish and institute policies and procedures regarding the identified offender's status in the facility, including compliance with Section 340.1380 of this Part.

b) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender...
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data bases (Section 3-202.3 of the Act), including all information that the Illinois Department of Corrections is required to file with the facility under Section 3-14-1(c-5) of the Unified Code of Corrections.

e) Facilities must maintain written documentation of the verification of the identified offender status of all residents.

d) All facilities must, no less frequently than every six months, and again within 90 days before the licensure renewal date, perform all of the steps set forth in subsection (a).

e) Before accepting an identified offender for admission, the facility must conduct a risk assessment and review the pre-admissions of the identified offender to determine the appropriateness of admission to the facility under the requirements of this subsection. Before retaining an identified offender in the facility the facility must conduct risk assessment and review the screenings of the identified offender to determine the appropriateness of admission to the facility under the requirements of this subsection as soon as criminal history record information is available.

1) An individualized assessment of the care and supervision needs, if any, specific to the criminal offense;

2) The results of the assessment conducted pursuant to Section 340.1305 of this Part;

3) The amount of supervision required by the individual to ensure the safety of all residents in the facility;

4) The physical and mental abilities of the individual;

5) The current medical assessments of the individual;

6) Whether the care plan addresses the individual's needs in relation to his or her status as an identified offender;

7) Whether the approaches developed in the care plan are proactive and are appropriate and effective in dealing with any behaviors specific to identified offenders; and
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8) Whether the facility has qualified staff to meet the needs of the individual and required level of supervision at all times.

f) Upon admission of the identified offender to a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident's needs in an individualized care plan that reflects the risk assessment of the individual pursuant to subsection (e).

g) If the resident is a registered sex offender, he or she must have his or her own room meeting the criteria of this subsection. In addition, if the facility's risk assessment determines that an identified offender who is not a registered sex offender must have his or her own room, then all the criteria of this subsection must be met.

1) The room must be in direct view of the main nurses' station.

2) The room must be separate from rooms of residents who are at risk.

3) The resident must not share his or her room with any other resident.

h) The facility must, on a monthly basis, evaluate care plans for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.

i) Incident reports must be submitted to the Department in compliance with Section 340.1330 of this Part. The facility must continually review its placement determination of identified offenders based on ongoing incident reports. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility must transfer or discharge the identified offender in accordance with Section 340.1470 of this Part.

j) The facility must notify the appropriate law enforcement agency, Prisoner Review Board, Department of Corrections, or local sheriff's department of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.
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k) The facility must develop procedures to address the removal of a resident from identified offender status.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

Section 340.1317 Transferring EMERGENCY

a) When a resident who is an identified offender is transferred to another facility regulated by the Department, the transferring facility must immediately notify the Department and the receiving facility that the individual is an identified offender before making the transfer.

b) This notification must include all of the documentation required under Section 340.1315 of this Part. The receiving facility must comply with all of the admission and retention requirements of Section 340.1315 of this Part to complete its discharge planning.

c) In addition, the transferring facility shall provide copies of the following information to the Department and the facility where the person becomes a resident:

1) The mittimus and any pre-sentence investigation reports;

2) The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];

3) Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];

4) Reports of disciplinary infractions and dispositions;

5) Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and

6) The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)
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d) This information shall be provided no later than 3 days after the person becomes a resident of the facility. (Section 3-14-1 of the Unified Code of Corrections) This information must not be further disseminated, except to the resident, law enforcement agencies, the parole office, the Department, and facilities licensed by the Department.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

SUBPART C: RESIDENT RIGHTS

Section 340.1420 Contract Between Resident and Facility

a) Contract Execution

1) Before a person is admitted to a facility, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds, a written contract shall be executed between a licensee and the following in order of priority:

A) the person, or if the person is a minor, his parent or guardian; or

B) the person's guardian, if any, or agent, if any, as defined in Section 2-3 of the Illinois Power of Attorney Act; or

C) a member of the person's immediate family. (Section 2-202(a) of the Act)

2) An adult person shall be presumed to have the capacity to contract for admission to a long-term care facility unless he has been adjudicated a "disabled person" within the meaning of Section 11A-2 of the Probate Act of 1975, or unless a petition for such an adjudication is pending in a circuit court of Illinois. (Section 2-202(a) of the Act)

3) If there is no guardian, agent or member of the person's immediate family available, able or willing to execute the contract required by Section 2-202 of the Act and a physician determines that a person is so disabled as to be unable to consent to placement in a facility, or if a person has
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already been found to be a "disabled person", but no order has been entered allowing residential placement of the person, that person may be admitted to a facility before the execution of a contract required by Section 2-202 of the Act; provided that a petition for guardianship or for modification of guardianship is filed within 15 days after the person's admission to a facility, and provided further that such a contract is executed within ten days after the disposition of the petition. (Section 2-202(a) of the Act)

4) No adult shall be admitted to a facility if he objects, orally or in writing, to such admission, except as otherwise provided in Chapters III and IV of the Mental Health and Developmental Disabilities Code, or Section 11a-14.1 of the "Probate Act of 1975". (Section 2-202(a) of the Act)

b) The contract shall be clearly and unambiguously entitled, "Contract Between Resident and (name of facility)."

c) Before a licensee enters a contract under Section 2-202 of the Act, it shall provide the prospective resident and his guardian, if any, with written notice of the licensee's policy regarding discharge of a resident whose private funds for payment of care are exhausted. (Section 2-202(a) of the Act)

d) A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Sections 3-401 through 3-423 of the Act. (Section 2-202(b) of the Act)

e) At the time of the resident's admission to the facility, a copy of the contract shall be given to the resident, his guardian, if any, and any other person who executed the contract. (Section 2-202(c) of the Act)

f) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such signature. The nursing home administrator may sign as the agent of the licensee.

g) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section. If any person other than the principal signatory is to be held individually responsible for payments due under the contract that person shall also sign the contract on a separate signature line labeled "signature of responsible party" or "signature of guarantor".
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h) The contract shall include a definition of "responsible party" or "guarantor" which describes in full the liability incurred by any such person.

i) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support. (Section 2-202(d) of the Act)

j) The original or a copy of the contract shall be maintained in the facility and be made available upon request to representatives of the Department and the Department of Healthcare and Family ServicesPublic Aid. (Section 2-202(e) of the Act)

k) The contract shall be written in clear and unambiguous language and shall be printed in not less than 12 point type. (Section 2-202(f) of the Act)

l) The contract shall specify the term of the contract. (Section 2-202(g)(1) of the Act) The term can be until a certain date or event. If a certain date is specified in the contract, an addendum can extend the term of the contract to another date certain or on a month-to-month basis.

m) The contract shall specify the services to be provided under the contract and the charges for the services. A paragraph shall itemize the services and products to be provided by the facility and express the cost of the itemized services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee. (Section 2-202(g)(2) of the Act)

n) The contract shall specify the services that may be provided to supplement the contract and the charges for the services. (Section 2-202(g)(3) of the Act)

1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established in subsection (m) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed then such additional cost shall be specified in the contract.

2) If the cost of any itemized service or product to be provided by the facility or related institutions to the resident cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or
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product need be stated in the contract. But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract.

o) The contract may provide that charges for services or products may be changed with 30 days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or any person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days after of the receipt of the written notice of the change. The written notice shall become an addendum to the contract.

p) The contract shall specify the sources liable for payment due under the contract. (Section 2-202(g)(4) of the Act)

q) The contract shall specify the amount of deposit paid. Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract shall specify when such deposit shall be paid by the resident and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions the deposit shall be returned to the resident. If the deposit is nonrefundable the contract shall provide express notice of such nonrefundability. (Section 2-202(g)(5) of the Act)

r) The contract shall specify the rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 2-211 of the Act. (Section 2-202(g)(6) of the Act)

s) The contract shall designate the name of the resident's representative, if any. The resident shall provide the facility with a copy of the written agreement between the resident and the resident's representative which authorizes the resident's representative to inspect and copy the resident's records and authorizes the resident's representative to execute the contract on behalf of the resident required by Section 2-202 of the Act. (Section 2-202(h) of the Act)

t) The contract shall provide that if the resident is compelled by a change in
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physical or mental health to leave the facility, the contract and all obligations under it shall terminate on seven days notice. No prior notice of termination of the contract shall be required, however, in the case of a resident's death. The contract shall also provide that in all other situations, a resident may terminate the contract and all obligations under it with 30 days notice. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This provision shall not apply to life care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life nor to continuing-care contracts through which a facility agrees to supplement all available forms of financial support in providing maintenance and care for a resident throughout the remainder of the resident's life. (Section 2-202(i) of the Act)

u) All facilities that offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, conditioned upon the transfer of an entrance fee to the provider of such services in addition to or in lieu of the payment of regular periodic charges for the care and services involved, for a term in excess of one year or for life pursuant to a life care contract, shall meet all of the provisions of the Life Care Facilities Act (Ill. Rev. Stat. 1991, ch. 111 ½, par. 4161-1 et seq.) [210 ILCS 40], including the obtaining of a permit from the Department, before they may enter into such contracts. (Section 2(c) of the Life Care Facilities Act)

v) In addition to all other contract specifications contained in this Section, admission contracts shall also specify:

1) whether the facility accepts Medicaid clients;

2) whether the facility requires a deposit of the resident or his family prior to the establishment of Medicaid eligibility;

3) in the event that a deposit is required, a clear and concise statement of the procedure to be followed for the return of such deposit to the resident or the appropriate family member or guardian of the person;

4) that all deposits made to a facility by a resident, or on behalf of a resident, shall be returned by the facility within 30 days after the establishment of Medicaid eligibility, unless such deposits must be drawn upon or encumbered in accordance with Medicaid eligibility requirements;
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established by the Illinois Department of Healthcare and Family Services/Public Aid. (Section 2-202(j) of the Act)

w) The contract also shall require a prospective resident to state whether he or she is an identified offender. The contract shall alert the prospective resident of the facility's ability or inability to care for the prospective resident if he or she is an identified offender.

x) It shall be a business offense for a facility to knowingly and intentionally both retain a resident's deposit and accept Medicaid payments on behalf of the resident. (Section 2-202(k) of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

Section 340.1470 Transfer or Discharge

EMERGENCY

A resident may be voluntarily discharged from a facility after he gives the administrator, a physician, or a nurse of the facility written notice of his desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of his guardian or if the resident is a minor, his parent unless there is a court order to the contrary. In such cases, upon the resident's discharge, the facility is relieved from any responsibility for the resident's care, safety or well-being. (Section 2-111 of the Act)

b) A facility may involuntarily transfer or discharge a resident only for one or more of the following reasons:

1) for medical reasons;

2) for the resident's physical safety;

3) for the physical safety of other residents, the facility staff or facility visitors;

4) for either late payment or nonpayment for the resident's stay, except as prohibited by Titles XVIII and XIX of the federal Social Security Act. For purposes of this Section, "late payment" means non-receipt
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of payment after submission of a bill. If payment is not received within 45 days after submission of a bill, the facility may send a notice to the resident and responsible party requesting payment within 30 days. If payment is not received within such 30 days, the facility may thereupon institute transfer or discharge proceedings by sending a notice of transfer or discharge to the resident and responsible party by registered or certified mail. The notice shall state, in addition to the requirements of Section 3-403 of the Act and subsection (e) of this Section, that the responsible party has the right to pay the amount of the bill in full up to the date the transfer or discharge is to be made and then the resident shall have the right to remain in the facility. Such payment shall terminate the transfer or discharge proceedings. This subsection (b)(4) does not apply to those residents whose care is provided under the Illinois Public Aid Code; or [Section 3-401 of the Act]

5) for the demonstrated inability of the facility to meet the requirements of Sections 340.1305, 340.1310, and 340.1315 specific to the particular identified offender.

c) A facility participating in the Medical Assistance Program is prohibited from failing or refusing to retain as a resident any person because the resident is a recipient of, or an applicant for, the Medical Assistance Program. For the purposes of this Section, a recipient or applicant shall be considered a resident in the facility during any hospital stay totaling ten days or less following a hospital admission. The day on which a resident is discharged from the facility and admitted to the hospital shall be considered the first day of the ten-day period. (Section 3-401.1(a) of the Act)

d) Involuntary transfer or discharge of a resident from a facility shall be preceded by the discussion required under Section 3-408 of the Act and subsection (j) of this Section and by a minimum written notice of 21 days. The 21-day requirement shall not apply in any of the following instances:

1) When an emergency transfer or discharge is ordered by the resident's attending physician because of the resident's health care needs; (Section 3-402(a) of the Act)

2) When the transfer or discharge is mandated by the physical safety of other residents, the facility staff, or facility visitors as documented in the clinical record. (Section 3-402(b) of the Act)
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e) The notice required by Section 3-402 of the Act and subsection (d) of this Section shall be on a form prescribed by the Department and shall contain all of the following:

1) The stated reason for the proposed transfer or discharge; (Section 3-403(a) of the Act)

2) The effective date of the proposed transfer or discharge; (Section 3-403(b) of the Act)

3) A statement in not less than 12-point type, which reads: "You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may file a request for a hearing with the Department of Public Health within ten days after receiving this notice. If you request a hearing, it will be held not later than ten days after your request, and you generally will not be transferred or discharged during that time. If the decision following the hearing is not in your favor, you generally will not be transferred or discharged prior to the expiration of 30 days following receipt of the original notice of the transfer or discharge. A form to appeal the facility's decision and to request a hearing is attached. If you have any questions, call the Department of Public Health at the telephone number listed below." (Section 3-403(c) of the Act)

4) A hearing request form, together with a postage paid, preaddressed envelope to the Department; and (Section 3-403(d) of the Act)

5) The name, address, and telephone number of the person charged with the responsibility of supervising the transfer or discharge. (Section 3-403(e) of the Act)

f) A request for a hearing made under Section 3-403 of the Act and subsection (e) of this Section shall stay a transfer pending a hearing or appeal of the decision, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-404 of the Act)

g) A copy of the notice required by Section 3-402 of the Act and subsection (d) of this Section shall be placed in the resident's clinical record and a copy shall be
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transmitted to the Department, the resident, the resident's representative, and, if
the resident's care is paid for in whole or part through Title XIX, to the
Department of Healthcare and Family Services. (Section 3-405 of the Act)

h) When the basis for an involuntary transfer or discharge is the result of an action
by the Department of Healthcare and Family Services with respect to a
recipient of Title XIX and a hearing request is filed with the Department of
Healthcare and Family Services, the 21-day written notice period shall
not begin until a final decision in the matter is rendered by the Department of
Healthcare and Family Services or a court of competent jurisdiction
and notice of that final decision is received by the resident and the facility.
(Section 3-406 of the Act)

i) When nonpayment is the basis for involuntary transfer or discharge, the resident
shall have the right to redeem up to the date that the discharge or transfer is to be
made and then shall have the right to remain in the facility. (Section 3-407 of the Act)

j) The planned involuntary transfer or discharge shall be discussed with the
resident, the resident's representative and person or agency responsible for the
resident's placement, maintenance, and care in the facility. The explanation and
discussion of the reasons for involuntary transfer or discharge shall include the
facility administrator or other appropriate facility representative as the
administrator's designee. The content of the discussion and explanation shall be
summarized in writing and shall include the names of the individuals involved in
the discussions. This summary shall be made a part of the resident's clinical
record. (Section 3-408 of the Act)

k) The facility shall offer the resident counseling services before the transfer or
discharge of the resident. (Section 3-409 of the Act)

l) A resident subject to involuntary transfer or discharge from a facility, the
resident's guardian or if the resident is a minor, his parent shall have the
opportunity to file a request for a hearing with the Department within ten days
following receipt of the written notice of the involuntary transfer or discharge by
the facility. (Section 3-410 of the Act)

m) The Department of Public Health, when the basis for involuntary transfer or
discharge is other than action by the Department of Healthcare and Family
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Services

Public Aid with respect to the Title XIX Medicaid recipient, shall hold a hearing at the resident's facility not later than ten days after a hearing request is filed, and render a decision within 14 days after the filing of the hearing request. (Section 3-411 of the Act)

n) The hearing before the Department provided under Section 3-411 of the Act and subsection (m) of this Section shall be conducted as prescribed under Sections 3-703 through 3-712 of the Act. In determining whether a transfer or discharge is authorized, the burden of proof in this hearing rests on the person requesting the transfer or discharge. (Section 3-412 of the Act)

o) If the Department determines that a transfer or discharge is authorized under Section 3-401 of the Act and subsection (b) of this Section, the resident shall not be required to leave the facility before the 34th day following receipt of the notice required under Section 3-402 of the Act and subsection (c) of this Section, or the tenth day following receipt of the Department's decision, whichever is later, unless a condition which would have allowed transfer or discharge in less than 21 days as described under Section 3-402 of the Act and subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-413 of the Act)

p) The Department of Healthcare and Family Services shall continue Title XIX Medicaid funding during the appeal, transfer, or discharge period for those residents who are Title XIX recipients affected by Section 3-402 of the Act and subsection (c) of this Section. (Section 3-414 of the Act)

q) Any owner of a facility licensed under this Act shall give 90 days notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent of the residents. Such notice shall be given to the Department, to any resident who must be transferred or discharged, to the resident's representative, and to a member of the resident's family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The facility shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternate placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. (Section 3-423 of the Act)
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(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)
DEPARTMENT OF PUBLIC HEALTH

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1) **Heading of the Part**: Intermediate Care for the Developmentally Disabled Facilities Code

2) **Code Citation**: 77 Ill. Adm. Code 350

3) **Section Numbers**: Emergency Action:
   - 350.330 Amendment
   - 350.625 Amendment
   - 350.630 Amendment
   - 350.635 New Section
   - 350.637 New Section
   - 350.640 Amendment
   - 350.3300 Amendment

4) **Statutory Authority**: Nursing Home Care Act [210 ILCS 45]

5) **Effective Date of Emergency Amendments**: July 12, 2004

6) **If this emergency rule is to expire before the end of the 150-day period, please specify the date on which it is to expire**: N/A

7) **Date filed with the Index Department**: July 12, 2005

8) A copy of the emergency rulemaking, 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**: Section 5-45 of the Illinois Administrative Procedure Act defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare," and that "requires adoption of a rule upon fewer days than is required by Section 5-40." This emergency rulemaking fits that category, and is being undertaken to implement House Bill 2062/PA 94-163, effective July 11, which requires emergency rulemaking within 30 days after the Act takes effect. PA 94-163 addresses what the Department of Public Health sees as a grave threat to the public interest, health, safety and welfare, namely, identified offenders, defined as registered sex offenders or anyone serving a term of parole, mandatory supervised release, or probation for a felony offense, residing in intermediate care for the developmentally disabled facilities unbeknownst to the facility, other residents, family members, and visitors. The rulemaking also addresses additional assessments, care plan, and placement requirements for identified offenders to mandate that facilities weigh these additional factors before accepting the client for residency. Because of the extreme nature of the threat and the requirements of the Act, the Department believes that these rules
must be adopted in a shorter time frame than is normally allowed under the regular rulemaking procedures of the Administrative Procedure Act.

10) A Complete Description of the Subjects and Issues Involved: The Intermediate Care for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 350) regulates developmentally disabled facility licensure. Section 350.330 (Definitions) is being amended to include a definition of "identified offenders." Section 350.625 (Determination of Need Screening) is being amended to require pre-admission screening to include criminal background checks on new residents and to require facilities to review screening documentation to ensure that the individual meets requirements in Section 350.630 and a new Section 350.635. Section 350.630 (Admission and Discharge Policies) is being amended to require intermediate care facilities to ensure that identified offenders meet all of the requirements of Section 350.625 and Section 350.635. Section 350.635 (Identified Offenders) adds the minimum requirements that intermediate care facilities must meet in order to admit identified offenders as residents. Section 350.637 (Transferring) is being added to require the full disclosure of the status of identified offenders when they are transferred between facilities regulated by the Department. Section 350.640 (Contract Between Resident and Facility) is being amended to require full disclosure of a resident's status as an identified offender and to alert the prospective resident of the facility's ability or inability to care for the resident. Section 350.3300 (Transfer or Discharge) is being amended to require facilities to demonstrate an inability to care for the identified offender before involuntarily discharging him or her.

11) Are there any proposed amendments to this Part pending? Yes

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<th>Section Number</th>
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<tr>
<td>350.630</td>
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<tr>
<td>350.120</td>
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</table>

12) Statement of Statewide Policy Objectives: This emergency rulemaking will create a State mandate on facilities operated by units of local government.

13) Information and questions regarding these amendments shall be directed to:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Susan Meister
Administrative Rules Coordinator
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, Illinois 62761

217-782-2043
rules@idph.state.il.us

The full text of the Emergency Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 350
INTERMEDIATE CARE FOR THE DEVELOPMENTALLY DISABLED FACILITIES CODE

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350.110 General Requirements
350.120 Application for License
350.130 Licensee
350.140 Issuance of an Initial License for a New Facility
350.150 Issuance of an Initial License Due to a Change of Ownership
350.160 Issuance of a Renewal License
350.165 Criteria for Adverse Licensure Actions
350.170 Denial of Initial License
350.175 Denial of Renewal of License
350.180 Revocation of License
350.190 Experimental Program Conflicting With Requirements
350.200 Inspections, Surveys, Evaluations and Consultation
350.210 Filing an Annual Attested Financial Statement
350.220 Information to Be Made Available to the Public By the Department
350.230 Information to Be Made Available to the Public By the Licensee
350.240 Municipal Licensing
350.250 Ownership Disclosure
350.260 Issuance of Conditional Licenses
350.270 Monitor and Receivership
350.271 Presentation of Findings
350.272 Determination to Issue a Notice of Violation or Administrative Warning
350.274 Determination of the Level of a Violation
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350.284 Calculation of Penalties
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350.290 Quarterly List of Violators (Repealed)
350.300 Alcoholism Treatment Programs In Long-Term Care Facilities
350.310 Department May Survey Facilities Formerly Licensed
350.315 Supported Congregate Living Arrangement Demonstration
350.320 Waivers
350.330 Definitions

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350.340 Incorporated and Referenced Materials

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SUBPART C: POLICIES

Section
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350.620 Resident Care Policies
350.625 Determination of Need and Background Screening

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350.630 Admission, Retention and Discharge Policies

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350.635 Identified Offenders

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350.637 Transferring

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350.640 Contract Between Resident and Facility

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350.2650 Administration and Public Areas
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350.4210 Day Care in Long-Term Care Facilities

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350.APPENDIX B Federal Requirements Regarding Residents' Rights (Repealed)
350.APPENDIX C Seismic Zone Map
350.APPENDIX D Forms For Day Care in Long-Term Care Facilities
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350.TABLE A Sound Transmission Limitations in New Intermediate Care Facilities for the Developmentally Disabled

350.TABLE B Pressure Relationships and Ventilation Rate of Certain Areas for the New Intermediate Care Facilities for the Developmentally Disabled

350.TABLE C Construction Types and Sprinkler Requirements for Existing Intermediate Care Facilities for the Developmentally Disabled


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350.TABLE F Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 350.330 Definitions

**EMERGENCY**

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

*Abuse* — any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)
Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access — the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)
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Act – as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. Adaptive equipment is not a physical restraint. No matter the purpose, adaptive equipment does not include any device, material or method described in Section 350.1080 as a physical restraint.

Addition – any construction attached to the original building which increases the area or cubic content of the building.

Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning – a notice to a facility issued by the Department under Section 350.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator – the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.
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Affiliate – means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof of which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)

Aide or Orderly – any person providing direct personal care, training or habilitation services to residents.

Alteration – any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident – a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Autism – a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to
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external stimulation.

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel – all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement – when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.

Behavior Modification – treatment to be used to establish or change behavior patterns.

Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services/Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.
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Community Alternatives – service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 350.1080 of this Part.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist – any person licensed to practice dentistry, including persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department – as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide – any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability – means a severe, chronic disability of a person which:

is attributable to a mental or physical impairment or combination of
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mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

is manifested before the person attains age 22;

is likely to continue indefinitely;

results in substantial functional limitations in 3 or more of the following areas of major life activity:

self-care,

receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person's need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.13-804 of the Act)

Dietetic Service Supervisor – a person who:

is a qualified dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care
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institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in paragraphs (2), (3) or (4) of this definition.

Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)
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Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration. Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980. Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Facility, Intermediate Care – a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled – when used in this Part is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility – a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5], or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions or
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other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];

Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination. However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangement Licensure and Certification Act [210 ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3].
Facility, Long-Term Care, for Residents Under 22 Years of Age – when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care – when used in this Part is synonymous with a sheltered care facility, which facility provides maintenance and personal care.

Facility, Skilled Nursing – when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post-acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5].

Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning.
Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Information Management Consultant — a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) — the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged — any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization — the care and treatment of a person in a hospital as an inpatient.

Identified Offender — a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense. (Section 1-114.01 of the Act)

Individual Education Program (IEP) — a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) — a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.
Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the resident's needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior – impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Medical Record Practitioner – a person who: is eligible for certification as a registered record administrator (RRA) or an accredited record technician (ART), by the American Medical Record Association under its requirements; or is a graduate of a school of medical record science that is accredited jointly by the American Medical Association and the American Medical Record Association.

Mentally Retarded and Mental Retardation – subaverage general intellectual
functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory – unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident – any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a wheeled platform.

Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

Neglect – a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

the alleged failure causing injury or deterioration is ongoing or repetitious; or

a resident required medical treatment as a result of the alleged failure; or

the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any
other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization – the principle of helping individuals to obtain an existence as close to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

*Nurse – a registered nurse or a licensed practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65]. (Section 1-118 of the Act)*

Nursing Assistant – any person who provides nursing care or personal care to residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit – a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

*Occupational Therapist, Registered (OTR) – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].*

*Occupational Therapy Assistant – a person who is registered as a certified*
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occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are in need of residential care.

Owner – the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility. except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered – a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint – any manual method or physical or mechanical
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device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant – a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist – a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician – any person licensed to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License – an initial license issued for a period of 120 days during which time the Department will determine the qualifications of the applicant.

Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional – a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional – a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those
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persons who meet such criteria; and who is licensed, registered or certified by the State of Illinois, if required.

Reasonable Visiting Hours—any time between the hours of 10 a.m. and 8 p.m. daily. (Section 1-121 of the Act)

Registered Nurse—a person with a valid license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation—for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance of the initial violation. A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility. (Section 3-305(7) of the Act)

Reputable Moral Character—having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

Resident—person residing in and receiving personal care from a facility. (Section 1-122 of the Act)

Resident Services Director—the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

Resident's Representative—a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed. (Section 1-123 of the Act)
Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room – a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory – same as adequate.

Seclusion – the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

_{Sheltered Care – maintenance and personal care. (Section 1-124 of the Act)_}

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

_{Stockholder of a Corporation – any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation. (Section 1-125 of the Act)_}

{Story – when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.}
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Student Intern – means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:

- an academic credit requirement in a high school or undergraduate institution;
- or
- immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment. (Section 1-125.1 of the Act)

Substantial Compliance – meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 350.140(a)(3) and 350.150(a)(3).

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 350.165(b)(1).

Sufficient – same as adequate.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist – a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.
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Title XVIII – Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX – Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer – a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit – an entire physically identifiable residence area consisting of not less than five nor more than 20 beds, and having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes – a common record with periodic narrative documentation by all persons involved in resident care.

Valid License – a license which is unsuspended, unrevoked and unexpired.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

SUBPART C: POLICIES

Section 350.625 Determination of Need and Background Screening

EMERGENCY
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a) For the purpose of this Section only, a nursing facility is any bed licensed as a skilled nursing or intermediate care facility bed, or a location certified to participate in the Medicare program under Title XVIII of the Social Security Act or Medicaid program under Title XIX of the Social Security Act.

b) All persons seeking admission to a nursing facility must be screened to determine the need for nursing facility services prior to being admitted, regardless of income, assets, or funding source. (Section 2-201.5(a) of the Act) A screening assessment is not required provided one of the conditions in Section 140.642(c) of the Department of Healthcare and Family Services' Public Aid's rules entitled "Medical Payment" (89 Ill. Adm. Code 140.642(c)) is met.

c) Any person who seeks to become eligible for medical assistance from the Medical Assistance program under the Illinois Public Aid Code to pay for long-term care services while residing in a facility shall be screened in accordance with 89 Ill. Adm. Code 140.642(b)(4). (Section 2-201.5(a) of the Act)

d) Screening shall be administered through procedures established by administrative rule by the agency responsible for screening. (Section 2-201.5(a) of the Act) The Illinois Department on Aging is responsible for the screening required in subsection (b) of this Section for individuals 60 years of age or older who are not developmentally disabled or do not have a severe mental illness. The Illinois Department of Human Services is responsible for the screening required in subsection (b) of this Section for all individuals 18 through 59 years of age and for individuals 60 years of age or older who are developmentally disabled or have a severe mental illness. The Illinois Department of Healthcare and Family Services or its designee is responsible for the screening required in subsection (c) of this Section.

e) In addition to the screening required by Section 2-201.5(a) of the Act, identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of Sections 350.630 and 350.635 of this Part. (Section 2-201.5(b) of the Act) In addition, such screening must include a request for criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635] and, if the individual is an identified offender, the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].
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f) The facility must review the screenings and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 350.630 and 350.635 of this Part. The facility is responsible for the development of a treatment plan appropriate to the needs of the identified offender prior to admission. Information compiled concerning identified offenders must not be further disseminated except to the resident, law enforcement agencies, the parole office, the Department, and other facilities licensed by the Department.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

Section 350.630  Admission, Retention and Discharge Policies

EMERGENCY

a) On or before July 21, 2005, a licensed facility shall be required to compare its residents against the Illinois Department of Corrections and Illinois State Police registered sex offender databases. The licensed facility shall notify the Department within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases. (Section 3-202.3(3) and (4) of the Act)

ba) Residents shall only be admitted who have had a comprehensive evaluation covering physical, emotional, social and cognitive factors, conducted by an appropriately constituted interdisciplinary team.

cb) No resident determined by professional evaluation to be in need of skilled level of nursing care shall be admitted to, or kept in, an Intermediate Care Facility, or Intermediate Care Facility for the Developmentally Disabled, or any distinct part of the facility designated and classified for intermediate care for the developmentally disabled.

de) Each facility shall have a policy concerning the admission of persons needing prenatal or maternity care, and a policy concerning the keeping of such persons who become pregnant while they are residents of the facility. If these policies permit such persons to be admitted to or kept in the facility, then the facility shall have a policy concerning the provision of adequate and appropriate prenatal and maternity care to such individuals from in-house or outside resources.
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e) Each facility shall have a policy concerning the admission and retention of identified offenders, consistent with the facility's capabilities to accept and care for these residents. The policy also must include the procedure to be implemented for the retention or discharge of a resident upon notice that a resident is an identified offender.

f) No person shall be admitted to or kept in a facility who is an identified offender unless the screening requirements of Section 350.625 and the requirements of this Section and Section 350.635 are met.

gd) A facility for infants and children under 18 years of age shall be used exclusively for children. Persons under 18 years of age may not be cared for in a facility for adults without prior approval from the Department. Such approval will be granted only when it is the best possible placement for the person under the particular set of circumstances.

he) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is incompetent, by the resident's guardian.

if) If a resident insists on being discharged and is discharged against the advice of a physician or a Qualified Mental Retardation Professional, the facts involved in the situation shall be fully documented in the resident's clinical record.

jg) No resident shall be discharged without the concurrence of the attending physician. All involuntary discharges and transfers shall be in accordance with Sections 3-401 through 3-423 of the Act.

kh) No resident shall be admitted with a communicable, contagious or infectious disease except as set forth in this Part.

li) A facility shall not admit more residents than the number authorized by the license issued to it.

mj) Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Act)
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(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

Section 350.635 Identified Offenders
EMERGENCY

a) On or before July 21, 2005, a licensed facility must compare its current residents against the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections registered sex offender database. In addition, on or before January 1, 2006, the facility must initiate for current residents a request for criminal history record information according to the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If identified offenders are present in the facility, the facility shall comply with all of the following requirements:

1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders being cared for by the facility. If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release (Section 2-110 of the Act). Reasonable access under this provision shall not interfere with the identified offender's medical care.

2) The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections registered sex offender database, the Department of State Police, and local law enforcement agencies.

3) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)

4) If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and
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maintain updated contact information in the resident's record. The record must also include the resident's criminal history record. In addition, facilities must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation whether the probation officer has complied with Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110].

5) The facility must meet with local law enforcement officials to establish and institute policies and procedures regarding the identified offender's status in the facility, including compliance with Section 350.750 of this Part.

b) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act), including all information that the Illinois Department of Corrections is required to file with the facility under Section 3-14-I(c-5) of the Unified Code of Corrections.

c) Facilities must maintain written documentation of the verification of the identified offender status of all residents.

d) All facilities must, no less frequently than every six months, and again within 90 days before the licensure renewal date, perform all of the steps set forth in subsection (a).

e) For current residents, the facility must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of admission to the facility under the requirements of this subsection. Before retaining an identified offender in the facility the facility must conduct risk assessment and review the screenings of the identified offender to determine the appropriateness of admission to the facility under the requirements of this subsection as soon as criminal history record information is available.

1) An individualized assessment of the care and supervision needs, if any, specific to the criminal offense;

2) The results of the screening conducted pursuant to Section 350.625 of this Part;
3) The amount of supervision required by the individual to ensure the safety of all residents in the facility;

4) The physical and mental abilities of the individual;

5) The current medical assessments of the individual;

6) Whether the care plan addresses the individual's needs in relation to his or her status as an identified offender;

7) Whether the approaches developed in the care plan are proactive and are appropriate and effective in dealing with any behaviors specific to identified offenders; and

8) Whether the facility has qualified staff to meet the needs of the individual and required level of supervision at all times.

f) Upon admission of the identified offender to a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident's needs in an individualized care plan that reflects the risk assessment of the individual pursuant to subsection (e).

g) If the resident is a registered sex offender, he or she must have his or her own room meeting the criteria of this subsection. In addition, if the facility's risk assessment determines that an identified offender who is not a registered sex offender must have his or her own room, then all the criteria of this subsection must be met.

1) The room must be in direct view of the main nurses' station.

2) The room must be separate from rooms of residents who are at risk.

3) The resident must not share his or her room with any other resident.

h) The facility must, on a monthly basis, evaluate care plans for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.
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i) Incident reports must be submitted to the Department in compliance with Section 350.700 of this Part. The facility must continually review its placement determination of identified offenders based on ongoing incident reports. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then the facility must transfer or discharge the identified offender in accordance with Section 350.3300 of this Part.

j) The facility must notify the appropriate law enforcement agency, Prisoner Review Board, Department of Corrections, or local sheriff's department of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.

k) The facility must develop procedures to address the removal of a resident from identified offender status.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

Section 300.637 Transferring EMERGENCY

a) When a resident who is an identified offender is transferred to another facility regulated by the Department, the transferring facility must immediately notify the Department and the receiving facility that the individual is an identified offender before making the transfer.

b) This notification must include all of the documentation required under Section 350.635 of this Part. The receiving facility must comply with all of the admission and retention requirements of Section 350.635 of this Part to complete its discharge planning.

c) In addition, the transferring facility shall provide copies of the following information to the Department and the facility where the person becomes a resident:

1) *The mittimus and any pre-sentence investigation reports;*
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2) The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];

3) Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];

4) Reports of disciplinary infractions and dispositions;

5) Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and

6) The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)

d) This information shall be provided no later than 3 days after the person becomes a resident of the facility. (Section 3-14-1 of the Unified Code of Corrections) This information must not be further disseminated, except to the resident, law enforcement agencies, the parole office, the Department, and facilities licensed by the Department.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

Section 350.640 Contract Between Resident and Facility

EMERGENCY

a) Contract Execution

1) Before a person is admitted to a facility, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds, a written contract shall be executed between a licensee and the following in order of priority:

A) The person, or if the person is a minor, his parent or guardian; or

B) The person's guardian, if any, or agent, if any, as defined in Section 2-3 of the Illinois Power of Attorney Act; or
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C) A member of the person's immediate family. (Section 2-202(a) of the Act)

2) An adult person shall be presumed to have the capacity to contract for admission to a long-term care facility unless he has been adjudicated a "disabled person" within the meaning of Section 11a-2 of the Probate Act of 1975, or unless a petition for such an adjudication is pending in a Circuit Court of Illinois. (Section 2-202(a) of the Act)

3) If there is no guardian, agent or member of the person's immediate family available, able or willing to execute the contract required by Section 2-202 of the Act and a physician determines that a person is so disabled as to be unable to consent to placement in a facility, or if a person has already been found to be a "disabled person," but no order has been entered allowing residential placement of the person, that person may be admitted to a facility before the execution of a contract required by that Section; provided that a petition for guardianship or for modification of guardianship is filed within 15 days after the person's admission to a facility, and provided further that such a contract is executed within ten days after the disposition of the petition. (Section 2-202(a) of the Act)

4) No adult shall be admitted to a facility if he objects, orally or in writing, to such admission, except as otherwise provided in Chapters III and IV of the Mental Health and Developmental Disabilities Code or Section 11a-14.1 of the Probate Act of 1975. (Section 2-202(a) of the Act)

5) If on the effective date of this Part, a person has not executed a contract as required by Section 2-202 of the Act, then such a contract shall be executed by, or on behalf of, the person, within ten days of the effective date of this Part, unless a petition has been filed for guardianship or modification of guardianship. If a petition for guardianship or modification of guardianship has been filed, and there is no guardian, agent or member of the person's immediate family available, able, or willing to execute the contract at that time, then a contract shall be executed within ten days of the disposition of such petition.

b) The contract shall be clearly and unambiguously entitled, "Contract Between Resident and (name of facility)."
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c) Before a licensee (any facility licensed under the Act) enters a contract under Section 2-202 of the Act, it shall provide the prospective resident and his guardian, if any, with written notice of the licensee's policy regarding discharge of a resident whose private funds for payment of care are exhausted. (Section 2-202(a) of the Act)

d) A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Sections 3-401 through 3-423 of the Act. (Section 2-202(b) of the Act)

e) At the time of the resident's admission to the facility, a copy of the contract shall be given to the resident, his guardian, if any, and any other person who executed the contract. (Section 2-202(c) of the Act)

f) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such signature. The nursing home administrator may sign as the agent of the licensee.

g) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section. If any person other than the principal signatory is to be held individually responsible for payments due under the contract, that person shall also sign the contract on a separate signature line labeled "signature of responsible party" or "signature of guarantor."

h) The contract shall include a definition of "responsible party" or "guarantor," which describes in full the liability incurred by any such person.

i) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support. (Section 2-202(d) of the Act)

j) The original or a copy of the contract shall be maintained in the facility and be made available upon request to representatives of the Department and the Department of Healthcare and Family Services Public Aid. (Section 2-202(e) of the Act)

k) The contract shall be written in clear and unambiguous language and shall be printed in not less than 12 point type. (Section 2-202(f) of the Act)
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l) The contract shall specify the term of the contract.  (Section 2-202(g)(1) of the Act) The term can be until a certain date or event.  If a certain date is specified in the contract, an addendum can extend the term of the contract to another date certain or on a month-to-month basis.

m) The contract shall specify the services to be provided under the contract and the charges for the services.  (Section 2-202(g)(2) of the Act) A paragraph shall itemize the services and products to be provided by the facility and express the costs of the itemized services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee.  The contract may provide that the charges for services may be changed with thirty (30) days advance written notice to the resident or the person executing the contract on behalf of the resident.  The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days after the receipt of the written notice of the change.  The written notice shall become an addendum to the contract.

n) The contract shall specify the services that may be provided to supplement the contract and the charges for the services.  (Section 2-202(g)(3) of the Act)

1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established in subsection (m) of this Section.  If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed, then such additional cost shall be specified in the contract.

2) If the cost of any itemized service or product to be provided to the resident by the facility or related institutions cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract.  But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract.

3) The contract may provide that the charges for services and products not covered by the rate or fee established in subsection (m) may be changed with thirty (30) days advance written notice to the resident or the person
executing the contract on behalf of the resident. The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days after receipt of the written notice of the change. The written notice shall become an addendum to the contract.

o) The contract shall specify the sources liable for payments due under the contract. (Section 2-202(g)(4) of the Act)

p) Deposit Provisions

1) The contract shall specify the amount of deposit paid. (Section 2-202(g)(5) of the Act)

2) Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract shall specify when such deposit shall be paid by the resident, and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions, the deposit shall be returned to the resident. If the deposit is nonrefundable, the contract shall provide express notice of such nonrefundability.

q) The contract shall specify the rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 2-211 of the Act. (Section 2-202(g)(6) of the Act)

r) The contract shall designate the name of the resident's representative, if any. The resident shall provide the facility with a copy of the written agreement between the resident and the resident's representative which authorizes the resident's representative to inspect and copy the resident's records and authorizes the resident's representative to execute the contract on behalf of the resident required by Section 2-202 of the Act. (Section 2-202(h) of the Act)

s) The contract shall provide that if the resident is compelled by a change in physical or mental health to leave the facility, the contract and all obligations under it shall terminate on seven days notice. No prior notice of termination of the contract shall be required, however, in the case of a resident's death. The
contract shall also provide that in all other situations, a resident may terminate the contract and all obligations under it with 30 days notice. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This provision shall not apply to life-care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life nor to continuing-care contracts through which a facility agrees to supplement all available forms of financial support in providing maintenance and care for a resident throughout the remainder of the resident's life. (Section 2-202(i) of the Act)

t) All facilities that offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, conditioned upon the transfer of an entrance fee to the provider of such services in addition to or in lieu of the payment of regular periodic charges for the care and services involved, for a term in excess of one year or for life pursuant to a life care contract, shall meet all of the provisions of the Life Care Facilities Act (Ill. Rev. Stat. 1991, ch. 111½, par. 4160-1 et seq.) [210 ILCS 40], including the obtaining of a permit from the Department, before they may enter into such contracts. (Section 2(c) of the Life Care Facilities Act)

u) In addition to all other contract specifications contained in this section, admission contracts shall also specify:

1) whether the facility accepts medicaid clients;

2) whether the facility requires a deposit of the resident or his family prior to the establishment of Medicaid eligibility;

3) in the event that a deposit is required, a clear and concise statement of the procedure to be followed for the return of such deposit to the resident or the appropriate family member or guardian of the person;

4) that all deposits made to a facility by a resident, or on behalf of a resident, shall be returned by the facility within 30 days after of the establishment of Medicaid eligibility, unless such deposits must be drawn upon or encumbered in accordance with Medicaid eligibility requirements established by the Illinois Department of Healthcare and Family Services Public Aid. (Section 2-202(j) of the Act)
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v) The contract also shall require a prospective resident to state whether he or she is an identified offender. The contract shall alert the prospective resident of the facility's ability or inability to care for the prospective resident if he or she is an identified offender.

w) It shall be a business offense for a facility to knowingly and intentionally both retain a resident's deposit and accept Medicaid payments on behalf of the resident. (Section 2-202(k) of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)

SUBPART O: RESIDENT'S RIGHTS

Section 350.3300 Transfer or Discharge

EMERGENCY

a) A resident may be voluntarily discharged from a facility after he gives the administrator, a physician, or a nurse of the facility written notice of his desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of his guardian or if the resident is a minor, his parent unless there is a court order to the contrary. In such cases, upon the resident's discharge, the facility is relieved from any responsibility for the resident's care, safety or well-being. (Section 2-111 of the Act)

b) Each resident's rights regarding involuntary transfer or discharge from a facility shall be as described in subsections (c) through (y) of this Section.

c) Reasons for Transfer or Discharge

1) A facility may involuntarily transfer or discharge a resident only for one or more of the following reasons:

A) for medical reasons;

B) for the resident's physical safety;

C) for the physical safety of other residents, the facility staff or facility visitors.
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D) for either late payment or nonpayment for the resident's stay, except as prohibited by Title XVIII and XIX of the Federal Social Security Act. For purposes of this Section, "late payment" means non-receipt of payment after submission of a bill. If payment is not received within 45 days after submission of a bill, the facility may send a notice to the resident and responsible party requesting payment within 30 days. If payment is not received within such 30 days, the facility may thereupon institute transfer or discharge proceedings by sending a notice of transfer or discharge to the resident and responsible party by registered or certified mail. The notice shall state, in addition to the requirements of Section 3-403 of the Act and subsection (e) of this Section, that the responsible party has the right to pay the amount of the bill in full up to the date the transfer or discharge is to be made and then the resident shall have the right to remain in the facility. Such payment shall terminate the transfer or discharge proceedings. This subsection (c)(1)(D) does not apply to those residents whose care is provided under the Illinois Public Aid Code; and (B) (Section 3-401 of the Act)

E) for the demonstrated inability of the facility to meet the requirements of Sections 350.625, 350.630, and 350.635 specific to the particular identified offender.

2) Prohibition of Discrimination

A) A facility participating in the medical assistance program is prohibited from failing or refusing to retain as a resident any person because the resident is a recipient of or an applicant for the medical assistance program. For the purposes of this Section, a recipient or applicant shall be considered a resident in the facility during any hospital stay totaling ten days or less following a hospital admission. The day on which a resident is discharged from the facility and admitted to the hospital shall be considered the first day of the ten-day period. (Section 3-401.1(a) of the Act)

B) A facility which violates subsection (c)(2)(A) of this Section shall be guilty of a business offense and fined not less than $500 nor more than $1,000 for the first offense and not less than $1,000 nor
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more than $5,000 for each subsequent offense. (Section 3-401.1(b) of the Act)

d) Involuntary transfer or discharge of a resident from a facility shall be preceded by the discussion required under subsection (j) of this Section and by a minimum written notice of 21 days. The 21-day requirement shall not apply in any of the following instances:

1) When an emergency transfer or discharge is mandated by the resident's health care needs and is in accord with the written orders and medical justification of the attending physician; (Section 3-402(a) of the Act)

2) When the transfer or discharge is mandated by the physical safety of other residents as documented in the clinical record. (Section 3-402(b) of the Act)

e) The notice required by subsection (d) of this Section shall be on a form prescribed by the Department and shall contain all of the following:

1) The stated reason for the proposed transfer or discharge; (Section 3-403(a) of the Act)

2) The effective date of the proposed transfer or discharge; (Section 3-403(b) of the Act)

3) A statement in not less than 12-point type, which reads:

"You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may file a request for a hearing with the Department of Public Health within ten days after receiving this notice. If you request a hearing, it will be held not later than ten days after your request, and you generally will not be transferred or discharged during that time. If the decision following the hearing is not in your favor, you generally will not be transferred or discharged prior to the expiration of 30 days following receipt of the original notice of the transfer or discharge. A form to appeal the facility's decision and to request a hearing is attached. If you have any questions, call the Department of Public Health at the telephone number listed below.") (Section 3-403(c) of the Act)
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4) *A hearing request form, together with a postage paid, preaddressed envelope to the Department; and (Section 3-403(d) of the Act)*

5) *The name, address, and telephone number of the person charged with the responsibility of supervising the transfer or discharge. (Section 3-403(e) of the Act)*

f) *A request for a hearing made under subsection (e) of this Section shall stay a transfer pending a hearing or appeal of the decision, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-404 of the Act)*

g) *A copy of the notice required by subsection (d) of this Section shall be placed in the resident's clinical record and a copy shall be transmitted to the Department, the resident, the resident's representative, and, if the resident's care is paid for in whole or part through Title XIX, to the Department of Healthcare and Family ServicesPublic Aid. (Section 3-405 of the Act)*

h) *When the basis for an involuntary transfer or discharge is the result of an action by the Department of Healthcare and Family ServicesPublic Aid with respect to a recipient of Title XIX and a hearing request is filed with the Department of Healthcare and Family ServicesPublic Aid, the 21-day written notice period shall not begin until a final decision in the matter is rendered by the Department of Healthcare and Family ServicesPublic Aid or a court of competent jurisdiction and notice of that final decision is received by the resident and the facility. (Section 3-406 of the Act)*

i) *When nonpayment is the basis for involuntary transfer or discharge, the resident shall have the right to redeem up to the date that the discharge or transfer is to be made and then shall have the right to remain in the facility. (Section 3-407 of the Act)*

j) *The planned involuntary transfer or discharge shall be discussed with the resident, the resident's representative and person or agency responsible for the resident's placement, maintenance, and care in the facility. The explanation and discussion of the reasons for involuntary transfer or discharge shall include the facility administrator or other appropriate facility representative as the administrator's designee. The content of the discussion and explanation shall be summarized in writing and shall include the names of the individuals involved in*
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the discussions and made a part of the resident's clinical record. (Section 3-408 of the Act)

k) The facility shall offer the resident counseling services before the transfer or discharge of the resident. (Section 3-409 of the Act)

l) A resident subject to involuntary transfer or discharge from a facility, the resident's guardian or if the resident is a minor, his parent shall have the opportunity to file a request for a hearing with the Department within ten days following receipt of the written notice of the involuntary transfer or discharge by the facility. (Section 3-410 of the Act)

m) The Department of Public Health, when the basis for involuntary transfer or discharge is other than action by the Department of Healthcare and Family ServicesPublic Aid with respect to the Title XIX Medicaid recipient, shall hold a hearing at the resident's facility not later than ten days after a hearing request is filed, and render a decision within 14 days after the filing of the hearing request. (Section 3-411 of the Act)

n) The hearing before the Department provided under subsection (m) of this Section shall be conducted as prescribed under Sections 3-703 through 3-712 of the Act. In determining whether a transfer or discharge is authorized, the burden of proof in this hearing rests on the person requesting the transfer or discharge. (Section 3-412 of the Act)

o) If the Department determines that a transfer or discharge is authorized under subsection (c) of this Section, the resident shall not be required to leave the facility before the 34th day following receipt of the notice required under subsection (d) of this Section, or the tenth day following receipt of the Department's decision, whichever is later, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (B) (Section 3-413 of the Act)

p) The Department of Healthcare and Family ServicesPublic Aid shall continue Title XIX Medicaid funding during the appeal, transfer, or discharge period for those residents who are Title XIX recipients affected by subsection (c) of this Section. (Section 3-414 of the Act)

q) The Department may transfer or discharge any resident from any facility required
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to be licensed under the Act when any of the following conditions exist:

1) Such facility is operating without a license; (Section 3-415(a) of the Act)

2) The Department has suspended, revoked or refused to renew the license of the facility as provided under Section 3-119 of the Act; (Section 3-415(b) of the Act)

3) The facility has requested the aid of the Department in the transfer or discharge of the resident and the Department finds that the resident consents to transfer or discharge; (Section 3-415(c) of the Act)

4) The facility is closing or intends to close and adequate arrangement for relocation of the resident has not been made at least 30 days prior to closure; or (Section 3-415(d) of the Act)

5) The Department determines that an emergency exists which requires immediate transfer or discharge of the resident. (Section 3-415(e) of the Act)

r) In deciding to transfer or discharge a resident from a facility under subsection (q) of this Section, the Department shall consider the likelihood of serious harm which may result if the resident remains in the facility. (Section 3-416 of the Act)

s) The Department shall offer transfer or discharge and relocation assistance to residents transferred or discharged under subsections (c) through (q) of this Section including information on available alternative placements. Residents shall be involved in planning the transfer or discharge and shall choose among the available alternative placements, except that where an emergency makes prior resident involvement impossible, the Department may make a temporary placement until a final placement can be arranged. Residents may choose their final alternative placement and shall be given assistance in transferring to such place. No resident may be forced to remain in a temporary or permanent placement. Where the Department makes or participates in making the relocation decision, consideration shall be given to proximity to the resident’s relatives and friends. The resident shall be allowed three visits to potential alternative placements prior to removal, except where medically contraindicated or where the need for immediate transfer or discharge requires reduction in the number of visits. (Section 3-417 of the Act)
The Department shall prepare resident transfer or discharge plans to assure safe and orderly removals and protect residents’ health, safety, welfare and rights. In nonemergencies and, where possible, in emergencies, the Department shall design and implement such plans in advance of transfer or discharge. (Section 3-418 of the Act)

The Department may place relocation teams in any facility from which residents are being discharged or transferred for any reason, for the purpose of implementing transfer or discharge plans. (Section 3-419 of the Act)

In any transfer or discharge conducted under subsections (q) through (t) of this Section the Department shall:

1) Provide written notice to the facility prior to the transfer or discharge. The notice shall state the basis for the order of transfer or discharge and shall inform the facility of its right to an informal conference prior to transfer or discharge under this Section, and its right to a subsequent hearing under subsection (x) of this Section. If a facility desires to contest a nonemergency transfer or discharge, prior to transfer or discharge it shall, within four working days after receipt of the notice, send a written request for an informal conference to the Department. The Department shall, within four working days from the receipt of the request, hold an informal conference in the county in which the facility is located. Following this conference, the Department may affirm, modify or overrule its previous decision. Except in an emergency, transfer or discharge may not begin until the period for requesting a conference has passed or, if a conference is requested, until after a conference has been held; and (Section 3-420(a) of the Act)

2) Provide written notice to any resident to be removed, to the resident's representative, if any, and to a member of the resident's family, where practicable, prior to the removal. The notice shall state the reason for which transfer or discharge is ordered and shall inform the resident of the resident's right to challenge the transfer or discharge under subsection (x) of this Section. The Department shall hold an informal conference with the resident or the resident's representative prior to transfer or discharge at which the resident or the representative may present any objections to the proposed transfer or discharge plan or alternative placement. (Section 3-420(b) of the Act)
w) In any transfer or discharge conducted under subsection (q)(5) of this Section, the Department shall notify the facility and any resident to be removed that an emergency has been found to exist and removal has been ordered, and shall involve the residents in removal planning if possible. Following emergency removal, the Department shall provide written notice to the facility, to the resident, to the resident's representative, if any, and to a member of the resident's family, where practicable, of the basis for the finding that an emergency existed and of the right to challenge removal under subsection (x) of this Section. (Section 3-421 of the Act)

x) Within ten days following transfer or discharge, the facility or any resident transferred or discharged may send a written request to the Department for a hearing under Section 3-703 of the Act to challenge the transfer or discharge. The Department shall hold the hearing within 30 days after receipt of the request. Where a challenge is by a resident, the hearing shall be held at a location convenient to the resident. If the facility prevails, it may file a claim against the State under the Court of Claims Act [705 ILCS 505] for payment for loss less expenses saved as a result of the transfer or discharge. No resident transferred or discharged may be held liable for the charge for care which would have been made had the resident remained in the facility. If a resident prevails, the resident may file a claim against the State under the Court of Claims Act (Ill. Rev. Stat. 1987, ch. 37, pars. 439.1 et seq.) for any excess expenses directly caused by the order to transfer or discharge. The Department shall assist the resident in returning to the facility if assistance is requested. (Section 3-422 of the Act)

y) Any owner of a facility licensed under this Act shall give 90 days notice prior to voluntarily closing a facility or closing any part of a facility, or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent of the residents. Such notice shall be given to the Department, to any resident who must be transferred or discharged, to the resident's representative, and to a member of the resident's family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The facility shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternate placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the facility as provided
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under subsection (u) of this Section. (A, B)(Section 3-423 of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 11931, effective July 12, 2005, for a maximum of 150 days)
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

1) **Heading of the Part:** Long-Term Care for Under Age 22 Facilities Code

2) **Code Citation:** 77 Ill. Adm. Code 390

3) **Section Numbers:**
   - 390.330 Amendment
   - 390.625 New Section
   - 390.630 Amendment
   - 390.635 New Section
   - 390.637 New Section
   - 390.640 Amendment
   - 390.3300 Amendment

4) **Statutory Authority:** Nursing Home Care Act [210 ILCS 45]

5) **Effective Date of Emergency Amendments:** July 12, 2005

6) **If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire:** N/A

7) **Date filed with the Index Department:** July 12, 2005

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:** Section 5-45 of the Illinois Administrative Procedure Act defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare," and that "requires adoption of a rule upon fewer days than is required by Section 5-40." This emergency rulemaking fits that category, and is being undertaken to implement House Bill 2062/PA 94-163, effective July 11, which requires emergency rulemaking within 30 days after the Act takes effect. PA 94-163 addresses what the Department of Public Health sees as a grave threat to the public interest, health, safety and welfare, namely, identified offenders, defined as registered sex offenders or anyone serving a term of parole, mandatory supervised release, or probation for a felony offense, residing in under age 22 facilities unbeknownst to the facility, other residents, family members, and visitors. The rulemaking also addresses additional assessments, care plan, and placement requirements for identified offenders to mandate that facilities weigh these additional factors before accepting the client for residency. Because of the extreme nature of the threat and the requirements of the Act, the Department believes that these rules must be adopted in a
shorter time frame than is normally allowed under the regular rulemaking procedures of the Administrative Procedure Act.

10) A complete Description of the Subjects and Issues Involved: The Long Term Care for Under Age 22 Facilities Code (77 Ill. Adm. Code 390) regulates nursing home licensure. Section 390.330 (Definitions) is being amended to include a definition of "identified offenders." Section 390.625 (Pre-Admission Assessment) is being added to require pre-admission assessment to include criminal background checks on new residents and the require facilities to review assessment documentation to ensure that the individual meets requirements in Section 390.630 and a new Section 390.635. Section 390.630 (Admission and Discharge Policies) is being amended to require under age 22 facilities to ensure that identified offenders meet all of the requirements of Section 390.625 and Section 390.635. Section 390.635 (Identified Offenders) adds the minimum requirements that under age 22 facilities must meet in order to admit identified offenders as residents. Section 390.637 (Transferring) is being added to require the full disclosure of the status of identified offenders when they are transferred between facilities regulated by the Department. Section 390.640 (Contract Between Resident and Facility) is being amended to require full disclosure of a resident's status as an identified offender and to alert the prospective resident of the facility's ability or inability to care for the resident. Section 390.3300 (Transfer or Discharge) is being amended to require facilities to demonstrate an inability to care for the identified offender before involuntarily discharging him or her.

11) Are there any proposed amendments to this Part pending? Yes

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12) Statement of Statewide Policy Objective: This emergency rulemaking will create a State mandate on facilities operated by units of local government.

13) Information and questions regarding these emergency amendments shall be directed to:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

Susan Meister
Administrative Rules Coordinator
Illinois Department of Public Health
535 West Jefferson Street, Fifth Floor
Springfield, Illinois 62761

217-782-2043
rules@idph.state.il.us

The full text of the Emergency Amendments begins on the next page:
DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENTS

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER c: LONG-TERM CARE FACILITIES

PART 390
LONG-TERM CARE FOR UNDER AGE 22 FACILITIES CODE

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390.130 Licensee
390.140 Issuance of an Initial License for a New Facility
390.150 Issuance of an Initial License Due to a Change of Ownership
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390.165 Criteria for Adverse Licensure Actions
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AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

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SUBPART A: GENERAL PROVISIONS

Section 390.330– Definitions

EMERGENCY

The terms defined in this Section are terms that are used in one or more of the sets of licensing standards established by the Department to license various levels of long-term care. They are defined as follows:

Abuse – any physical or mental injury or sexual assault inflicted on a resident other than by accidental means in a facility. (Section 1-103 of the Act)

Abuse means:

Physical abuse refers to the infliction of injury on a resident that occurs other than by accidental means and that requires (whether or not actually given) medical attention.

Mental injury arises from the following types of conduct:

Verbal abuse refers to the use by a licensee, employee or agent of oral, written or gestured language that includes
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disparaging and derogatory terms to residents or within their hearing or seeing distance, regardless of their age, ability to comprehend or disability.

Mental abuse includes, but is not limited to, humiliation, harassment, threats of punishment or deprivation, or offensive physical contact by a licensee, employee or agent.

Sexual harassment or sexual coercion perpetrated by a licensee, employee or agent.

Sexual assault.

Access – the right to:

Enter any facility;

Communicate privately and without restriction with any resident who consents to the communication;

Seek consent to communicate privately and without restriction with any resident;

Inspect the clinical and other records of a resident with the express written consent of the resident;

Observe all areas of the facility except the living area of any resident who protests the observation. (Section 1-104 of the Act)

Act – as used in this Part, the Nursing Home Care Act [210 ILCS 45].

Activity Program – a specific planned program of varied group and individual activities geared to the individual resident's needs and available for a reasonable number of hours each day.

Adaptive Behavior – the effectiveness or degree with which the individual meets the standards of personal independence and social responsibility expected of his age and cultural group.

Adaptive Equipment – a physical or mechanical device, material or equipment attached or adjacent to the resident's body that may restrict freedom of movement.
or normal access to one's body, the purpose of which is to permit or encourage movement, or to provide opportunities for increased functioning, or to prevent contractures or deformities. — Adaptive equipment is not a physical restraint. — No matter the purpose, adaptive equipment does not include any device, material or method described in Section 390.1310 as a physical restraint.

Addition – any construction attached to the original building which increases the area or cubic content of the building.

Adequate – enough in either quantity or quality, as determined by a reasonable person familiar with the professional standards of the subject under review, to meet the needs of the residents of a facility under the particular set of circumstances in existence at the time of review.

Administrative Warning – a notice to a facility issued by the Department under Section 390.277 of this Part and Section 3-303.2 of the Act, which indicates that a situation, condition, or practice in the facility violates the Act or the Department's rules, but is not a type A or type B violation.

Administrator – the person who is directly responsible for the operation and administration of the facility, irrespective of the assigned title. (See Licensed Nursing Home Administrator.)

Advocate – a person who represents the rights and interests of an individual as though they were the person's own, in order to realize the rights to which the individual is entitled, obtain needed services, and remove barriers to meeting the individual's needs.

Affiliate – means:

With respect to a partnership, each partner thereof.

With respect to a corporation, each officer, director and stockholder thereof.

With respect to a natural person: any person related in the first degree of kinship to that person; each partnership and each partner thereof which that person or any affiliate of that person is a partner; and each corporation in which that person or any affiliate of that person is an officer, director or stockholder. (Section 1-106 of the Act)
Aide or Orderly – any person providing direct personal care, training or habilitation services to residents.

Alteration – any construction change or modification of an existing building which does not increase the area or cubic content of the building.

Ambulatory Resident – a person who is physically and mentally capable of walking without assistance, or is physically able with guidance to do so, including the ascent and descent of stairs.

Applicant – any person making application for a license. (Section 1-107 of the Act)

Appropriate – term used to indicate that a requirement is to be applied according to the needs of a particular individual or situation.

Assessment – the use of an objective system with which to evaluate the physical, social, developmental, behavioral, and psychosocial aspects of an individual.

Audiologist – a person who is licensed as an audiologist under the Speech-Language Pathology and Audiology Practice Act [225 ILCS 110].

Autism – a syndrome described as consisting of withdrawal, very inadequate social relationships, exceptional object relationships, language disturbances and monotonously repetitive motor behavior; many children with autism will also be seriously impaired in general intellectual functioning; mental illness observed in young children characterized by severe withdrawal and inappropriate response to external stimulation.

Autoclave – an apparatus for sterilizing by superheated steam under pressure.

Auxiliary Personnel – all nursing personnel in intermediate care facilities and skilled nursing facilities other than licensed personnel.

Basement – when used in this Part, means any story or floor level below the main or street floor. Where due to grade difference, there are two levels each qualifying as a street floor, a basement is any floor below the level of the two street floors. Basements shall not be counted in determining the height of a building in stories.
Behavior Modification – treatment to be used to establish or change behavior patterns.

Cerebral Palsy – a disorder dating from birth or early infancy, nonprogressive, characterized by examples of aberrations of motor function (paralysis, weakness, incoordination) and often other manifestations of organic brain damage such as sensory disorders, seizures, mental retardation, learning difficulty and behavior disorders.

Certification for Title XVIII and XIX – the issuance of a document by the Department to the Department of Health and Human Services or the Department of Healthcare and Family Services Public Aid verifying compliance with applicable statutory or regulatory requirements for the purposes of participation as a provider of care and service in a specific Federal or State health program.

Charge Nurse – a registered professional nurse or a licensed practical nurse in charge of the nursing activities for a specific unit or floor during a tour of duty.

Chemical Restraint – any drug that is used for discipline or convenience and is not required to treat medical symptoms or behavior manifestations of mental illness. (Section 2-106 of the Act)

Child Care/Habilitation Aide – any person who provides nursing, personal or rehabilitative care to residents of licensed Long-Term Care Facilities for Persons Under 22 Years of Age, regardless of title, and who is not otherwise licensed, certified or registered to render such care. Child Care/Habilitation aides must function under the supervision of a licensed nurse.

Community Alternatives – service programs in the community provided as an alternative to institutionalization.

Continuing Care Contract – a contract through which a facility agrees to supplement all forms of financial support for a resident throughout the remainder of the resident's life.

Contract – a binding agreement between a resident or the resident's guardian (or, if the resident is a minor, the resident's parent) and the facility or its agent.

Convenience – the use of any restraint by the facility to control resident behavior
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or maintain a resident, which is not in the resident's best interest, and with less use of the facility's effort and resources than would otherwise be required by the facility. This definition is limited to the definition of chemical restraint and Section 390.1310 of this Part.

Corporal Punishment – painful stimuli inflicted directly upon the body.

Cruelty and Indifference to Welfare of the Resident – failure to provide a resident with the care and supervision he requires; or, the infliction of mental or physical abuse.

Dentist – any person licensed by the State of Illinois to practice dentistry, includes persons holding a Temporary Certificate of Registration, as provided in the Illinois Dental Practice Act [225 ILCS 25].

Department – as used in this Part means the Illinois Department of Public Health.

Developmental Disabilities (DD) Aide – any person who provides nursing, personal or habilitative care to residents of Intermediate Care Facilities for the Developmentally Disabled, regardless of title, and who is not otherwise licensed, certified or registered to render medical care. Other titles often used to refer to DD Aides include, but are not limited to, Program Aides, Program Technicians and Habilitation Aides. DD Aides must function under the supervision of a licensed nurse or a Qualified Mental Retardation Professional (QMRP).

Developmental Disability – means a severe, chronic disability of a person which:

- is attributable to a mental or physical impairment or combination of mental and physical impairments, such as mental retardation, cerebral palsy, epilepsy, autism;

- is manifested before the person attains age 22;

- is likely to continue indefinitely;

- results in substantial functional limitations in 3 or more of the following areas of major life activity:

  self-care,
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receptive and expressive language,

learning,

mobility,

self-direction,

capacity for independent living, and

economic self-sufficiency; and

reflects the person’s need for combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and are individually planned and coordinated. (Section 3-801.13-801 of the Act)

Dietetic Service Supervisor – a person who:

is a dietitian; or

is a graduate of a dietetic technician or dietetic assistant training program, corresponding or classroom, approved by the American Dietetic Association; or

is a graduate, prior to July 1, 1990, of a Department-approved course that provided 90 or more hours of classroom instruction in food service supervision and has had experience as a supervisor in a health care institution, which included consultation from a dietitian; or

has successfully completed a Dietary Manager's Association approved dietary managers course; or

is certified as a dietary manager by the Dietary Manager's Association; or

has training and experience in food service supervision and management in a military service equivalent in content to the programs in the second, third or fourth paragraph of this definition.
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Dietitian – a person who is a licensed dietitian as provided in the Dietetic and Nutrition Services Practice Act [225 ILCS 30].

Direct Supervision – work performed under the guidance and direction of a supervisor who is responsible for the work, who plans work and methods, who is available on short notice to answer questions and deal with problems that are not strictly routine, who regularly reviews the work performed, and who is accountable for the results.

Director – the Director of Public Health or designee. (Section 1-110 of the Act)

Director of Nursing Service – the full-time Professional Registered Nurse who is directly responsible for the immediate supervision of the nursing services.

Discharge – the full release of any resident from a facility. (Section 1-111 of the Act)

Discipline – any action taken by the facility for the purpose of punishing or penalizing residents.

Distinct Part – an entire, physically identifiable unit consisting of all of the beds within that unit and having facilities meeting the standards applicable to the levels of service to be provided.—Staff and services for a distinct part are established as set forth in the respective regulations governing the levels of services approved for the distinct part.

Emergency – a situation, physical condition—or one or more practices, methods or operations which present imminent danger of death or serious physical or mental harm to residents of a facility. (Section 1-112 of the Act)

Epilepsy – a chronic symptom of cerebral dysfunction, characterized by recurrent attacks, involving changes in the state of consciousness, sudden in onset, and of brief duration.—Many attacks are accompanied by a seizure in which the person falls involuntarily.

Existing Long-Term Care Facility – any facility initially licensed as a health care facility or approved for construction by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, prior to March 1, 1980.—Existing long-term care facilities shall meet the design and construction standards for existing facilities for the level of long-term care for which the
license (new or renewal) is to be granted.

Facility, Intermediate Care – a facility which provides basic nursing care and other restorative services under periodic medical direction. Many of these services may require skill in administration. Such facilities are for residents who have long-term illnesses or disabilities which may have reached a relatively stable plateau.

Facility, Intermediate Care for the Developmentally Disabled – when used in this Part, is a facility of three or more persons, or distinct part thereof, serving residents of which more than 50 percent are developmentally disabled.

Facility or Long-Term Care Facility – a private home, institution, building, residence, or any other place, whether operated for profit or not, or a county home for the infirm and chronically ill operated pursuant to Division 5-21 or 5-22 of the Counties Code [55 ILCS 5] or any similar institution operated by a political subdivision of the State of Illinois, which provides, through its ownership or management, personal care, sheltered care or nursing for three or more persons, not related to the applicant or owner by blood or marriage. It includes skilled nursing facilities and intermediate care facilities as those terms are defined in Title XVIII and Title XIX of the Federal Social Security Act (42 USCA 1395 et seq. and 1936 et seq.). It also includes homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs. A "facility" may consist of more than one building as long as the buildings are on the same tract, or adjacent tracts of land. However, there shall be no more than one "facility" in any one building. "Facility" does not include the following:

A home, institution, or other place operated by the federal government or agency thereof, or by the State of Illinois other than homes, institutions, or other places operated by or under the authority of the Illinois Department of Veterans' Affairs;

A hospital, sanitarium, or other institution whose principal activity or business is the diagnosis, care, and treatment of human illness through the maintenance and operation as organized facilities therefor, which is required to be licensed under the Hospital Licensing Act [210 ILCS 85];

Any "facility for child care" as defined in the Child Care Act of 1969 [225 ILCS 10];
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Any "community living facility" as defined in the Community Living Facilities Licensing Act [210 ILCS 35];

Any "community residential alternative" as defined in the Community Residential Alternatives Licensing Act [210 ILCS 140];

Any nursing home or sanatorium operated solely by and for persons who rely exclusively upon treatment by spiritual means through prayer, in accordance with the creed or tenets of any well-recognized church or religious denomination.— However, such nursing home or sanatorium shall comply with all local laws and rules relating to sanitation and safety;

Any facility licensed by the Department of Human Services as a community-integrated living arrangement as defined in the Community-Integrated Living Arrangements Licensure and Certification Act [210 ILCS 135];

Any supportive residence licensed under the Supportive Residences Licensing Act [210 ILCS 65];

Any supportive living facility in good standing with the demonstration project established under Section 5-5.01a of the Illinois Public Aid Code [305 ILCS 5/5-5.01a];

Any assisted living or shared housing establishment licensed under the Assisted Living and Shared Housing Act [210 ILCS 9]; or

An Alzheimer's disease management center alternative health care model licensed under the Alternative Health Care Delivery Act [210 ILCS 3]. (Section 1-113 of the Act)

Facility, Long-Term Care, for Residents Under 22 Years of Age – when used in this Part is synonymous with a long-term care facility for residents under 22 years of age, which facility provides total habilitative health care to residents who require specialized treatment, training and continuous nursing care because of medical or developmental disabilities.

Facility, Sheltered Care – when used in this Part is synonymous with a sheltered
care facility, which facility provides maintenance, and personal care.

Facility, Skilled Nursing – when used in this Part is synonymous with a skilled nursing facility. A skilled nursing facility provides skilled nursing care, continuous skilled nursing observations, restorative nursing, and other services under professional direction with frequent medical supervision. Such facilities are provided for patients who need the type of care and treatment required during the post acute phase of illness or during recurrences of symptoms in long-term illness.

Financial Responsibility – having sufficient assets to provide adequate services such as: staff, heat, laundry, foods, supplies, and utilities for at least a two-month period of time.

Full-time – on duty a minimum of 36 hours, four days per week.

Goal – an expected result or condition that involves a relatively long period of time to achieve, that is specified in behavioral terms in a statement of relatively broad scope, and that provides guidance in establishing specific, short-term objectives directed toward its attainment.

Governing Body – the policy-making authority, whether an individual or a group, that exercises general direction over the affairs of a facility and establishes policies concerning its operation and the welfare of the individuals it serves.

Guardian – a person appointed as a guardian of the person or guardian of the estate, or both, of a resident under the Probate Act of 1975 [755 ILCS 5]. (Section 1-114 of the Act)

Habilitation – an effort directed toward the alleviation of a disability or toward increasing a person's level of physical, mental, social or economic functioning. Habilitation may include, but is not limited to, diagnosis, evaluation, medical services, residential care, day care, special living arrangements, training, education, sheltered employment, protective services, counseling and other services.

Health Information Management Consultant – a person who is certified as a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT) by the American Health Information Management Association; or is a graduate of a school of
health information management that is accredited jointly by the American Medical Association and the American Health Information Management Association.

Health Services Supervisor (Director of Nursing Service) – the full-time Registered Nurse who is directly responsible for the immediate supervision of the health services in an Intermediate Care Facility.

Home for the Aged – any facility which is operated: by a not-for-profit corporation incorporated under, or qualified as a foreign corporation under, the General Not For Profit Corporation Act of 1986 [805 ILCS 105]; or, by a county pursuant to Division 5-22 of the Counties Code [55 ILCS 5]; or, pursuant to a trust or endowment established for nonprofit, charitable purposes; and which provides maintenance, personal care, nursing or sheltered care to three or more residents, 90 percent of whom are 60 or more years of age.

Hospitalization – the care and treatment of a person in a hospital as an inpatient.

Identified Offender – a person who has been convicted of any felony offense listed in Section 25 of the Health Care Worker Background Check Act, is a registered sex offender, or is serving a term of parole, mandatory supervised release, or probation for a felony offense. (Section 1-114.01 of the Act)

Individual Education Program (IEP) – a written statement for each resident that provides for specific education and related services. The Individual Education Program may be incorporated into the Individual Habilitation Plan (IHP).

Individual Habilitation Plan (IHP) – a total plan of care that is developed by the interdisciplinary team for each resident, and that is developed on the basis of all assessment results.

Interdisciplinary Team – a group of persons that represents those professions, disciplines, or service areas that are relevant to identifying an individual's strengths and needs, and designs a program to meet those needs. This team shall include at least a physician, a social worker and other professionals. In Intermediate Care Facilities for the Developmentally Disabled (ICF/DD) at least one member of the team shall be a Qualified Mental Retardation Professional. The Interdisciplinary Team includes the resident, the resident's guardian, the resident's primary service providers, including staff most familiar with the resident; and other appropriate professionals and caregivers as determined by the
residents needs. The resident or his or her guardian may also invite other individuals to meet with the Interdisciplinary Team and participate in the process of identifying the resident's strengths and needs.

Licensed Nursing Home Administrator – a person who is charged with the general administration and supervision of a facility and licensed under the Nursing Home Administrators Licensing and Disciplinary Act [225 ILCS 70].

Licensed Practical Nurse – a person with a valid Illinois license to practice as a practical nurse.

Licensee – the person or entity licensed to operate the facility as provided under the Act. (Section 1-115 of the Act)

Life Care Contract – a contract through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life.

Maintenance – food, shelter, and laundry services. (Section 1-116 of the Act)

Maladaptive Behavior – impairment in adaptive behavior as determined by a clinical psychologist or by a physician. Impaired adaptive behavior may be reflected in delayed maturation, reduced learning ability or inadequate social adjustment.

Mentally Retarded and Mental Retardation – subaverage general intellectual functioning originating during the developmental period and associated with maladaptive behavior.

Misappropriation of Property – using a resident's cash, clothing, or other possessions without authorization by the resident or the resident's authorized representative; failure to return valuables after a resident's discharge; or failure to refund money after death or discharge when there is an unused balance in the resident's personal account.

Mobile Nonambulatory – unable to walk independently or without assistance, but able to move from place to place with the use of a device such as a walker, crutches, a wheelchair, or a wheeled platform.

Mobile Resident – any resident who is able to move about either independently or with the aid of an assistive device such as a walker, crutches, a wheelchair, or a
Monitor – a qualified person placed in a facility by the Department to observe operations of the facility, assist the facility by advising it on how to comply with the State regulations, and who reports periodically to the Department on the operations of the facility.

**Neglect** — *a failure in a facility to provide adequate medical or personal care or maintenance, which failure results in—physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition.* (Section 1-117 of the Act) Neglect means the failure to provide adequate medical or personal care or maintenance, which failure results in physical or mental injury to a resident or in the deterioration of a resident's physical or mental condition. This shall include any allegation where:

- the alleged failure causing injury or deterioration is ongoing or repetitious; or
- a resident required medical treatment as a result of the alleged failure; or
- the failure is alleged to have caused a noticeable negative impact on a resident's health, behavior or activities for more than 24 hours.

New Long-Term Care Facility – any facility initially licensed as a health care facility by the Department, or any facility initially licensed or operated by any other agency of the State of Illinois, on or after March 1, 1980. New long-term care facilities shall meet the design and construction standards for new facilities for the level of long-term care for which the license (new or renewal) is to be granted.

Normalization – the principle of helping individuals to obtain an existence as close—to normal as possible, by making available to them patterns and conditions of everyday life that are as close as possible to the norms and patterns of the mainstream of society.

*Nurse* – *a registered nurse or a licensed—practical nurse as defined in the Nursing and Advanced Practice Nursing Act [225 ILCS 65].* (Section 1-118 of the Act)

Nursing Assistant – any person who provides nursing care or personal care to
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residents of licensed long-term care facilities, regardless of title, and who is not otherwise licensed, certified or registered by the Department of Financial and Professional Regulation to render medical care. Other titles often used to refer to nursing assistants include, but are not limited to, nurse's aide, orderly and nurse technician. Nursing assistants must function under the supervision of a licensed nurse.

Nursing Care – a complex of activities which carries out the diagnostic, therapeutic, and rehabilitative plan as prescribed by the physician; care for the resident's environment; observing symptoms and reactions and taking necessary measures to carry out nursing procedures involving understanding of cause and effect in order to safeguard life and health.

Nursing Unit – a physically identifiable designated area of a facility consisting of all the beds within the designated area, but having no more than 75 beds, none of which are more than 120 feet from the nurse's station.

Objective – an expected result or condition that involves a relatively short period of time to achieve, that is specified in behavioral terms, and that is related to the achievement of a goal.

Occupational Therapist, Registered (OTR) – a person who is registered as an occupational therapist under the Illinois Occupational Therapy Practice Act [225 ILCS 75].

Occupational Therapy Assistant – a person who is registered as a certified occupational therapy assistant under the Illinois Occupational Therapy Practice Act.

Operator – the person responsible for the control, maintenance and governance of the facility, its personnel and physical plant.

Other Resident Injury – occurs where a resident is alleged to have suffered physical or mental harm and the allegation does not fall within the definition of abuse or neglect.

Oversight – general watchfulness and appropriate reaction to meet the total needs of the residents, exclusive of nursing or personal care. Oversight shall include, but is not limited to, social, recreational and employment opportunities for residents who, by reason of mental disability, or in the opinion of a licensed physician, are
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in need of residential care.

Owner – the individual, partnership, corporation, association or other person who owns a facility. In the event a facility is operated by a person who leases the physical plant, which is owned by another person, "owner" means the person who operates the facility, except that if the person who owns the physical plant is an affiliate of the person who operates the facility and has significant control over the day-to-day operations of the facility, the person who owns the physical plant shall incur jointly and severally with the owner all liabilities imposed on an owner under the Act. (Section 1-119 of the Act)

Person – any individual, partnership, corporation, association, municipality, political subdivision, trust, estate or other legal entity whatsoever.

Personal Care – assistance with meals, dressing, movement, bathing or other personal needs or maintenance, or general supervision and oversight of the physical and mental well-being of an individual who is incapable of maintaining a private, independent residence or who is incapable of managing his person, whether or not a guardian has been appointed for such individual. (Section 1-120 of the Act)

Pharmacist, Registered – a person who holds a certificate of registration as a registered pharmacist, a local registered pharmacist or a registered assistant pharmacist under the Pharmacy Practice Act of 1987 [225 ILCS 85].

Physical Restraint – any manual method or physical or mechanical device, material, or equipment attached or adjacent to the resident's body, which the individual cannot remove easily and which restricts freedom of movement or normal access to one's body. (Section 2-106 of the Act)

Physical Therapist Assistant – a person who has graduated from a two year college level program approved by the American Physical Therapy Association.

Physical Therapist – a person who is registered as a physical therapist under the Illinois Physical Therapy Act [225 ILCS 90].

Physician – any person licensed by the State of Illinois to practice medicine in all its branches as provided in the Medical Practice Act of 1987 [225 ILCS 60].

Probationary License – an initial license issued for a period of 120 days during
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which time the Department will determine the qualifications of the applicant.

Psychiatrist – a physician who has had at least three years of formal training or primary experience in the diagnosis and treatment of mental illness.

Psychologist – a person who is licensed to practice clinical psychology under the Clinical Psychologist Licensing Act [225 ILCS 15].

Qualified Mental Retardation Professional – a person who has at least one year of experience working directly with individuals with developmental disabilities and meets at least one of the following additional qualifications:

Be a physician as defined in this Section.

Be a registered nurse as defined in this Section.

Hold at least a bachelor's degree in one of the following fields: occupational therapy, physical therapy, psychology, social work, speech or language pathology, recreation (or a recreational specialty area such as art, dance, music, or physical education), dietary services or dietetics, or a human services field (such as sociology, special education, or rehabilitation counseling).

Qualified Professional – a person who meets the educational, technical and ethical criteria of a health care profession, as evidenced by eligibility for membership in an organization established by the profession for the purpose of recognizing those persons who meet such criteria; and who is licensed, registered, or certified by the State of Illinois, if required.

Reasonable Visiting Hours – any time between the hours of 10:00 a.m. and 8:00 p.m. daily. (Section 1-121 of the Act)

Registered Nurse – a person with a valid Illinois license to practice as a registered professional nurse under the Nursing and Advanced Practice Nursing Act.

Repeat Violation – for purposes of assessing fines under Section 3-305 of the Act, a violation that has been cited during one inspection of the facility for which a subsequent inspection indicates that an accepted plan of correction was not complied with, within a period of not more than twelve months from the issuance
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of the initial violation. *A repeat violation shall not be a new citation of the same rule, unless the licensee is not substantially addressing the issue routinely throughout the facility.* (Section 3-305(7) of the Act)

Reputable Moral Character – having no history of a conviction of the applicant, or if the applicant is a firm, partnership, or association, of any of its members, or of a corporation, of any of its officers, or directors, or of the person designated to manage or supervise the facility, of a felony, or of two or more misdemeanors involving moral turpitude, as shown by a certified copy of the record of the court of conviction, or in the case of the conviction of a misdemeanor by a court not of record, as shown by other evidence; or other satisfactory evidence that the moral character of the applicant, or manager, or supervisor of the facility is not reputable.

*Resident – person residing in and receiving personal care from a facility.* (Section 1-122 of the Act)

Resident Services Director – the full-time administrator, or an individual on the professional staff in the facility, who is directly responsible for the coordination and monitoring of the residents' overall plans of care in an intermediate care facility.

*Resident's Representative – a person other than the owner, or an agent or employee of a facility not related to the resident, designated in writing by a resident to be his representative, or the resident's guardian, or the parent of a minor resident for whom no guardian has been appointed.* (Section 1-123 of the Act)

Restorative Care – a health care process designed to assist residents to attain and maintain the highest degree of function of which they are capable (physical, mental, and social).

Room – a part of the inside of a facility that is partitioned continuously from floor to ceiling with openings closed with glass or hinged doors.

Sanitization – the reduction of pathogenic organisms on a utensil surface to a safe level, which is accomplished through the use of steam, hot water, or chemicals.

Satisfactory – same as adequate.
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Seclusion – the retention of a resident alone in a room with a door that the resident cannot open.

Self Preservation – the ability to follow directions and recognize impending danger or emergency situations and react by avoiding or leaving the unsafe area.

*Sheltered Care – maintenance and personal care.* (Section 1-124 of the Act)

Social Worker – a person who is a licensed social worker or a licensed clinical social worker under the Clinical Social Work and Social Work Practice Act [225 ILCS 20].

State Fire Marshal – the Fire Marshal of the Office of the State Fire Marshal, Division of Fire Prevention.

Sterilization – the act or process of destroying completely all forms of microbial life, including viruses.

*Stockholder of a Corporation – any person who, directly or indirectly, beneficially owns, holds or has the power to vote, at least five percent of any class of securities issued by the corporation.* (Section 1-125 of the Act)

Story – when used in this Part, means that portion of a building between the upper surface of any floor and the upper surface of the floor above except that the topmost story shall be the portion of a building between the upper surface of the topmost floor and the upper surface of the roof above.

*Student Intern – means any person whose total term of employment in any facility during any 12-month period is equal to or less than 90 continuous days, and whose term of employment is either:*

- *an academic credit requirement in a high school or undergraduate institution; or*

- *immediately succeeds a full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution, provided that such person is registered for another full quarter, semester or trimester of academic enrollment in either a high school or undergraduate institution which quarter, semester or trimester will commence immediately following the term of employment.* (Section 1-125.1 of the Act)
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Act)

Substantial Compliance – meeting requirements except for variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Sections 390.140(a)(3) and 390.150(a)(3).

Substantial Failure – the failure to meet requirements other than a variance from the strict and literal performance that results in unimportant omissions or defects given the particular circumstances involved. This definition is limited to the phrase as used in Section 390.165(b)(1).

Sufficient – same as adequate.

Supervision – authoritative procedural guidance by a qualified person for the accomplishment of a function or activity within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function or activity.

Therapeutic Recreation Specialist – a person who is certified by the National Council for Therapeutic Recreation Certification and who meets the minimum standards it has established for classification as a Therapeutic Recreation Specialist.

Time Out – removing an individual from a situation that results in undesirable behavior. It is a behavior modification procedure which is developed and implemented under the supervision of a qualified professional.

Title XVIII – Title XVIII of the Federal Social Security Act as now or hereafter amended. (Section 1-126 of the Act)

Title XIX – Title XIX of the Federal Social Security Act as now or hereafter amended. (Section 1-127 of the Act)

Transfer – a change in status of a resident's living arrangements from one facility to another facility. (Section 1-128 of the Act)

Type A Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility presenting a substantial probability that death or
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serious mental or physical harm to a resident will result therefrom. (Section 1-129 of the Act)

Type B Violation – a violation of the Act or of the rules promulgated thereunder which creates a condition or occurrence relating to the operation and maintenance of a facility directly threatening to the health, safety or welfare of a resident. (Section 1-130 of the Act)

Unit – an entire physically identifiable residence area having facilities meeting the standards applicable to the levels of service to be provided. Staff and services for each distinct resident area are established as set forth in the respective rules governing the approved levels of service.

Universal Progress Notes – a common record with periodic narrative documentation by all persons involved in resident care.

Valid License – a license which is unsuspended, unrevoked and unexpired.

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days)

SUBPART C: POLICIES

Section 390.625 Pre-admission Assessment

EMERGENCY

a) Identified offenders who seek admission to a licensed facility shall not be admitted unless the licensed facility complies with the requirements of Sections 390.630 and 390.635 of this Part. (Section 2-201.5(b) of the Act) To the extent authorized and accessible by law for persons under age 22, pre-admission assessment must include a request for criminal history record information in accordance with the Uniform Conviction Information Act (UCIA) [20 ILCS 2635] and, if the individual is an identified offender, the social evaluation prepared by the Department of Corrections pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2].

b) The facility must review the assessment and all supporting documentation to determine whether the recommended placement of an identified offender is appropriate under Sections 390.630 and 390.635 of this Part. The facility is responsible for the development of a treatment plan appropriate to the needs of
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The identified offender prior to admission. Information compiled concerning identified offenders must not be further disseminated except to the resident, law enforcement agencies, the parole office, the Department, and other facilities licensed by the Department.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days)

Section 390.630 Admission and Discharge Policies

**EMERGENCY**

a) On or before July 21, 2005, a licensed facility shall be required to compare its residents against the Illinois Department of Corrections and Illinois State Police registered sex offender databases. The licensed facility shall notify the Department within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases. (Section 3-202.3(3) and (4) of the Act)

b) Residents shall only be admitted who have had a comprehensive evaluation of their medical history and physical and psycho/social factors conducted by an appropriately constituted interdisciplinary team. No resident determined by professional evaluation to be in need of services not readily available in a particular facility shall be admitted to or kept in that facility. Additionally, emotional and cognitive histories shall be evaluated when applicable and available.

c) Each facility shall have a policy concerning the admission and retention of identified offenders, consistent with the facility's capabilities to accept and care for these residents. The policy also must include the procedure to be implemented for the retention or discharge of a resident upon notice that a resident is an identified offender.

d) No person shall be admitted to or kept in the facility who is an identified offender unless the requirements of Section 390.625, this Section and Section 390.635 are met.

e) A facility for persons under 22 years of age shall be used exclusively for persons under 22 years of age, except when the facility's interdisciplinary team has determined that either initial or continued placement in the facility is appropriate...
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because of the resident's physical and mental functioning status, and that the facility has the service resources to meet the needs of the resident. The facility interdisciplinary team shall further determine that placement shall not constitute a serious danger to the other residents.

f) A facility shall not refuse to discharge or transfer a resident when requested to do so by the resident himself or, if the resident is a minor, by the resident's parent or guardian.

g) If a resident insists on being discharged and is discharged against medical advice, the facts involved in the situation shall be fully documented in the resident's clinical record.

h) No resident shall be discharged without the concurrence of the attending physician. If such approval is given, the facility shall have the right to discharge or transfer a resident to an appropriate resource in accordance with Sections 3-401 through 3-423 of the Act.

i) No resident shall be admitted with a communicable, contagious or infectious disease unless the facility is properly staffed and equipped to treat such conditions as approved in writing by the Department (see Section 390.1020 of this Part).

j) A facility shall not admit more residents than the number authorized by the license issued to it.

k) Before a prospective resident's admission to a facility, the facility shall advise the prospective resident to consult a physician to determine whether the prospective resident should obtain a vaccination against pneumococcal pneumonia. (Section 2-213 of the Nursing Home Care Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days)

Section 390.635 Identified Offenders

EMERGENCY

a) On or before July 21, 2005, a licensed facility must compare its current residents against the Illinois Sex Offender Registration website at www.isp.state.il.us and the Illinois Department of Corrections registered sex offender database. In addition, on or before January 1, 2006, to the extent authorized and accessible by
law for individuals under age 22, the facility must initiate for current residents a request for criminal history record information according to the Uniform Conviction Information Act (UCIA) [20 ILCS 2635]. If identified offenders are present in the facility, the facility shall comply with all of the following requirements:

1) The facility shall inform the appropriate county and local law enforcement offices of the identity of identified offenders being cared for by the facility. If a resident of a licensed facility is an identified offender, any federal, State, or local law enforcement officer or county probation officer shall be permitted reasonable access to the individual resident to verify compliance with the requirements of the Sex Offender Registration Act or to verify compliance with applicable terms of probation, parole, or mandatory supervised release (Section 2-110 of the Act). Reasonable access under this provision shall not interfere with the identified offender's medical care.

2) The facility must conspicuously post or display, in an area of its offices accessible to staff, current and prospective residents, family members, and visitors, notification that an identified offender is residing at the facility. The facility must direct specific inquiries about identified offenders to the Illinois Sex Offender Registration website at www.isp.state.il.us, the Illinois Department of Corrections registered sex offender database, the Department of State Police, and local law enforcement agencies.

3) The facility shall notify every resident or resident's guardian in writing that such offenders are residents of the facility. (Section 2-216 of the Act)

4) If the identified offender is on probation or parole status, the facility must contact the resident's probation or parole officer, acknowledge the terms of release, update contact information with the probation or parole office, and maintain updated contact information in the resident's record. The record must also include the resident's criminal history record. In addition, facilities must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation whether the probation officer has complied with Section 12(11) of the Probation and Probation Officers Act [730 ILCS 110].

5) The facility must meet with local law enforcement officials to establish and institute policies and procedures regarding the identified offender's
status in the facility, including compliance with Section 390.750 of this Part.

b) The facility must inform the Division of Long-Term Care Field Operations in the Department's Office of Health Care Regulation in writing within 48 hours after determining that a resident or residents of the licensed facility are listed on the Illinois Department of Corrections or Illinois State Police registered sex offender databases (Section 3-202.3 of the Act), including all information that the Illinois Department of Corrections is required to file with the facility under Section 3-14-1(c-5) of the Unified Code of Corrections.

c) Facilities must maintain written documentation of the verification of the identified offender status of all residents.

d) All facilities must, no less frequently than every six months, and again within 90 days before the licensure renewal date, perform all of the steps set forth in subsection (a).

e) For current residents, the facility must conduct a risk assessment and review the screenings of the identified offender to determine the appropriateness of admission to the facility under the requirements of this subsection. Before retaining an identified offender in the facility the facility must conduct risk assessment and review the screenings of the identified offender to determine the appropriateness of admission to the facility under the requirements of this subsection as soon as criminal history record information is available.

1) An individualized assessment of the care and supervision needs, if any, specific to the criminal offense;

2) The results of the assessment conducted pursuant to Section 390.625 of this Part;

3) The amount of supervision required by the individual to ensure the safety of all residents in the facility;

4) The physical and mental abilities of the individual;

5) The current medical assessments of the individual;
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6) Whether the care plan addresses the individual’s needs in relation to his or her status as an identified offender;

7) Whether the approaches developed in the care plan are proactive and are appropriate and effective in dealing with any behaviors specific to identified offenders; and

8) Whether the facility has qualified staff to meet the needs of the individual and required level of supervision at all times.

f) Upon admission of the identified offender to a facility, the facility, in consultation with the medical director and law enforcement, must specifically address the resident’s needs in an individualized care plan that reflects the risk assessment of the individual pursuant to subsection (e).

g) If the resident is a registered sex offender, he or she must have his or her own room meeting the criteria of this subsection. In addition, if the facility’s risk assessment determines that an identified offender who is not a registered sex offender must have his or her own room, then all the criteria of this subsection must be met.

1) The room must be in direct view of the main nurses’ station.

2) The room must be separate from rooms of residents who are at risk.

3) The resident must not share his or her room with any other resident.

h) The facility must, on a monthly basis, evaluate care plans for identified offenders for appropriateness and effectiveness of the portions specific to the identified offense and must document such review. The facility must modify the care plan if necessary in response to this evaluation.

i) Incident reports must be submitted to the Department in compliance with Section 390.700 of this Part. The facility must continually review its placement determination of identified offenders based on ongoing incident reports. In incident reports involving identified offenders, the facility must identify whether the incident involves substance abuse, aggressive behavior, or inappropriate sexual behavior, as well as any other behavior or activity that would be reasonably likely to cause harm to the identified offender or others. If the facility cannot protect the other residents from misconduct by the identified offender, then
the facility must transfer or discharge the identified offender in accordance with Section 390.3300 of this Part.

j) The facility must notify the appropriate law enforcement agency, Prisoner Review Board, Department of Corrections, or local sheriff's department of the incident and whether it involved substance abuse, aggressive behavior, or inappropriate sexual behavior that would necessitate relocation of that resident.

k) The facility must develop procedures to address the removal of a resident from identified offender status.

(Source: Added by emergency rulemaking at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days)

Section 390.637 Transferring
EMERGENCY

a) When a resident who is an identified offender is transferred to another facility regulated by the Department, the transferring facility must immediately notify the Department and the receiving facility that the individual is an identified offender before making the transfer.

b) This notification must include all of the documentation required under Section 390.635 of this Part. The receiving facility must comply with all of the admission and retention requirements of Section 390.635 of this Part to complete its discharge planning.

c) In addition, the transferring facility shall provide copies of the following information to the Department and the facility where the person becomes a resident:

1) *The mittimus and any pre-sentence investigation reports;*

2) *The social evaluation prepared pursuant to Section 3-8-2 of the Unified Code of Corrections [730 ILCS 5/3-8-2];*

3) *Any pre-release evaluation conducted pursuant to subsection (j) of Section 3-6-2 of the Unified Code of Corrections [730 ILCS 5/3-6-2];*

4) *Reports of disciplinary infractions and dispositions;*
5) *Any parole plan, including orders issued by the Illinois Prisoner Review Board and any violation reports and dispositions; and*

6) *The name and contact information for the assigned parole agent and parole supervisor. (Section 3-14-1 of the Unified Code of Corrections)*

d) *This information shall be provided no later than 3 days after the person becomes a resident of the facility. (Section 3-14-1 of the Unified Code of Corrections) This information must not be further disseminated, except to the resident, law enforcement agencies, the parole office, the Department, and facilities licensed by the Department.*

(Source: Added by emergency rulemaking at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days)

**Section 390.640 Contract Between Resident and Facility**

**EMERGENCY**

a) Contract Execution

1) *Before a person is admitted to a facility, or at the expiration of the period of previous contract, or when the source of payment for the resident's care changes from private to public funds or from public to private funds, a written contract shall be executed between a licensee and the following in order of priority:*

A) *The person, or if the person is a minor, his parent or guardian; or*

B) *The person's guardian, if any, or agent, if any, as defined in Section 2-3 of the Illinois Power of Attorney Act; or*

C) *A member of the person's immediate family. (Section 2-202(a) of the Act)*

2) *An adult person shall be presumed to have the capacity to contract for admission to a long-term care facility unless he has been adjudicated a "disabled person" within the meaning of Section 11a-2 of the Probate Act of 1975, or unless a petition for such an adjudication is pending in a circuit court of Illinois. (Section 2-202(a) of the Act)*
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3) If there is no guardian, agent or member of the person's immediate family available, able or willing to execute the contract required by Section 2-202 of the Act and a physician determines that a person is so disabled as to be unable to consent to placement in a facility, or if a person has already been found to be a "disabled person," but no order has been entered allowing residential placement of the person, that person may be admitted to a facility before the execution of a contract required by that Section; provided that a petition for guardianship or for modification of guardianship is filed within 15 days after the person's admission to a facility, and provided further that such a contract is executed within ten days after the disposition of the petition. (Section 2-202 (a) of the Act)

4) No adult shall be admitted to a facility if he objects, orally or in writing, to such admission, except as otherwise provided in Chapters III and IV of the Mental Health and Developmental Disabilities Code or Section 11a-14.1 of the Probate Act of 1975. (Section 2-202(a) of the Act)

5) If on the effective date of this Part, a person has not executed a contract as required by Section 2-202 of the Act, then such a contract shall be executed by, or on behalf of, the person, within ten days of the effective date of this Part, unless a petition has been filed for guardianship or modification of guardianship. If a petition for guardianship or modification of guardianship has been filed, and there is no guardian, agent or member of the person's immediate family available, able, or willing to execute the contract at that time, then a contract shall be executed within ten days of the disposition of such petition.

b) The contract shall be clearly and unambiguously entitled, "Contract Between Resident and (name of facility)."

c) Before a licensee (any facility licensed under the Act) enters a contract under Section 2-202 of the Act, it shall provide the prospective resident and his guardian, if any, with written notice of the licensee's policy regarding discharge of a resident whose private funds for payment of care are exhausted. (Section 2-202(a) of the Act)

d) A resident shall not be discharged or transferred at the expiration of the term of a contract, except as provided in Sections 3-401 through 3-423 of the Act. (Section 2-202(b) of the Act)
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e) At the time of the resident’s admission to the facility, a copy of the contract shall be given to the resident, his guardian, if any, and any other person who executed the contract. (Section 2-202(c) of the Act)

f) The contract shall be signed by the licensee or his agent. The title of each person signing the contract for the facility shall be clearly indicated next to each such signature. The nursing home administrator may sign as the agent of the licensee.

g) The contract shall be signed by, or for, the resident, as described in subsection (a) of this Section. If any person other than the principal signatory is to be held individually responsible for payments due under the contract, that person shall also sign the contract on a separate signature line labeled "signature of responsible party" or "signature of guarantor."

h) The contract shall include a definition of "responsible party" or "guarantor," which describes in full the liability incurred by any such person.

i) A copy of the contract for a resident who is supported by nonpublic funds other than the resident's own funds shall be made available to the person providing the funds for the resident's support. (Section 2-202(d) of the Act)

j) The original or a copy of the contract shall be maintained in the facility and be made available upon request to representatives of the Department and the Department of Healthcare and Family Services/Public Aid. (Section 2-202(e) of the Act)

k) The contract shall be written in clear and unambiguous language and shall be printed in not less than 12 point type. (Section 2-202(f) of the Act)

l) The contract shall specify the term of the contract. (Section 2-202(g)(1) of the Act) The term can be until a certain date or event. If a certain date is specified in the contract, an addendum can extend the term of the contract to another date certain or on a month-to-month basis.

m) Services Provided and Charges

1) The contract shall specify the services to be provided under the contract and the charges for the services. (Section 2-202(g)(2) of the Act)
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2) A paragraph shall itemize the services and products to be provided by the facility and express the costs of the itemized services and products to be provided either in terms of a daily, weekly, monthly or yearly rate, or in terms of a single fee.

3) The contract may provide that the charges for services may be changed with thirty (30) days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days after the receipt of the written notice of the change. The written notice shall become an addendum to the contract.

n) The contract shall specify the services that may be provided to supplement the contract and the charges for the services. (Section 2-202(g)(3) of the Act)

1) A paragraph shall itemize all services and products offered by the facility or related institutions which are not covered by the rate or fee established in subsection (m) of this Section. If a separate rate or fee for any such supplemental service or product can be calculated with definiteness at the time the contract is executed, then such additional cost shall be specified in the contract.

2) If the cost of any itemized service or product to be provided to the resident by the facility or related institutions cannot be established or predicted with definiteness at the time of the resident's admission to the facility or at the time of the execution of the contract, then no cost for that service or product need be stated in the contract. But the contract shall include a statement explaining the resident's liability for such itemized service or product and explaining that the resident will be receiving a bill for such itemized service or product beyond and in addition to any rate or fee set forth in the contract.

3) The contract may provide that the charges for services and products not covered by the rate or fee established in subsection (m) may be changed with thirty (30) days advance written notice to the resident or the person executing the contract on behalf of the resident. The resident or the person executing the contract on behalf of the resident may either assent to the change or choose to terminate the contract at any time within 30 days after the receipt of the written notice of the change. The written notice...
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shall become an addendum to the contract.

o) The contract shall specify the sources liable for payments due under the contract. (Section 2-202(g)(4) of the Act)

p) Deposit Provisions

1) The contract shall specify the amount of deposit paid. (Section 2-202(g)(5) of the Act)

2) Such amount shall be expressed in terms of a precise number of dollars and be clearly designated as a deposit. The contract shall specify when such deposit shall be paid by the resident, and the contract shall specify when such deposit shall be returned by the facility. The contract shall specify the conditions (if any) which must be satisfied by the resident before the facility shall return the deposit. Upon the satisfaction of all such conditions, the deposit shall be returned to the resident. If the deposit is nonrefundable, the contract shall provide express notice of such nonrefundability.

q) The contract shall specify the rights, duties and obligations of the resident, except that the specification of a resident's rights may be furnished on a separate document which complies with the requirements of Section 2-211 of the Act. (Section 2-202(g)(6) of the Act)

r) The contract shall designate the name of the resident's representative, if any. The resident shall provide the facility with a copy of the written agreement between the resident and the resident's representative which authorizes the resident's representative to inspect and copy the resident's records and authorizes the resident's representative to execute the contract on behalf of the resident required by Section 2-202 of the Act. (Section 2-202(h) of the Act)

s) The contract shall provide that if the resident is compelled by a change in physical or mental health to leave the facility, the contract and all obligations under it shall terminate on seven days notice. No prior notice of termination of the contract shall be required, however, in the case of a resident's death. The contract shall also provide that in all other situations, a resident may terminate the contract and all obligations under it with 30 days notice. All charges shall be prorated as of the date on which the contract terminates, and, if any payments have been made in advance, the excess shall be refunded to the resident. This
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provision shall not apply to life-care contracts through which a facility agrees to provide maintenance and care for a resident throughout the remainder of the resident's life nor to continuing-care contracts through which a facility agrees to supplement all available forms of financial support in providing maintenance and care for a resident throughout the remainder of the resident's life. (Section 2-202(i) of the Act)

t) All facilities that offer to provide a resident with nursing services, medical services or personal care services, in addition to maintenance services, conditioned upon the transfer of an entrance fee to the provider of such services in addition to or in lieu of the payment of regular periodic charges for the care and services involved, for a term in excess of one year or for life pursuant to a life care contract, shall meet all of the provisions of the Life Care Facilities Act (Ill. Rev. Stat. 1991, ch. 111½, par. 4160-1 et seq.) [210 ILCS 40], including the obtaining of a permit from the Department, before they may enter into such contracts. (Section 2(c) of the Life Care Facilities Act)

u) In addition to all other contract specifications contained in this Section, admission contracts shall also specify:

1) whether the facility accepts Medicaid clients;

2) whether the facility requires a deposit of the resident or his family prior to the establishment of Medicaid eligibility;

3) in the event that a deposit is required, a clear and concise statement of the procedure to be followed for the return of such deposit to the resident or the appropriate family member or guardian of the person;

4) that all deposits made to a facility by a resident, or on behalf of a resident, shall be returned by the facility within 30 days after the establishment of Medicaid eligibility, unless such deposits must be drawn upon or encumbered in accordance with Medicaid eligibility requirements established by the Illinois Department of Healthcare and Family Services Public Aid. (Section 2-202(j) of the Act)

v) The contract also shall require a prospective resident to state whether he or she is an identified offender. The contract shall alert the prospective resident of the facility's ability or inability to care for the prospective resident if he or she is an identified offender.
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It shall be a business offense for a facility to knowingly and intentionally both retain a resident's deposit and accept Medicaid payments on behalf of the resident. (Section 2-202(k) of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days)

SUBPART O: RESIDENT'S RIGHTS

Section 390.3300 Transfer or Discharge

a) A resident may be voluntarily discharged from a facility after he gives the administrator, a physician, or a nurse of the facility written notice of his desire to be discharged. If a guardian has been appointed for a resident or if the resident is a minor, the resident shall be discharged upon written consent of his guardian or if the resident is a minor, his parent unless there is a court order to the contrary. In such cases, upon the resident's discharge, the facility is relieved from any responsibility for the resident's care, safety or well-being. (Section 2-111 of the Act)

b) Each resident's rights regarding involuntary transfer or discharge from a facility shall be as described in subsections (c) through (y) of this Section.

c) Reasons for Transfer or Discharge

1) A facility may involuntarily transfer or discharge a resident only for one or more of the following reasons:

A) for medical reasons;

B) for the resident's physical safety;

C) for the physical safety of other residents, the facility staff or facility visitors;

D) for either late payment or nonpayment for the resident's stay, except as prohibited by Title XVIII and XIX of the Federal Social Security Act. For purposes of this Section, "late payment" means
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non-receipt of payment after submission of a bill. If payment is not received within 45 days after submission of a bill, the facility may send a notice to the resident and responsible party requesting payment within 30 days. If payment is not received within such 30 days, the facility may thereupon institute transfer or discharge proceedings by sending a notice of transfer or discharge to the resident and responsible party by registered or certified mail. The notice shall state, in addition to the requirements of Section 3-403 of the Act and subsection (e) of this Section, that the responsible party has the right to pay the amount of the bill in full up to the date the transfer or discharge is to be made and then the resident shall have the right to remain in the facility. Such payment shall terminate the transfer or discharge proceedings. This subsection (c)(1)(D) does not apply to those residents whose care is provided under the Illinois Public Aid Code; and (E) for the demonstrated inability of the facility to meet the requirements of Sections 390.625, 390.630, and 390.635 specific to the particular identified offender.

2) Prohibition of Discrimination

A) A facility participating in the medical assistance program is prohibited from failing or refusing to retain as a resident any person because the resident is a recipient of or an applicant for the medical assistance program. For the purposes of this Section, a recipient or applicant shall be considered a resident in the facility during any hospital stay totaling ten days or less following a hospital admission. The day on which a resident is discharged from the facility and admitted to the hospital shall be considered the first day of the ten-day period. (Section 3-401.1(a) of the Act)

B) A facility which violates subsection (c)(2)(A) of this Section shall be guilty of a business offense and fined not less than $500 nor more than $1,000 for the first offense and not less than $1,000 nor more than $5,000 for each subsequent offense. (Section 3-401.1(b) of the Act)

d) Involuntary transfer or discharge of a resident from a facility shall be preceded
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by the discussion required under subsection (j) of this Section and by a minimum written notice of 21 days. The 21-day requirement shall not apply in any of the following instances:

1) When an emergency transfer or discharge is mandated by the resident's health care needs and is in accord with the written orders and medical justification of the attending physician; (Section 3-402(a) of the Act)

2) When the transfer or discharge is mandated by the physical safety of other residents as documented in the clinical record. (Section 3-402(b) of the Act)

The notice required by subsection (d) of this Section shall be on a form prescribed by the Department and shall contain all of the following:

1) The stated reason for the proposed transfer or discharge; (Section 3-403(a) of the Act)

2) The effective date of the proposed transfer or discharge; (Section 3-403(b) of the Act)

3) A statement in not less than 12-point type, which reads:

"You have a right to appeal the facility's decision to transfer or discharge you. If you think you should not have to leave this facility, you may file a request for a hearing with the Department of Public Health within ten days after receiving this notice. If you request a hearing, it will be held not later than ten days after your request, and you generally will not be transferred or discharged during that time. If the decision following the hearing is not in your favor, you generally will not be transferred or discharged prior to the expiration of 30 days following receipt of the original notice of the transfer or discharge. A form to appeal the facility's decision and to request a hearing is attached. If you have any questions, call the Department of Public Health at the telephone number listed below."

(Section 3-403(c) of the Act)

4) A hearing request form, together with a postage paid, preaddressed envelope to the Department; and (Section 3-403(d) of the Act)

5) The name, address, and telephone number of the person charged with the
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responsibility of supervising the transfer or discharge. (Section 3-403(e)

of the Act)

f) A request for a hearing made under subsection (e) of this Section shall stay a

transfer pending a hearing or appeal of the decision, unless a condition which

would have allowed transfer or discharge in less than 21 days as described under

subsections (d)(1) and (2) of this Section develops in the interim. (Section 3-404

of the Act)

g) A copy of the notice required by subsection (d) of this Section shall be placed in

the resident's clinical record and a copy shall be transmitted to the Department,

the resident, the resident's representative, and, if the resident's care is paid for in

whole or part through Title XIX, to the Department of Healthcare and Family

ServicesPublic Aid. (Section 3-405 of the Act)

h) When the basis for an involuntary transfer or discharge is the result of an action

by the Department of Healthcare and Family ServicesPublic Aid with respect to a

recipient of Title XIX and a hearing request is filed with the Department of

Healthcare and Family ServicesPublic Aid, the 21-day written notice period shall

not begin until a final decision in the matter is rendered by the Department of

Healthcare and Family ServicesPublic Aid or a court of competent jurisdiction

and notice of that final decision is received by the resident and the facility.

(Section 3-406 of the Act)

i) When nonpayment is the basis for involuntary transfer or discharge, the resident

shall have the right to redeem up to the date that the discharge or transfer is to be

made and then shall have the right to remain in the facility. (Section 3-407 of the

Act)

j) The planned involuntary transfer or discharge shall be discussed with the

resident, the resident's representative and person or agency responsible for the

resident's placement, maintenance, and care in the facility. The explanation and

discussion of the reasons for involuntary transfer or discharge shall include the

facility administrator or other appropriate facility representative as the

administrator's designee. The content of the discussion and explanation shall be

summarized in writing and shall include the names of the individuals involved in

the discussions and made a part of the resident's clinical record. (Section 3-408

of the Act)

k) The facility shall offer the resident counseling services before the transfer or
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l) A resident subject to involuntary transfer or discharge from a facility, the resident's guardian or if the resident is a minor, his parent shall have the opportunity to file a request for a hearing with the Department within ten days following receipt of the written notice of the involuntary transfer or discharge by the facility. (Section 3-410 of the Act)

m) The Department of Public Health, when the basis for involuntary transfer or discharge is other than action by the Department of Healthcare and Family Services Public Aid with respect to the Title XIX Medicaid recipient, shall hold a hearing at the resident's facility not later than ten days after a hearing request is filed, and render a decision within 14 days after the filing of the hearing request. (Section 3-411 of the Act)

n) The hearing before the Department provided under subsection (m) of this Section shall be conducted as prescribed under Sections 3-703 through 3-712 of the Act. In determining whether a transfer or discharge is authorized, the burden of proof in this hearing rests on the person requesting the transfer or discharge. (Section 3-412 of the Act)

o) If the Department determines that a transfer or discharge is authorized under subsection (c) of this Section, the resident shall not be required to leave the facility before the 34th day following receipt of the notice required under subsection (d) of this Section, or the 10th day following receipt of the Department's decision, whichever is later, unless a condition which would have allowed transfer or discharge in less than 21 days as described under subsections (d)(1) and (2) of this Section develops in the interim. (B) (Section 3-413 of the Act)

p) The Department of Public Aid shall continue Title XIX Medicaid funding during the appeal, transfer, or discharge period for those residents who are Title XIX recipients affected by subsection (c) of this Section. (Section 3-414 of the Act)

q) The Department may transfer or discharge any resident from any facility required to be licensed under this Act when any of the following conditions exist:

1) Such facility is operating without a license; (Section 3-415(a) of the Act)

2) The Department has suspended, revoked or refused to renew the license of
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the facility as provided under Section 3-119 of the Act; (Section 3-415(b) of the Act)

3) The facility has requested the aid of the Department in the transfer or discharge of the resident and the Department finds that the resident consents to transfer or discharge; (Section 3-415(c) of the Act)

4) The facility is closing or intends to close and adequate arrangement for relocation of the resident has not been made at least 30 days prior to closure; or (Section 3-415(d) of the Act)

5) The Department determines that an emergency exists which requires immediate transfer or discharge of the resident. (Section 3-415(e) of the Act)

r) In deciding to transfer or discharge a resident from a facility under subsection (q) of this Section, the Department shall consider the likelihood of serious harm which may result if the resident remains in the facility. (Section 3-416 of the Act)

s) The Department shall offer transfer or discharge and relocation assistance to residents transferred or discharged under subsections (c) through (q) of this Section including information on available alternative placements. Residents shall be involved in planning the transfer or discharge and shall choose among the available alternative placements, except that where an emergency makes prior resident involvement impossible, the Department may make a temporary placement until a final placement can be arranged. Residents may choose their final alternative placement and shall be given assistance in transferring to such place. No resident may be forced to remain in a temporary or permanent placement. Where the Department makes or participates in making the relocation decision, consideration shall be given to proximity to the resident's relatives and friends. The resident shall be allowed three visits to potential alternative placements prior to removal, except where medically contraindicated or where the need for immediate transfer or discharge requires reduction in the number of visits. (Section 3-417 of the Act)

t) The Department shall prepare resident transfer or discharge plans to assure safe and orderly removals and protect residents' health, safety, welfare and rights. In nonemergencies and, where possible, in emergencies, the Department shall design and implement such plans in advance of transfer or discharge. (Section 3-418 of the Act)
u) The Department may place relocation teams in any facility from which residents are being discharged or transferred for any reason, for the purpose of implementing transfer or discharge plans. (Section 3-419 of the Act)

v) In any transfer or discharge conducted under subsections (q) through (t) of this Section the Department shall:

1) Provide written notice to the facility prior to the transfer or discharge. The notice shall state the basis for the order of transfer or discharge and shall inform the facility of its right to an informal conference prior to transfer or discharge under this Section, and its right to a subsequent hearing under subsection (x) of this Section. If a facility desires to contest a nonemergency transfer or discharge, prior to transfer or discharge it shall, within four working days after receipt of the notice, send a written request for an informal conference to the Department. The Department shall, within four working days from the receipt of the request, hold an informal conference in the county in which the facility is located. Following this conference, the Department may affirm, modify or overrule its previous decision. Except in an emergency, transfer or discharge may not begin until the period for requesting a conference has passed or, if a conference is requested, until after a conference has been held; and (Section 3-420(a) of the Act)

2) Provide written notice to any resident to be removed, to the resident's representative, if any, and to a member of the resident's family, where practicable, prior to the removal. The notice shall state the reason for which transfer or discharge is ordered and shall inform the resident of the resident's right to challenge the transfer or discharge under subsection (x) of this Section. The Department shall hold an informal conference with the resident or the resident's representative prior to transfer or discharge at which the resident or the representative may present any objections to the proposed transfer or discharge plan or alternative placement. (Section 3-420(b) of the Act)

w) In any transfer or discharge conducted under subsection (q)(5) of this Section, the Department shall notify the facility and any resident to be removed that an emergency has been found to exist and removal has been ordered, and shall involve the residents in removal planning if possible. Following emergency removal, the Department shall provide written notice to the facility, to the
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resident, to the resident's representative, if any, and to a member of the resident's family, where practicable, of the basis for the finding that an emergency existed and of the right to challenge removal under subsection (x) of this Section. (Section 3-421 of the Act)

x) Within ten days following transfer or discharge, the facility or any resident transferred or discharged may send a written request to the Department for a hearing under Section 3-703 of the Act to challenge the transfer or discharge. The Department shall hold the hearing within 30 days after receipt of the request. Where a challenge is by a resident, the hearing shall be held at a location convenient to the resident. If the facility prevails, it may file a claim against the State under the Court of Claims Act [705 ILCS 505] for payments lost or expenses saved as a result of the transfer or discharge. No resident transferred or discharged may be held liable for the charge for care which would have been made had the resident remained in the facility. If a resident prevails, the resident may file a claim against the State under the Court of Claims Act (Ill. Rev. Stat. 1987, ch. 37, pars. 439.1 et seq.) for any excess expenses directly caused by the order to transfer or discharge. The Department shall assist the resident in returning to the facility if assistance is requested. (Section 3-422 of the Act)

y) Any owner of a facility licensed under the Act shall give 90 days notice prior to voluntarily closing a facility or closing any part of a facility or prior to closing any part of a facility if closing such part will require the transfer or discharge of more than ten percent of the residents. Such notice shall be given to the Department, to any resident who must be transferred or discharged, to the resident's representative, and to a member of the resident's family, where practicable. Notice shall state the proposed date of closing and the reason for closing. The facility shall offer to assist the resident in securing an alternative placement and shall advise the resident on available alternatives. Where the resident is unable to choose an alternate placement and is not under guardianship, the Department shall be notified of the need for relocation assistance. The facility shall comply with all applicable laws and regulations until the date of closing, including those related to transfer or discharge of residents. The Department may place a relocation team in the facility as provided under subsection (u) of this Section. (A, B) (Section 3-423 of the Act)

(Source: Amended by emergency rulemaking at 29 Ill. Reg. 12025, effective July 12, 2005, for a maximum of 150 days)
1) **Heading of the Part:** Pay Plan

2) **Code Citation:** 80 Ill. Adm. Code 310

3) **Section Numbers:**
   - 310.410 Amendment
   - 310.Appendix A Table J Amendment
   - 310.Appendix A Table O Amendment
   - 310.Appendix A Table R Amendment
   - 310.Appendix A Table W Amendment
   - 310.Appendix A Table X Amendment

4) **Reference to the Specific State or Federal Court Order, Federal Rule or Statute which Requires this Peremptory Rulemaking:** The Department of Central Management Services is amending the Pay Plan (80 Ill. Adm. Code 310) Appendix A Table J to reflect the representation of the Switchboard Operator III title (formerly SG-8) by American Federation of State, County and Municipal Employees (AFSCME) RC-014 and the title's pay rate of RC-014-09. The Memorandum of Understanding between the Department of Central Management Services and AFSCME was signed June 30, 2005 and effective April 5, 2005.

The Department of Central Management Services is amending the Pay Plan Appendix A Table O to reflect the newly established classification of Capital Development Board Media Technician, which is represented by AFSCME. Effective July 1, 2005, the Civil Service Commission approved the establishment of the Capital Development Board Media Technician title. Effective September 15, 2003, certain non-Personnel Code positions in the Capital Development Board are certified as being included under RC-028, reclassified into the Capital Development Board Media Technician title, and assigned the salary grade of RC-028-14, as provided in the Memorandum of Understanding between the Department of Central Management Services and AFSCME signed January 31, 2005. In addition, Table O reflects representation of the Lottery Commodities Distributor II title (formerly SG-12) by AFSCME RC-028 and the title's pay rate of RC-028-12. The Memorandum of Understanding between the Department of Central Management Services and AFSCME was signed June 30, 2005 and effective May 26, 2005.

The Department of Central Management Services is amending the Pay Plan Appendix A Table R to reflect the representation of the Building/Grounds Supervisor title (formerly SG-16) by AFSCME RC-042 at the pay rate of RC-042-07. The Memorandum of Understanding between the Department of Central Management Services and AFSCME
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was signed June 30, 2005 and effective April 6, 2005.

The Department of Central Management Services is amending the Pay Plan Appendix A Table W to reflect three newly established classifications of Capital Development Board Account Technician, Capital Development Board Construction Support Analyst, and Capital Development Board Project Technician, which are represented by AFSCME RC-062. Effective July 1, 2005, the Civil Service Commission approved the establishment of the three titles. Effective October 29, 2003, certain non-Personnel Code positions in the Capital Development Board are certified as being included under RC-062, reclassified into the Capital Development Board Account Technician title, and assigned the salary grade of RC-062-11, as provided in the Memorandum of Understanding between the Department of Central Management Services and AFSCME signed January 31, 2005. Effective September 15, 2003, certain non-Personnel Code positions in the Capital Development Board are certified as being included under RC-062, reclassified into the Capital Development Board Construction Support Analyst title, and assigned the salary grade of RC-062-11, as provided in the Memorandum of Understanding between the Department of Central Management Services and AFSCME signed January 31, 2005. Also effective September 15, 2003, certain non-Personnel Code positions in the Capital Development Board are certified as being included under RC-062, reclassified into the Capital Development Board Project Technician title, and assigned the salary grade of RC-062-12, as provided in the Memorandum of Understanding between the Department of Central Management Services and AFSCME signed January 31, 2005.

In addition, Table W reflects two separate Memoranda of Understanding. One involves the representation of the Oral Health Consultant title (formerly MC-07) by AFSCME RC-062 and the title's pay rate of RC-062-18. The Memorandum of Understanding between the Department of Central Management Services and AFSCME was signed June 17, 2005 and effective March 18, 2005. The second involves the representation of the Public Health Program Specialist III title (formerly MC-07) by AFSCME RC-062 and the title's pay rate of RC-062-19. The Memorandum of Understanding between the Department of Central Management Services and AFSCME was signed June 30, 2005 and effective May 19, 2005.

The Department of Central Management Services is amending the Pay Plan Appendix A Table X to reflect the representation of the Dentist II title (formerly MC-14) by AFSCME RC-063 and the title's pay rate of RC-063-26. The Memorandum of Understanding between the Department of Central Management Services and AFSCME was signed June 23, 2005 and effective January 25, 2005. The rates for RC-063-26 effective July 1, 2005 and January 1, 2006 are included based on the January 25, 2005 rates in the Memorandum of Understanding, and the increases effective July 1, 2005 and January 1,
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Section 310.410 is also amended to reflect the last three Memoranda of Understanding since the Dentist II, Oral Health Consultant, and Public Health Program Specialist III titles are no longer merit compensation titles.

5) Statutory Authority: Authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 20 ILCS 415/8a].

6) Effective Date: July 15, 2005

7) A Complete Description of the Subjects and Issues Involved: Section 310.410 is amended to remove the Dentist II title and its salary plan MC-14, the Oral Health Consultant title and its salary plan MC-07, the Public Health Program Specialist III title and its salary plan MC-07. With three Memoranda of Understanding, these titles are represented by AFSCME.

Section 310.Appendix A Table J is amended to reflect the AFSCME representation of the Switchboard Operator III title. The Switchboard Operator III title is listed with its title code of 44413 and salary grade of RC-014-09.

Section 310.Appendix A Table O is amended to reflect the AFSCME representation of the Capital Development Board Media Technician and Lottery Commodities Distributor II titles. The Capital Development Board Media Technician title is listed with its title code of 06525 and salary grade of RC-028-14. The Lottery Commodities Distributor II title is listed with its title code 24402 and salary grade of RC-028-12.

Section 310.Appendix A Table R is amended to reflect the AFSCME representation of the Building/Grounds Supervisor title. The Building/Grounds Supervisor title is listed with its title code of 05605 and salary grade of RC-042-07.

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Section 310.Appendix A Table X is amended to reflect the AFSCME representation of the Dentist II title. The Dentist II title is listed with its title code 11752 and salary grade of RC-063-26. The RC-063-26 salary grade step rates are included in the tables effective July 1, 2005 and January 1, 2006. The July 1, 2005 rates are 2% higher than the January 25, 2005 rates in the Memorandum of Understanding. The January 1, 2006 rates are 3% higher than the rates effective July 1, 2005. The 2% increase effective July 1, 2005 and 3% increase effective January 1, 2006 are in the Agreement between the Department of Central Management Services and AFSCME for July 1, 2004 through June 30, 2008.

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

9) Date filed with the Index Department: July 15, 2005

10) This and other Pay Plan amendments are available in the Division of Technical Services of the Bureau of Personnel.

11) Is this in compliance with Section 5-50 of the Illinois Administrative Procedure Act? Yes.

12) Are there any other proposed amendments pending on this Part?

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<td>310.Appendix A Table W</td>
<td>Amendment</td>
<td>29 Ill. Reg. 6148, 5/6/05</td>
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<tr>
<td>310.280</td>
<td>Amendment</td>
<td>29 Ill. Reg. 8253, 6/10/05</td>
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<tr>
<td>310.410</td>
<td>Amendment</td>
<td>29 Ill. Reg. 8253, 6/10/05</td>
</tr>
</tbody>
</table>

13) Statement of Statewide Policy Objectives: These amendments to the Pay Plan affect only the employees subject to the Personnel Code and do not set out any guidelines that affect local or other jurisdictions in the State.
14) **Information and questions regarding these Peremptory Amendments shall be directed to:**

   Ms. Anne McElroy  
   Deputy Director  
   Department of Central Management Services  
   503 William G. Stratton Building  
   Springfield IL  62706  

   217/524-8773  
   Fax: 217/558-4497

The full text of the Peremptory Amendments begins on the next page:
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES
SUBTITLE B: PERSONNEL RULES, PAY PLANS, AND POSITION CLASSIFICATIONS
CHAPTER I: DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

PART 310
PAY PLAN

SUBPART A: NARRATIVE

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310.30 Jurisdiction
310.40 Pay Schedules
310.50 Definitions
310.60 Conversion of Base Salary to Pay Period Units
310.70 Conversion of Base Salary to Daily or Hourly Equivalents
310.80 Increases in Pay
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310.100 Other Pay Provisions
310.110 Implementation of Pay Plan Changes for Fiscal Year 2006
310.120 Interpretation and Application of Pay Plan
310.130 Effective Date
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

310.300 Educator Schedule for RC-063 and HR-010
310.310 Physician Specialist Rate
310.320 Annual Compensation Ranges for Executive Director and Assistant Executive Director, State Board of Elections
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SUBPART C: MERIT COMPENSATION SYSTEM

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310.430 Responsibilities
310.440 Merit Compensation Salary Schedule
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310.470 Adjustment
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310.500 Definitions
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310.520 Conversion of Base Salary to Daily or Hourly Equivalents
310.530 Implementation
310.540 Annual Merit Increase Guidechart for Fiscal Year 2006
310.550 Fiscal Year 1985 Pay Changes in Merit Compensation System, effective July 1, 1984 (Repealed)

310.APPENDIX A Negotiated Rates of Pay
310.TABLE A HR-190 (Department of Central Management Services – State of Illinois Building – SEIU) (Repealed)
310.TABLE B HR-200 (Department of Labor – Chicago, Illinois – SEIU) (Repealed)
310.TABLE C RC-069 (Firefighters, AFSCME) (Repealed)
310.TABLE D HR-001 (Teamsters Local #726)
310.TABLE E RC-020 (Teamsters Local #330)
310.TABLE F RC-019 (Teamsters Local #25)
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310.TABLE H RC-006 (Corrections Employees, AFSCME)
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NOTICE OF PEREMPTORY AMENDMENTS

<table>
<thead>
<tr>
<th>Table Code</th>
<th>Description</th>
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<tbody>
<tr>
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<td>RC-009 (Institutional Employees, AFSCME)</td>
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<tr>
<td>310.TABLE J</td>
<td>RC-014 (Clerical Employees, AFSCME)</td>
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<td>RC-023 (Registered Nurses, INA)</td>
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<td>310.TABLE L</td>
<td>RC-008 (Boilermakers)</td>
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<td>RC-010 (Professional Legal Unit, AFSCME)</td>
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<td>RC-042 (Residual Maintenance Workers, AFSCME)</td>
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<td>HR-010 (Teachers of Deaf, IFT)</td>
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<td>310.TABLE U</td>
<td>HR-010 (Teachers of Deaf, Extracurricular Paid Activities)</td>
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<td>310.TABLE V</td>
<td>CU-500 (Corrections Meet and Confer Employees)</td>
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<td>RC-062 (Technical Employees, AFSCME)</td>
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<td>RC-063 (Professional Employees, AFSCME)</td>
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<td>RC-063 (Educators, AFSCME)</td>
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<td>310.TABLE Z</td>
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<td>NR-916 (Department of Natural Resources, Teamsters)</td>
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<tr>
<td>310.TABLE AB</td>
<td>VR-007 (Plant Maintenance Engineers, Operating Engineers) (Repealed)</td>
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AUTHORITY: Implementing and authorized by Sections 8 and 8a of the Personnel Code [20 ILCS 415/8 and 8a].

SOURCE: Filed June 28, 1967; codified at 8 Ill. Reg. 1558; emergency amendment at 8 Ill. Reg. 1990, effective January 31, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 2440, effective February 15, 1984; emergency amendment at 8 Ill. Reg. 3348, effective March 5, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 4249, effective March 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 5704, effective April 16, 1984, for a maximum of 150 days; emergency amendment at 8 Ill. Reg. 7290, effective May 11, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 11299, effective June 25, 1984;
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NOTICE OF PEREMPTORY AMENDMENTS

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NOTICE OF PEREMPTORY AMENDMENTS

SUBPART C: MERIT COMPENSATION SYSTEM

Section 310.410 Jurisdiction

The Merit Compensation System shall apply to all classes of positions designated below and in the ALPHABETIC INDEX OF POSITION TITLES. Also see Section 310.495 for the application of the Merit Compensation System for those Broad-Band titles listed with their salary ranges in Section 310.Appendix G.

<table>
<thead>
<tr>
<th>Position Title</th>
<th>Salary Plan</th>
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<tbody>
<tr>
<td>Accountant Supervisor</td>
<td>MC-05</td>
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<tr>
<td>Activity Therapist Supervisor</td>
<td>MC-07</td>
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<tr>
<td>Actuary III</td>
<td>MC-16</td>
</tr>
<tr>
<td>Administrative Assistant I</td>
<td>MC-04</td>
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<tr>
<td>Administrative Assistant II</td>
<td>MC-06</td>
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<tr>
<td>Agricultural Marketing Representative</td>
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<tr>
<td>Assignment Coordinator</td>
<td>MC-07</td>
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<tr>
<td>Assistant Automotive Shop Supervisor</td>
<td>MC-03</td>
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<tr>
<td>Automotive Shop Supervisor</td>
<td>MC-07</td>
</tr>
<tr>
<td>Boat Safety Inspection Supervisor</td>
<td>MC-06</td>
</tr>
<tr>
<td>Building Construction Inspector I</td>
<td>MC-04</td>
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<tr>
<td>Building Construction Inspector II</td>
<td>MC-05</td>
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<tr>
<td>Business Manager</td>
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<tr>
<td>Commerce Commission Police Sergeant</td>
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<tr>
<td>Corrections Leisure Activities Specialist III</td>
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<tr>
<td>Corrections Leisure Activities Specialist IV</td>
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</tr>
<tr>
<td>Corrections Vocational School Supervisor</td>
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<tr>
<td>Court Reporter Supervisor</td>
<td>MC-08</td>
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<tr>
<td>Data Processing Supervisor II</td>
<td>MC-04</td>
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<td>Data Processing Supervisor III</td>
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<td>Dentist II</td>
<td><strong>MC-14</strong></td>
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<tr>
<td>Dietary Manager I</td>
<td>MC-03</td>
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<tr>
<td>Dietary Manager II</td>
<td>MC-05</td>
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<td>Economic Development Representative I</td>
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<td>Economic Development Representative II</td>
<td>MC-07</td>
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<tr>
<td>Elections Specialist I</td>
<td>MC-03</td>
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

<table>
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<tr>
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<tr>
<td>Elections Specialist III</td>
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<tr>
<td>Electrical Engineer</td>
<td>MC-10</td>
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<tr>
<td>Employment Security Field Office Supervisor</td>
<td>MC-06</td>
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<tr>
<td>Engineering Technician IV</td>
<td>MC-07</td>
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<td>Executive I</td>
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<td>Equal Pay Specialist</td>
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<td>Executive II</td>
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<td>MC-01</td>
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<td>Executive Secretary III</td>
<td>MC-02</td>
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<tr>
<td>Facility Fire Chief</td>
<td>MC-02</td>
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<tr>
<td>Guard Supervisor</td>
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<tr>
<td>Guardianship Supervisor</td>
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<tr>
<td>Highway Construction Supervisor I</td>
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<tr>
<td>Highway Construction Supervisor II</td>
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<tr>
<td>Historical Library Chief of Acquisitions</td>
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<tr>
<td>Human Rights Mediator</td>
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<td>Human Rights Specialist III</td>
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<tr>
<td>Human Services Casework Manager</td>
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<td>Industrial and Community Development Representative I</td>
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<td>Internal Auditor I</td>
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<tr>
<td>Internal Security Investigator I</td>
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<tr>
<td>International Marketing Representative I</td>
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<tr>
<td>Kidcare Supervisor I</td>
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<tr>
<td>Kidcare Supervisor II</td>
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<td>Laundry Manager I</td>
<td>MC-01</td>
</tr>
<tr>
<td>Liability Claims Adjuster II</td>
<td>MC-06</td>
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<td>Librarian II</td>
<td>MC-05</td>
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<td>Lottery Regional Coordinator</td>
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<tr>
<td>Management Operations Analyst I</td>
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<td>Manuscripts Manager</td>
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<tr>
<td>Meat and Poultry Inspector Supervisor</td>
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<td>Mental Health Administrator I</td>
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<tr>
<td>Methods and Procedures Advisor III</td>
<td>MC-07</td>
</tr>
<tr>
<td>Mine Rescue Station Supervisor</td>
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NOTICE OF PEREMPTORY AMENDMENTS

Office Administrator IV MC-02
Office Administrator V MC-03
Oral Health Consultant MC-07
Plumbing Consultant MC-09
Police Lieutenant MC-09
Private Secretary I MC-02
Private Secretary II MC-04
Property Tax Analyst III MC-05
Public Aid Family Support Specialist II MC-05
Public Aid Quality Control Supervisor MC-07
Public Aid Staff Development Specialist III MC-06
Public Health Program Specialist III MC-07
Public Information Coordinator MC-06
Radiologic Technologist Chief MC-03
Rehabilitation Workshop Supervisor III MC-05
Reimbursement Officer II MC-05
Reproduction Service Supervisor I MC-02
Reproduction Service Supervisor II MC-04
Residential Care Program Supervisor I MC-06
Retirement System Disability Specialist MC-06
Safety Responsibility Analyst Supervisor MC-02
Security Officer Chief MC-04
Security Officer Lieutenant MC-02
Security Therapy Aide IV MC-05
Sign Shop Foreman MC-06
Staff Development Specialist I MC-05
Staff Development Technician II MC-03
Statistical Research Specialist III MC-06
Statistical Research Supervisor MC-07
Storekeeper III MC-01
Supervising Vehicle Testing Compliance Officer MC-06
Switchboard Chief Operator MC-01
Technical Advisor I MC-05
Technical Advisor II MC-07
Telecommunications Supervisor MC-07
Utility Engineer I MC-05
Utility Engineer II MC-07
Vehicle Emissions Compliance Supervisor MC-05
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Volunteer Services Coordinator III  MC-07
Waterways Construction Supervisor I  MC-05
Waterways Construction Supervisor II  MC-07

(Source: Peremptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Section 310. APPENDIX A  Negotiated Rates of Pay

Section 310. TABLE J  RC-014 (Clerical Employees, AFSCME)

<table>
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<tr>
<th>Title</th>
<th>Salary Grade</th>
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<td>Account Clerk II</td>
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<td>Account Technician I</td>
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<td>Aircraft Dispatcher</td>
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<td>Aircraft Lead Dispatcher</td>
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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<tr>
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<tr>
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<td>Intermittent Clerk</td>
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<td>Library Aide I</td>
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<td>Library Aide II</td>
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<tr>
<td>Library Aide III</td>
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<td>Library Technical Assistant</td>
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<tr>
<td>Lottery Telemarketing Representative</td>
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<td>Microfilm Laboratory Technician I</td>
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<td>RC-014-09</td>
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Switchboard Operator III RC-014-09 44413
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Telecommunicator Lead Worker – Command Center RC-014-15 45318
Telecommunicator RC-014-12 45321
Telecommunicator – Call Taker RC-014-14 45322
Telecommunicator – Lead Call Taker RC-014-16 45323
Telecommunicator Lead Worker RC-014-14 45324
Telecommunicator Trainee RC-014-10 45325
Telecommunicator Specialist RC-014-15 45326
Telecommunicator Lead Specialist RC-014-17 45327
Vehicle Permit Evaluator RC-014-11 47585
Veterans Service Officer Associate RC-014-13 47804

Effective July 1, 2005
RC-014

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| 02S | 1990 | 2035 | 2082 | 2131 | 2176 | 2224 | 2283 | 2334 | 2387 | 2474 | 2548 |


| 03  | 1918 | 1962 | 2009 | 2057 | 2103 | 2161 | 2213 | 2264 | 2317 | 2414 | 2488 |
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| 03.5S | 2075 | 2124 | 2174 | 2224 | 2281 | 2337 | 2393 | 2445 | 2507 | 2612 | 2691 |
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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RC-014

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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(Source: Peremptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005)
Section 310. APPENDIX A  Negotiated Rates of Pay

Section 310. TABLE O  RC-028 (Paraprofessional Human Services Employees, AFSCME)

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Lock and Dam Tender RC-028-10 24290
Lottery Commodities Distributor II RC-028-12 24402
Natural Resource Technician I RC-028-10 28851
Natural Resource Technician II RC-028-13 28852
Office Administrative Specialist RC-028-12 29990
Office Specialist RC-028-11 30080
Pharmacist Lead Technician RC-028-09 32007
Pharmacist Technician RC-028-07 32008
Public Aid Eligibility Assistant RC-028-08 35825
Radiologic Technologist RC-028-11 37500
Radiologic Technologist Program Coordinator RC-028-12 37507
Ranger RC-028-13 37725
Rehabilitation Counselor Aide I RC-028-09 38155
Rehabilitation Counselor Aide II RC-028-11 38156
Senior Ranger RC-028-14 40090
Site Interpreter RC-028-10 41090
Site Technician I RC-028-10 41131
Site Technician II RC-028-12 41132
Social Service Community Planner RC-028-11 41295
State Police Crime Information Evaluator RC-028-11 41801
State Police Evidence Technician I RC-028-12 41901
State Police Evidence Technician II RC-028-13 41902
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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(Source: Peremptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES
NOTICE OF PEREMPTORY AMENDMENTS

Section 310. APPENDIX A  Negotiated Rates of Pay

Section 310. TABLE R  RC-042 (Residual Maintenance Workers, AFSCME)

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Effective July 1, 2005
RC-042

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**Effective January 1, 2006**

**RC-042**

### STEPS

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| 02Q | 2655 | 2721 | 2812 | 2886 | 2993 | 3092 | 3212 | 3320 | 3442 | 3629 | 3738 |
| 02S | 2712 | 2778 | 2869 | 2943 | 3051 | 3152 | 3273 | 3383 | 3506 | 3694 | 3805 |

| 03  | 2591 | 2658 | 2803 | 2877 | 2983 | 3096 | 3213 | 3330 | 3454 | 3646 | 3756 |
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

(Source: Peremptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005)
DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

Section 310.APPENDIX A  Negotiated Rates of Pay

Section 310.TABLE W  RC-062 (Technical Employees, AFSCME)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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Corrections Leisure Activities Specialist III  RC-062-19  09813
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Corrections Senior Parole Agent  RC-062-19  09844
Criminal Intelligence Analyst I  RC-062-18  10161
Criminal Intelligence Analyst II  RC-062-20  10162
Criminal Intelligence Analyst Specialist  RC-062-22  10165
Criminal Justice Specialist I  RC-062-16  10231
Criminal Justice Specialist II  RC-062-20  10232
Criminal Justice Specialist Trainee  RC-062-13  10236
Day Care Licensing Representative I  RC-062-16  11471
Developmental Disabilities Council Program Planner I  RC-062-12  12361
Developmental Disabilities Council Program Planner II  RC-062-16  12362
Developmental Disabilities Council Program Planner III  RC-062-18  12363
Dietitian  RC-062-15  12510
Disability Appeals Officer  RC-062-22  12530
Disability Claims Adjudicator I  RC-062-16  12537
Disability Claims Adjudicator II  RC-062-18  12538
Disability Claims Adjudicator Trainee  RC-062-13  12539
Disability Claims Analyst  RC-062-20  12540
Disability Claims Specialist  RC-062-19  12558
Disaster Services Planner  RC-062-19  12585
Document Examiner  RC-062-22  12640
Educator – Provisional  RC-062-12  13105
Employment Security Manpower Representative I  RC-062-12  13621
Employment Security Manpower Representative II  RC-062-14  13622
Employment Security Program Representative  RC-062-14  13650
Employment Security Program Representative – Intermittent  RC-062-14H  13651
Employment Security Service Representative  RC-062-16  13667
Employment Security Specialist I  RC-062-14  13671
Employment Security Specialist II  RC-062-16  13672
Employment Security Specialist III  RC-062-19  13673
Employment Security Tax Auditor I  RC-062-17  13681
Employment Security Tax Auditor II  RC-062-19  13682
Energy and Natural Resources Specialist I  RC-062-15  13711
Energy and Natural Resources Specialist II  RC-062-17  13712
Energy and Natural Resources Specialist III  RC-062-19  13713
Energy and Natural Resources Specialist Trainee  RC-062-12  13715
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Environmental Health Specialist II RC-062-16 13769
Environmental Health Specialist III RC-062-18 13770
Environmental Protection Associate RC-062-12 13785
Environmental Protection Specialist I RC-062-14 13821
Environmental Protection Specialist II RC-062-16 13822
Environmental Protection Specialist III RC-062-18 13823
Environmental Protection Specialist IV RC-062-22 13824
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Financial Institutions Examiner II RC-062-19 14972
Financial Institutions Examiner III RC-062-22 14973
Financial Institutions Examiner Trainee RC-062-13 14978
Flight Safety Coordinator RC-062-22 15640
Forensic Scientist I RC-062-18 15891
Forensic Scientist II RC-062-20 15892
Forensic Scientist III RC-062-22 15893
Forensic Scientist Trainee RC-062-15 15897
Guardianship Representative RC-062-17 17710
Habilitation Program Coordinator RC-062-17 17960
Handicapped Services Representative I RC-062-11 17981
Health Facilities Surveyor I RC-062-16 18011
Health Facilities Surveyor II RC-062-19 18012
Health Facilities Surveyor III RC-062-20 18013
Health Services Investigator I – Opt. A RC-062-19 18181
Health Services Investigator I – Opt. B RC-062-20 18182
Health Services Investigator II – Opt. A RC-062-22 18185
Health Services Investigator II – Opt. C RC-062-25 18187
Health Services Investigator II – Opt. D RC-062-25 18188
Historical Documents Conservator I RC-062-13 18981
Historical Exhibits Designer RC-062-15 18985
Historical Research Editor II RC-062-14 19002
Human Relations Representative RC-062-16 19670
Human Rights Investigator I RC-062-15 19774
Human Rights Investigator II RC-062-17 19775
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Human Rights Specialist I RC-062-14 19778
Human Rights Specialist II RC-062-16 19779
Human Services Caseworker RC-062-16 19785
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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Methods and Procedures Advisor II  RC-062-16  27132
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Methods and Procedures Career Associate Trainee  RC-062-09  27137
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Microbiologist II  RC-062-19  27152
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Natural Resources Coordinator  RC-062-15  28831
Natural Resources Specialist  RC-062-18  28832
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Program Integrity Auditor II  RC-062-19  34632
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Resource Planner II RC-062-19 38282
Resource Planner III RC-062-22 38283
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Revenue Auditor I (states other than IL, CA or NJ) RC-062-19 38371
Revenue Auditor I (CA or NJ) RC-062-21 38371
Revenue Auditor II (IL) RC-062-19 38372
Revenue Auditor II (states other than IL, CA or NJ) RC-062-22 38372
Revenue Auditor II (CA or NJ) RC-062-24 38372
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Revenue Computer Audit Specialist (states other than IL, CA or NJ) RC-062-25 38425
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Revenue Special Agent RC-062-19 38558
Revenue Special Agent Trainee RC-062-14 38565
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Revenue Tax Specialist II RC-062-14 38572
Revenue Tax Specialist III RC-062-17 38573
Revenue Tax Specialist Trainee RC-062-10 38575
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Site Assistant Superintendent II RC-062-17 41072
Site Interpretive Coordinator RC-062-13 41093
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Site Services Specialist II RC-062-17 41118
Social Service Consultant I RC-062-18 41301
Social Service Consultant II RC-062-19 41302
Social Service Program Planner I RC-062-15 41311
Social Service Program Planner II RC-062-17 41312
Social Service Program Planner III RC-062-20 41313
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Staff Development Technician I
State Police Field Specialist I
State Police Field Specialist II
Statistical Research Specialist I
Statistical Research Specialist II
Statistical Research Specialist III
Storage Tank Safety Specialist
Telecommunications Specialist
Telecommunications Systems Analyst
Telecommunications Systems Technician I
Telecommunications Systems Technician II
Unemployment Insurance Adjudicator I
Unemployment Insurance Adjudicator II
Unemployment Insurance Adjudicator III
Unemployment Insurance Revenue Analyst I
Unemployment Insurance Revenue Analyst II
Unemployment Insurance Revenue Specialist
Unemployment Insurance Special Agent
Veterans Educational Specialist I
Veterans Educational Specialist II
Veterans Educational Specialist III
Veterans Employment Representative I
Veterans Employment Representative II
Volunteer Services Coordinator I
Volunteer Services Coordinator II
Wage Claims Specialist
Weatherization Specialist I
Weatherization Specialist II
Weatherization Specialist III
Weatherization Specialist Trainee

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# DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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|------|-----|-----|----|-----|-----|----|-----|-----|----|-----|-----|----|-----|-----|----|-----|-----|----|-----|-----|----|-----|-----|----|-----|-----|----|-----|-----|----|-----|
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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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25Q 5150 5305 5463 5626 5937 6248 6561 6874 7186 7646 7876
25S 5218 5369 5531 5693 6002 6312 6625 6938 7249 7712 7943

26 5209 5365 5527 5748 6062 6383 6707 7019 7335 7809 8043

27 5506 5671 5842 6135 6468 6810 7156 7490 7826 8333 8582

(Source: Peremptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005)
## Section 310. APPENDIX A  Negotiated Rates of Pay

### Section 310. TABLE X  RC-063 (Professional Employees, AFSCME)

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

NOTICE OF PEREMPTORY AMENDMENTS

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Effective July 1, 2005
RC-063

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(Source: Peremptory amendment at 29 Ill. Reg. 12076, effective July 15, 2005)
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

1) **Heading of the Part:** Food Stamps

2) **Code Citation:** 89 Ill. Adm. Code 121

3) **Section Number:** 121.31  
   **Peremptory Action:** Amendment

4) **Reference to the Specific State or Federal Court Order, Federal Rule or Statute Which Requires this Peremptory Rulemaking:** This change is being made to conform with provisions of The Consolidated Appropriations Act, 2005, P.L. 108-447.

5) **Statutory Authority:** Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

6) **Effective Date of Amendment:** July 14, 2005

7) **A Complete Description of the Subjects and Issues involved:** Pursuant to provisions of The Consolidated Appropriations Act, 2005, Public Law 108-447, any additional payment received under Chapter 5 of Title 37, United States Code, by a member of the United States Armed Forces deployed to a designated combat zone shall be excluded from household income for the duration of the member’s deployment if the additional pay is the result of deployment to or while serving in a combat zone, and it was not received immediately prior to serving in the combat zone.

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

9) **Date Filed with the Index Department:** July 14, 2005

10) A copy of the peremptory amendment, including any material incorporated by reference, is on file in the agency’s principal office and is available for public inspection.

11) **This rulemaking is in compliance with Section 5-50 of the Illinois Administrative Procedure Act.**

12) **Are there any proposed amendments pending on this Part?** Yes

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</table>

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

14) **Information and questions regarding this peremptory amendment shall be directed to:**

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

    (217) 785-9772

The full text of the Peremptory Amendment begins on the next page:
DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

TITLE 89: SOCIAL SERVICES
CHAPTER IV: DEPARTMENT OF HUMAN SERVICES
SUBCHAPTER b: ASSISTANCE PROGRAMS

PART 121
FOOD STAMPS

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121.222 Volunteer Community Work Component (Repealed)
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121.224 Supportive Service Payments to Meet the Work Requirement (Repealed)
121.225 Meeting the Work Requirement with the Illinois Works Component (Repealed)
121.226 Meeting the Work Requirement with the JTPA Employability Services Component (Repealed)
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NOTICE OF PEREMPTORY AMENDMENT

AUTHORITY: Implementing Sections 12-4.4 through 12-4.6 and authorized by Section 12-13 of the Illinois Public Aid Code [305 ILCS 5/12-4.4 through 12-4.6 and 12-13].

DEPARTMENT OF HUMAN SERVICES

NOTICE OF PEREMPTORY AMENDMENT

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SUBPART C: FINANCIAL FACTORS OF ELIGIBILITY

Section 121.31 Exempt Unearned Income

The following unearned income is exempt:

a) Vendor payments when these are made in behalf of a household by a nonhousehold member with nonhousehold funds, and paid directly to the household's creditors or person or organization providing the service to the household. (This includes rent and mortgage payments made to landlords or mortgagees by Housing and Urban Development (HUD));

b) Monies that are legally obligated and otherwise payable to the household such as, but not limited to, garnished wages, public assistance grants directed to a protective payee, GA disbursing orders and payments directed to a vendor, and support or alimony payments legally obligated to a household member, but which are diverted by the provider of the payment to a third party for a household expense, are counted as income and not excluded as a vendor payment. The following are considered vendor payments and not diverted income:

1) Rent paid directly to a landlord by a household's employer in addition to paying the household its regular wages;

2) Assistance payments that would not normally be provided in a money payment to the household, and that are over and above normal public assistance or general assistance grants, if they are made directly to a third party for a household expense;
DEPARTMENT OF HUMAN SERVICES

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3) Child support or alimony payments specified by a court order or other legally binding agreement to go directly to a third party rather than to a household;

4) Support payments not required by a court order or other legally binding agreement (such as, payments in excess of an amount specified in a court order or written agreement) which are paid to a third party rather than to the household;

5) Public Assistance or General Assistance payments to a third party in behalf of a household for medical, child care, or energy assistance (Public Assistance means AFDC and AABD);

6) From October 20, 1987, to September 30, 1989, the entire amount of Public Assistance or General Assistance payments to third parties in behalf of a household for temporary housing, even any portion of the payment which is part of the normal Public Assistance or General Assistance payment, provided the housing lacks facilities for preparation and cooking of hot meals or refrigerated food storage; and

7) Emergency Public Assistance (PA) or General Assistance (GA) payments made directly to a third party (that is, vendor payment) on behalf of a migrant or seasonal farmworker household while the household is in the job stream. This assistance includes, but is not limited to, emergency vendor payments for housing or transportation.

c) Cash donations based on need received on or after February 1, 1988, from one or more private nonprofit charitable organizations, but not to exceed $300 in a federal fiscal year quarter;

d) Any income in the certification period which is received too infrequently or irregularly to be reasonably anticipated, not in excess of $50 per quarter;

e) All loans on which repayment is deferred;

f) Reimbursements for past or future expenses, to the extent they do not exceed actual expenses and do not represent a gain or benefit to the household. This does not include reimbursements for normal living expenses;

g) Monies received and used for the care and maintenance of a third-party
beneficiary who is not a household member. Foster care payments are considered income to the adult or child in foster care and not income to the household providing the foster care even if the payments are made to the provider household rather than to the adult or child or children in foster care. If the household chooses to include the adults and/or children in foster care as part of the household, the entire foster care payment is considered unearned income to the household;

h) Income of nonhousehold members except ineligible household members who have been sanctioned for fraud or intentional program violation, for failure to comply with work registration requirements due to a voluntary job quit or reduction in work hours, or failure to comply with the FSE&T program, for failure to meet the social security number requirements, because of ineligible alien status, or due to questionable citizenship status (see Section 121.73);

i) Payments to volunteers under the Domestic Volunteer Service Act (42 USC 4951-4993) (VISTA) are exempt only if the individual:

1) was receiving food stamps or public assistance at the time he or she joined VISTA; and/or

2) was receiving an exempted VISTA payment, or other subsistence payments under Title I of the Domestic Volunteer Services Act, prior to March 1, 1979, and the volunteer contract in effect March 1, 1979, has not expired;

j) Income received from the disposition of funds to the Grand River Band of Ottawa Indians;

k) Any income specifically excluded by any federal statute from income consideration for food stamp purposes;

l) Unearned income such as need based payments, cash assistance, compensation in lieu of wages and allowances through the Job Training Partnership Act (29 USC 1501-1781);

m) Payments made by the Illinois Department of Mental Health and Developmental Disabilities under the Family Assistance Program for Mentally Disabled Children under P.A. 86-921;
n) Income received from the Social Security Administration under the PASS Program;

o) Payments made under the federal Crime Act of 1984 (as amended by P.L. 104-132, Section 234, Crime Victims Fund); and

p) All educational loans, grants, scholarships, fellowships, veteran's educational benefits, and all federal and State work study programs; and

q) Any additional payment received under Chapter 5 of Title 37, United States Code, by a member of the United States Armed Forces deployed to a designated combat zone shall be excluded from household income for the duration of the member's deployment if the additional pay is the result of deployment to or while serving in a combat zone, and it was not received immediately prior to serving in the combat zone.

(Source: Peremptory amendment at 29 Ill. Reg. 12076, effective July 14, 2005)
At its meeting on July 12, 2005, the Joint Committee on Administrative Rules considered the above cited rulemaking and recommended the Department implement Public Acts in a more timely manner so that 11 Ill. Adm. Code 1770 accurately depicts the actual fees that lottery license applicants and licensees are required to pay. PA 93-840 created on-line fees and increased application fees on 7/30/03. While the Department began collecting these fees in 2004, it did not propose rules reflecting those changes until 4/1/05.

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.
The following second notices were received by the Joint Committee on Administrative Rules during the period of July 11, 2005 through July 18, 2005 and have been scheduled for review by the Committee at its August 16, 2005 meeting in Chicago. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

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DEPARTMENT OF NATURAL RESOURCES

JULY 2005 REGULATORY AGENDA

a) Part(s) (Heading and Code Citation): Camping on Department of Natural Resources Properties – 17 Ill. Adm. Code 130

1) Rulemaking:

A) Description: The Department plans to amend this Part to incorporate changes in camping fee exemptions when new legislation is signed by the Governor.

B) Statutory Authority: Implementing and authorized by Sections 1 and 4(1) and (5) of the State Parks Act [20 ILCS 835/1 and 4(1) and (5)], and by Sections 63a23 and 63a28 of the Civil Administrative Code of Illinois [20 ILCS 805/63a23 and 63a28].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2005

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

F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way
Springfield IL 62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

b) Part(s) (Heading and Code Citation): General Hunting and Trapping on Department-Owned or –Managed Sites – 17 Ill. Adm. Code 510

1) Rulemaking:

A) Description: This Part will be amended to update regulations for the 2006 Hunting Season.

B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 of the Wildlife Code [520
DEPARTMENT OF NATURAL RESOURCES

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ILCS 5/1.2, 1.3, 1.4, 1.13, 1.20, 2.1, 2.2, 2.6, 2.7, 2.9, 2.13, 2.18, 2.20, 2.24, 2.25, 2.26, 2.27, 2.28, 2.30, 2.33 and 3.5 and by Section 805-515 of the Civil Administrative Code of Illinois [20 ILCS 805/805-515].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: November 2005

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

F) Agency contact person for information:
   Name: Jack Price, Legal Counsel
   Address: One Natural Resources Way
            Springfield IL 62702-1271
   Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

c) Part(s) (Heading and Code Citation): Scientific Permits – 17 Ill. Adm. Code 520

   1) Rulemaking:

   A) Description: This Part was last amended in 1990. Amendments are necessary to update application requirements, permit regulations and statutory citations.

   B) Statutory Authority: Implementing and authorized by Sections 1-120, 1-135 and 20-100 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-135, 20-100] and Sections 1.2, 1.3, 2.1, 2.4, 3.22 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 2.1, 2.4, 3.22 and 3.26].

   C) Scheduled meeting/hearing dates: None

   D) Date agency anticipates First Notice: November 2005

   E) Affect on small businesses, small municipalities or not for profit corporations: None
DEPARTMENT OF NATURAL RESOURCES

JULY 2005 REGULATORY AGENDA

F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way
         Springfield IL  62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

d) Part(s) (Heading and Code Citation): Special Purpose Permits – 17 Ill. Adm. Code 522

1) Rulemaking:

A) Description: This new Part establishes regulations for wildlife rehabilitation special purpose permittees.

B) Statutory Authority: Implementing and authorized by Sections 1-125, 5-5, 20-100 and 20-105 of the Fish and Aquatic Life Code [515 ILCS 5/1-125, 5-5, 20-100 and 20-105] and Sections 2.1, 3.22 and 3.36 of the Wildlife Code [520 ILCS 5/2.1, 3.22 and 3.36].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: November 2005

E) Affect on small businesses, small municipalities or not for profit corporations: Yes, will have an impact on wildlife rehabilitators

F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way
         Springfield IL  62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

e) Part(s) (Heading and Code Citation): Disease Free Certification and Quarantine Provisions for Propagation, Release, Importation, Exportation and Transportation of Game Mammals, Game Birds or Exotic Wildlife – 17 Ill. Adm. Code 630
1) Rulemaking:

A) Description: This Part was last amended in 1981. Amendments are necessary to update regulations.

B) Statutory Authority: Implementing and authorized by Sections 1.10, 3.23, 3.25, 3.27, 3.34 and 3.36 of the Wildlife Code [520 ILCS 5/1.10, 3.23, 3.25, 3.27, 3.34 and 3.36].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: October 2005

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

F) Agency contact person for information: Name: Jack Price, Legal Counsel
Address: One Natural Resources Way
Springfield IL 62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

f) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting By Use of Firearms – 17 Ill. Adm. Code 650

1) Rulemaking:

A) Description: This Part is amended annually to update the rule for the yearly hunting season. Amendments include updating application/permit requirements, firearm requirements, Statewide regulations, sites open to hunting and site-specific information.

B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

C) Scheduled meeting/hearing dates: None
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D) Date agency anticipates First Notice: August 2005

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

F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way
Springfield IL 62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

g) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting by Use of Muzzleloading Rifles – 17 Ill. Adm. Code 660

1) Rulemaking:

A) Description: This Part is amended annually to update the rule for the yearly hunting season. Amendments include updating application/permit requirements, muzzleloading rifle requirements, Statewide regulations, sites open to hunting and site-specific information.

B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26, 2.33 and 3.36].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2005

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

F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way
Springfield IL 62702-1271
DEPARTMENT OF NATURAL RESOURCES

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Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

h) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting by Use of Bow and Arrow – 17 Ill. Adm. Code 670

1) Rulemaking:

A) Description: This Part is amended annually to update the rule for the yearly hunting season. Amendments include updating open seasons and counties, sites and site-specific information, hunting regulations, permit requirements and harvest reporting requirements.

B) Statutory Authority: Implementing and authorized by Sections 1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33 3.5 and 3.36 of the Wildlife Code [520 ILCS 5/1.2, 1.3, 1.4, 2.1, 2.2, 2.24, 2.25, 2.26, 2.33, 3.5 and 3.36].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: December 2005

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

F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way
         Springfield IL   62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

i) Part(s) (Heading and Code Citation): White-Tailed Deer Hunting by Use of Handguns – 17 Ill. Adm. Code 680

1) Rulemaking:
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A) Description: This Part is amended for the annual hunting season. Amendments include updating Statewide requirements, permit requirements and hunting regulations.

B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 1.13, 2.24, 2.25, 2.26 and 3.36].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2005

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

F) Agency contact person for information:
   Name: Jack Price, Legal Counsel
   Address: One Natural Resources Way
            Springfield IL 62702-1271
   Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

j) Part(s) (Heading and Code Citation): Youth Hunting Season – 17 Ill. Adm. Code 685

1) Rulemaking:

A) Description: This Part will be amended to repeal language regarding youth hunting which has been incorporated into the Part governing hunting of that species.

B) Statutory Authority: Implementing and authorized by Sections 1.3, 1.4, 2.24, 2.25, 2.26 and 3.36 of the Wildlife Code [520 ILCS 5/1.3, 1.4, 2.24, 2.25, 2.26 and 3.36].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2005
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E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:
   Name: Jack Price, Legal Counsel
   Address: One Natural Resources Way
   Springfield IL 62702-1271
   Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

k) Part(s) (Heading and Code Citation): The Taking of Wild Turkeys – Spring Season – 17 Ill. Adm. Code 710

1) Rulemaking:

A) Description: This Part will be amended for the 2006 hunting season. Changes include removing language pertaining to issuance of free permits to bona fide equity members of limited liability companies, and updating hunting season dates, information on landowner/tenant permits, hunting regulations, sites open for hunting and site specific information.

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

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2005

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

F) Agency contact person for information:
   Name: Jack Price, Legal Counsel
   Address: One Natural Resources Way
   Springfield IL 62702-1271
   Telephone: 217/782-1809
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G) Related rulemakings and other pertinent information: None

l) Part(s) (Heading and Code Citation): Sport Fishing Regulations for the Waters of Illinois – 17 Ill. Adm. Code 810

1) Rulemaking:

A) Description: This Part is amended on an annual basis to update site specific fishing regulations, individual site specific fishing regulations by water area and Free Fishing Days.

B) Statutory Authority: Implementing and authorized by Sections 1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-120, 1-125, 1-150, 5-5, 10-5, 10-10, 10-15, 10-20, 10-25, 10-30, 10-35, 10-45, 10-50, 10-60, 10-75, 10-90, 10-95, 15-50, 20-5, 20-35 and 25-5].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: November 2005

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

F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way Springfield IL 62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

m) Part(s) (Heading and Code Citation): Fish Salvage – 17 Ill. Adm. Code 860

1) Rulemaking:
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A) Description: This Part has not been amended since 1983. The Department plans to propose amendments to update an old statutory citation.


C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: October 2005

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

F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way Springfield IL 62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

n) Part(s) (Heading and Code Citation: Fish Removal With Chemicals—17 Ill. Adm. Code 890

1) Rulemaking:

A) Description: This Part has not been amended since 1992. The Department plans to propose amendments to update an old statutory citation.

B) Statutory Authority: Implementing and authorized by Sections 1-135, 1-150 and 5-5 of the Fish and Aquatic Life Code [515 ILCS 5/1-135, 1-150 and 5-5].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: October 2005
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E) Affect on small businesses, small municipalities or not for profit corporations: None

F) Agency contact person for information:
   Name: Jack Price, Legal Counsel
   Address: One Natural Resources Way
            Springfield IL 62702-1271
   Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

o) Part(s) (Heading and Code Citation): Incidental Taking of Endangered or Threatened Species – 17 Ill. Adm. Code 1080

   1) Rulemaking:

      A) Description: The Department plans to amend this rule to add language regarding dimidius taking.

      B) Statutory Authority: Implementing and authorized by Section 5.5 of the Illinois Endangered Species Protection Act [520 ILCS 10/5.5].

      C) Scheduled meeting/hearing dates: None

      D) Date agency anticipates First Notice: December 2005

      E) Affect on small businesses, small municipalities or not for profit corporations: No

      F) Agency contact person for information:
         Name: Jack Price, Legal Counsel
         Address: One Natural Resources Way
                  Springfield IL 62702-1271
         Telephone: 217/782-1809

      G) Related rulemakings and other pertinent information: None

p) Part(s) (Heading and Code Citation): Conservation Reserve Enhancement Program (CREP) – 17 Ill. Adm. Code 1515
1) Rulemaking:

A) Description: This Part is being amended to update CRP practices eligible for use on the CREP enrollments to receive cost-share assistance and to update information on permanent easements, cost-share payments and mechanics of payment.

B) Statutory Authority: Implementing and authorized by the Intergovernmental Cooperation Act [5 ILCS 220], the Soil and Water Conservation Districts Act [70 ILCS 405], the Fish and Aquatic Life Code [515 ILCS 5], the Wildlife Code [520 ILCS 5], the Real Property Conservation Rights Act [765 ILCS 120], and the Civil Administrative Code of Illinois (Part 13.5) [20 ILCS 805/Part 13.5].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: September 2005

E) Affect on small businesses, small municipalities or not for profit corporations: Landowners, governmental entities and non-governmental organizations participate in this program which addresses watershed quality problems.

F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way
Springfield IL 62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

q) Part(s) (Heading and Code Citation): Urban and Community Forestry Grant Program – 17 Ill. Adm. Code 1538

1) Rulemaking:
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A) Description: This Part will be amended to change the title of the Part and to amend Section 1538.5 to more effectively cover the extent of services outlined in the Urban Forestry Assistance Act.

B) Statutory Authority: Implementing and authorized by the Urban and Community Forestry Assistance Act [30 ILCS 735].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: August 2005

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

F) Agency contact person for information:
   Name: Jack Price, Legal Counsel
   Address: One Natural Resources Way
             Springfield IL 62702-1271
   Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

r) Part(s) (Heading and Code Citation): Falconry and the Captive Propagation of Raptors – 17 Ill. Adm. Code 1590

1) Rulemaking:

   A) Description: The Department anticipates that the federal government will make changes to their regulations this year. If so, amendments to this Part will be necessary.

   B) Statutory Authority: Implementing and authorized by the Timber Buyers Licensing Act [225 ILCS 735]

   C) Scheduled meeting/hearing dates: None

   D) Date agency anticipates First Notice: December 2005

   E) Affect on small businesses, small municipalities or not for profit corporations: No
DEPARTMENT OF NATURAL RESOURCES

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F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way
Springfield IL  62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None

s) Part(s) (Heading and Code Citation): Interstate Wildlife Violator Compact – 17 Ill. Adm. Code 2535

1) Rulemaking:

A) Description: This new rule will contain rules for entering into interstate compacts concerning conservation law violators with one or more states.

B) Statutory Authority: Implementing and authorized by 20 ILCS 805/805-545

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: December 2005

E) Affect on small businesses, small municipalities or not for profit corporations: No

F) Agency contact person for information:
Name: Jack Price, Legal Counsel
Address: One Natural Resources Way
Springfield IL  62702-1271
Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: 17 IAC 2530 – Department Revocation Procedures

t) Part(s) (Heading and Code Citation): Off-Highway Vehicle Recreational Trails Grant Program – 17 Ill. Adm. Code 3045
1) Rulemaking:

A) Description: The Department plans to amend this rule to add provisions regulating to the sale of land following receipt of a grant.

B) Statutory Authority: Implementing and authorized by Section 15 of the Recreational Trails of Illinois Act [20 ILCS 862/15].

C) Scheduled meeting/hearing dates: None

D) Date agency anticipates First Notice: December 2005

E) Affect on small businesses, small municipalities or not for profit corporations: No

F) Agency contact person for information:
   Name: Jack Price, Legal Counsel
   Address: One Natural Resources Way
             Springfield IL  62702-1271
   Telephone: 217/782-1809

G) Related rulemakings and other pertinent information: None
a) Part: Income Tax, 86 Ill. Adm. Code 100

1) Rulemaking:

A) Description: New rules will be added to Part 100 concerning the tax credit for Tech Prep Youth Vocational Programs (IITA Section 209); the reallocation of items under IITA Section 404; pass-through of investment credits from partnerships and Subchapter S corporations to their partners and shareholders; filing of refund claims, offsets of refunds against other liabilities and other collection matters, statutes of limitations, and interest computations.

Part 100 will be amended by adding rules and amending existing rules governing the allocation and apportionment of income under Article 3 of the IITA.

Part 100 will be amended to update the provisions defining unitary business groups and computing the combined tax liability of unitary business groups.

Part 100 will be amended by adding rules providing guidance on the addition and subtraction modifications allowed in IITA Section 203, on the credit for residential property taxes paid in IITA Section 208, on the acceptance of substitute W-2s, rounding amounts on returns to the nearest dollar and on the issue of when a taxpayer is subject to tax in another state under IITA Section 303(f).

Part 100 will be amended by updating the provisions for credits for taxes paid to other states, innocent spouse relief, exempt income, and subtractions for medical savings accounts to reflect changes in relevant laws and to address new issues.

Part 100 will be amended to provide guidance for payment of estimated taxes during short taxable years, during years in which marital status changes, and for computation of penalties for late payment of estimated taxes.

Part 100 will be amended to clarify definitions of terms in IITA Section 1501(a).
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Part 100 will be amended to implement legislation enacted in 2004 and 2005, including the tax shelter registration and disclosure provisions and penalties for noncompliance, the definition of business income, recapture of business expenses, disallowance of deductions for payments to 80-20 companies, and investment partnership provisions.

Finally, the Department will continue the updating and correction of Part 100.

B) Statutory Authority: 35 ILCS 5/101 and 35 ILCS 5/1401

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 100 over the next six months. We anticipate filing rulemakings amending Part 100 on a regular basis during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: These rulemakings will affect any business that incurs an income tax filing obligation.

F) Agency contact person for information:

    Paul S. Caselton
    Deputy General Counsel, Income Tax
    Illinois Department of Revenue
    101 W. Jefferson, 5-500
    Springfield, IL 62794
    Telephone: (217) 782-7055

G) Related rulemakings and other pertinent information: None

b) Part: Retailers' Occupation Tax, 86 Ill. Adm. Code 130

1) Rulemaking:
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A) **Description:** Amendments will be made to update the Retailers’ Occupation Tax regulations to reflect new statutory developments, decisional law and Department policies. Rulemakings are also promulgated as part of the Department’s continuing effort to codify policies contained in various letter rulings. Some of the highlights of these changes include:

1. Revision of Section 130.340, governing the rolling stock exemption, in response to changes to that exemption made by Public Act 93-1033.

2. Revision of Section 130.605 to reflect the provisions of Public Act 93-1068. That act provides that the exemption generally available to nonresidents that purchase motor vehicles in Illinois that will not be titled here does not apply if the state in which the motor vehicle will be titled does not allow a reciprocal exemption for the use in that state of a motor vehicle sold and delivered in that state to an Illinois resident who will title that vehicle in Illinois. This section will also be amended to provide that driveaway decals may not be issued to specified types of vehicles, including, but not limited to, all-terrain vehicles along with a similar reference in Section 130.120(m).

3. Revision of Section 130.415 (transportation and delivery charges) to add examples and to clarify the requirement of a separate agreement between seller and purchaser, particularly in the case of Internet, mail order, telephone and television orders.

4. Promulgation of a regulation explaining the taxation of seminar materials.

5. Amendment of Section 130.2145 to explain the tax liability of hotels for room rental charges made in connection with events during which food is provided by the hotels, such as conferences and weddings.

6. Amendment of Section 130.310 governing taxation of food, drugs and medical appliances to clarify the manner in which the tax rate on food is determined and to clarify the manner in which the exemption for drugs and medical appliances is administered.

7. Amendment of Section 130.2005 regarding nonprofit service enterprises to clarify how tax-exempt organizations handle
fundraising events other than occasional dinners and bake sales and similar events.

8. Amendment of Section 130.325 regarding the graphic arts equipment exemption to clarify how the exemption applies when a purchase involve multiple payments or multiple deliveries.

9. The Department anticipates creating a new section regarding the intermodal facilities building materials exemption that will be created by Senate Bill 572.

10. Amendment of Section 130.2013 regarding the lessors credit to clarify the how the credit is reported to the customer who is purchasing the previously leased item.

11. Amendment of Section 130.2165 regarding veterinarians to clarify when the tax is applicable in situations involving over-the-counter transactions versus service transactions.

B) Statutory Authority: 35 ILCS 120

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 130 over the next six months. We anticipate filing rulemakings amending Part 130 on a regular basis during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Small businesses that sell tangible personal property at retail will be affected by these regulations. Transportation companies and their suppliers will be affected by the rolling stock regulations. Restaurants, grocers and other establishments selling food products will be affected by changes to Section 130.310, as will persons selling drugs and medical appliances. Businesses selling motor vehicles will be affected by the changes proposed to Section 130.605. Hotels will be affected by the changes proposed to Section 130.2145. Tax exempt organizations will be affected by the changes proposed to Section 130.2005. Sellers of all-terrain vehicles (ATVs) will be affected by the changes proposed to Section 130.120 and 130.605.
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F) Agency contact person for information:

   Jerilynn Gorden
   Deputy General Counsel, Sales & Excise Tax
   Illinois Department of Revenue
   101 W. Jefferson, 5-500
   Springfield, IL 62794
   Telephone: (217) 782-2844

G) Related rulemakings and other pertinent information:  None

c) Part: Service Occupation Tax, 86 Ill. Adm. Code 140

1) Rulemaking:

A) Description: Amendments will be made as part of a general update to clarify application of the Service Occupation Tax and to reflect recent decisional law, statutory changes and Department policy.

B) Statutory Authority: 35 ILCS 115

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: As noted above, there will be a number of rulemakings proposed with respect to Part 140 over the next six months. We anticipate filing rulemakings amending Part 140 on a regular basis during the next six months of this year.

E) Effect on small business, small municipalities or not-for-profit corporations: Servicemen transferring tangible personal property incident to service will be affected by these rules.

F) Agency contact person for information:

   Jerilynn Gorden
   Deputy General Counsel, Sales and Excise Tax
   Illinois Department of Revenue
   101 W. Jefferson, 5-500
   Springfield, IL 62794
DEPARTMENT OF REVENUE

JULY, 2005 REGULATORY AGENDA

Telephone: (217) 782-2844

G) Related rulemakings and other pertinent information: None


1) Rulemaking:

   A) Description: Amendments will be made to update the Use Tax regulations to reflect new statutory developments, decisional law and Department policies. Examples include regulations that set forth the Department’s policies regarding the types of activities and relationships that establish nexus for Use Tax collection.

   B) Statutory Authority: 35 ILCS 105

   C) Scheduled meetings/hearing dates: No schedule has been established at this time.

   D) Date agency anticipates First Notice: We anticipate filing rulemakings amending Part 150 during the next six months of this year.

   E) Effect on small business, small municipalities or not for profit corporations: These amendments will affect persons subject to the Use Tax.

   F) Agency contact person for information:

          Jerilynn Gorden
          Deputy General Counsel, Sales and Excise Tax
          Illinois Department of Revenue
          101 W. Jefferson, 5-500
          Springfield, IL 62794
          Telephone: (217) 782-2844

   G) Related rulemakings and other pertinent information: None


1) Rulemaking:
A) **Description:** Amendments will be made to update the Service Use Tax regulations to reflect new statutory developments, decisional law and Department policies.

B) **Statutory Authority:** 35 ILCS 110

C) **Scheduled meetings/hearing dates:** No schedule has been established at this time.

D) **Date agency anticipates First Notice:** We anticipate filing rulemakings amending Part 160 during the next six months of this year.

E) **Effect on small business, small municipalities or not for profit corporations:** These amendments will affect persons subject to the Service Use Tax, including persons required to collect Use Tax from Illinois purchasers.

F) **Agency contact person for information:**

   Jerilynn Gorden  
   Deputy General Counsel, Sales and Excise Tax  
   Illinois Department of Revenue  
   101 W. Jefferson, 5-500  
   Springfield, IL 62794  
   Telephone: (217) 782-2844

G) **Related rulemakings and other pertinent information:** None

f) **Part:** Informal Conference Board, 86 Ill. Adm. Code 215

   1) **Rulemaking:**

   A) **Description:** Part 215 will be amended to update the guidelines for operation of the Department of Revenue’s Informal Conference Board, and add a new rule which will limit a taxpayer’s ability to request informal review within the Office of Administrative Hearings under Reg. Sec. 200.135 if the taxpayer has received an Informal Conference Board Decision which addresses the merits of the proposed audit adjustments.
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B) **Statutory Authority**: 20 ILCS 2505/2505-510

C) **Scheduled meetings/hearing dates**: No schedule has been established at this time.

D) **Date agency anticipates First Notice**: We anticipate filing these rulemakings during the next six months of this year.

E) **Effect on small business, small municipalities or not for profit corporations**: These rulemakings will affect any taxpayer that has been audited by the Department of Revenue.

F) **Agency contact person for information**:

   Louise Calvert  
   Administrator, Informal Conference Board  
   Illinois Department of Revenue  
   100 W. Randolph St., 7-341  
   Chicago, Illinois 60601  
   Telephone: (312) 814-1722

G) **Related rulemakings and other pertinent information**: None

**g) Part**: Bingo License and Tax Act, 86 Ill. Adm. Code 430

1) **Rulemaking**:

   A) **Description**: Regulations will be updated to reflect the provisions of Public Act 93-742, which authorizes the Department to issue 3-year bingo licenses, including a regular licenses, limited licenses or senior citizen restricted licenses. The regulations will also be amended to clarify record keeping requirements and the documentation required for a license application.

   B) **Statutory Authority**: 230 ILCS 25/1

   C) **Scheduled meetings/hearing dates**: No schedule has been established at this time.

   D) **Date agency anticipates First Notice**: We anticipate filing rulemakings during the next six months of this year.
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E) **Effect on small business, small municipalities or not for profit corporations:**
Entities eligible for bingo licenses will be affected by this rulemaking.

F) **Agency contact person for information:**

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-2844

G) **Related rulemakings and other pertinent information:** There are no related rulemakings.

h) **Part:** Pull Tabs and Jar Games, 86 Ill. Adm. Code 432

1) **Rulemaking:**

A) **Description:** Regulations will be amended to clarify record keeping requirements and the documentation required for a license application.

B) **Statutory Authority:** 230 ILCS 20/1

C) **Scheduled meetings/hearing dates:** No schedule has been established at this time.

D) **Date agency anticipates First Notice:** We anticipate filing rulemakings during the next six months of this year.

E) **Effect on small business, small municipalities or not for profit corporations:**
Entities eligible for pull tabs and jar games licenses will be affected by this rulemaking.

F) **Agency contact person for information:**

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
H) Related rulemakings and other pertinent information: There are no related rulemakings.

i) Part: Charitable Games, 86 Ill. Adm. Code 435

1) Rulemaking:

A) Description: Regulations will be amended to clarify record keeping requirements and the documentation required for a license application.

B) Statutory Authority: 230 ILCS 30/1

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Entities eligible for a charitable games license will be affected by this rulemaking.

F) Agency contact person for information:

Jerilynn Gorden
Deputy General Counsel, Sales and Excise Tax
Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-2844

I) Related rulemakings and other pertinent information: There are no related rulemakings.

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1) Rulemaking:

   A) Description: Regulations will be updated to reflect new statutory provisions, decisional law and Department policy. Examples include:

   1. Regulations that explain the manner in which DSL services are taxed.

   2. Regulations that explain the taxation of telecommunications that are provided by cable and satellite television companies as part of internet access services and the taxation of Voice Over Internet Protocol (VOIP).


   4. Regulations that explain the telecommunications tax liabilities involved when multiple parties are joined together in different conference calling arrangements.

   B) Statutory Authority: 35 ILCS 630; Public Acts 92-526; 92-0602; 92-878 and 93-286.

   C) Scheduled meetings/hearing dates: No schedule has been established at this time.

   D) Date agency anticipates First Notice: We anticipate filing rulemakings to Par 495 during the next six months of this year.

   E) Effect on small business, small municipalities or not for profit corporations: Retailers of telecommunications and their telecommunications customers will be affected by these regulations.

   F) Agency contact person for information:

       Jerilynn Gorden
       Deputy General Counsel, Sales and Excise Tax
       Illinois Department of Revenue

1) Rulemaking:

A) Description: Regulations will be updated to reflect new statutory provisions, new provisions and procedures under the International Fuel Tax Agreement, and changes in Department procedures.

B) Statutory Authority: 35 ILCS 505/14

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings to Part 500 during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Motor fuel distributors, suppliers and receivers, as well as persons licensed under the International Fuel Tax Agreement, will be affected by these regulations.

F) Agency contact person for information:

    Jerilynn Gorden  
    Deputy General Counsel, Sales and Excise Tax  
    Illinois Department of Revenue  
    101 W. Jefferson, 5-500  
    Springfield, IL 62794  
    Telephone: (217) 782-2844

G) Related rulemakings and other pertinent information: There are no related rulemakings.
DEPARTMENT OF REVENUE

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   1) Rulemaking:

      A) Description: The Department anticipates that regulations will be amended to reference the increase in the maximum tax rate authorized from ½% to 1% pursuant to Senate Bill 272.

      B) Statutory Authority: 65 ILCS 5/8-11-1.1; 65 ILCS 5/8-11-1.3.

      C) Scheduled meetings/hearing dates: No schedule has been established at this time.

      D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

      E) Effect on small business, small municipalities or not for profit corporations: Non-home rule municipalities are authorized to impose the tax at a maximum rate of 1% (formerly ½ %). All businesses that are engaged in making sales of tangible personal property at retail in such non-home rule municipalities will be subject to tax at a maximum rate of 1% (formerly ½%).

      F) Agency contact person for information:

         Jerilynn Gorden
         Deputy General Counsel, Sales and Excise Tax
         Illinois Department of Revenue
         101 W. Jefferson, 5-500
         Springfield, IL 62794
         Telephone: (217) 782-2844

      G) Related rulemakings and other pertinent information: Similar rulemakings will be proposed for 86 Ill. Adm. Code Part 694.


   1) Rulemaking:
DEPARTMENT OF REVENUE

JULY, 2005 REGULATORY AGENDA

A) **Description**: The Department anticipates that regulations will be amended to reference the increase in the maximum tax rate authorized from ½% to 1% pursuant to Senate Bill 272.

B) **Statutory Authority**: 65 ILCS 5/8-11-1.1; 65 ILCS 5/8-11-1.4.

C) **Scheduled meetings/hearing dates**: No schedule has been established at this time.

D) **Date agency anticipates First Notice**: We anticipate filing rulemakings during the next six months of this year.

E) **Effect on small business, small municipalities or not for profit corporations**: Non-home rule municipalities are authorized to impose the tax at a maximum rate of 1% (formerly ½%). All businesses that are engaged in making sales of service when tangible personal property is transferred incident to those sales of service in such non-home rule municipalities will be subject to tax at a maximum rate of 1% (formerly ½%).

F) **Agency contact person for information**:

   Jerilynn Gorden  
   Deputy General Counsel, Sales and Excise Tax  
   Illinois Department of Revenue  
   101 W. Jefferson, 5-500  
   Springfield, IL 62794  
   Telephone: (217) 782-2844

G) **Related rulemakings and other pertinent information**: Similar rulemakings will be proposed for 86 Ill. Adm. Code Part 693.

n) **Part**: Payment of Taxes by Electronic Funds Transfer, 86 Ill. Adm. Code 750

   1) **Rulemaking**:

      A) **Description**: Regulations will be amended to provide that electronic payments initiated on or before the due date are deemed timely with the Department.

      B) **Statutory Authority**: 20 ILCS 2505/2505-210.
DEPARTMENT OF REVENUE

JULY, 2005 REGULATORY AGENDA

C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Persons making payment by electronic funds transfer will be affected by these regulations.

F) Agency contact person for information:

    Jerilynn Gorden
    Deputy General Counsel, Sales and Excise Tax
    Illinois Department of Revenue
    101 W. Jefferson, 5-500
    Springfield, IL 62794
    Telephone: (217) 782-2844

G) Related rulemakings and other pertinent information: Similar rulemakings will be proposed for 86 Ill. Adm. Code Parts 760 and 770.

o) Part: Electronic Filing of Returns or Other Documents, 86 Ill. Adm. Code 760

1) Rulemaking:

   A) Description: Regulations will be amended to provide that electronic payments initiated on or before the due date are deemed timely with the Department. A cross-reference to the current discounts for electronically filed liquor returns will also be added to the regulations.


   C) Scheduled meetings/hearing dates: No schedule has been established at this time.

   D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.
DEPARTMENT OF REVENUE

JULY, 2005 REGULATORY AGENDA

E) Effect on small business, small municipalities or not for profit corporations: Persons making payments by electronic funds transfer will be affected by these regulations.

F) Agency contact person for information:

   Jerilynn Gorden
   Deputy General Counsel, Sales and Excise Tax
   Illinois Department of Revenue
   101 W. Jefferson, 5-500
   Springfield, IL 62794
   Telephone: (217) 782-2844

G) Related rulemakings and other pertinent information: Similar rulemakings will be proposed for 86 Ill. Adm. Code Parts 750 and 770.


1) Rulemaking:

A) Description: Regulations will be amended to provide that electronic payments initiated on or before the due date are deemed timely with the Department.


C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Persons using the TeleFile program who make payment by electronic funds transfer will be affected by these rules.

F) Agency contact person for information:

   Jerilynn Gorden
   Deputy General Counsel, Sales and Excise Tax
DEPARTMENT OF REVENUE

JULY, 2005 REGULATORY AGENDA

Illinois Department of Revenue
101 W. Jefferson, 5-500
Springfield, IL 62794
Telephone: (217) 782-2844

G) Related rulemakings and other pertinent information: Similar rulemakings will be proposed for 86 Ill. Adm. Code Parts 750 and 760.

q) Part: New Part Governing Internet Filing of Sales and Use Tax Returns

1) Rulemaking:

A) Description: Regulations will be promulgated to provide the specific procedures and requirements for persons using an Internet-based system to file sales and use tax returns.


C) Scheduled meetings/hearing dates: No schedule has been established at this time.

D) Date agency anticipates First Notice: We anticipate filing rulemakings during the next six months of this year.

E) Effect on small business, small municipalities or not for profit corporations: Persons using the Internet to file sales and use tax returns will be affected by these rules.

F) Agency contact person for information:

    Jerilynn Gorden
    Deputy General Counsel, Sales and Excise Tax
    Illinois Department of Revenue
    101 W. Jefferson, 5-500
    Springfield, IL 62794
    Telephone: (217) 782-2844

G) Related rulemakings and other pertinent information: None.

r) Part: New Part Governing Business District Taxes
1) **Rulemaking:**

A) **Description:** Regulations will be promulgated to set out specific procedures and requirements for the business district taxes authorized by P.A 93-1053.

B) **Statutory Authority:** 65 ILCS 5/11-74.3-6.

C) **Scheduled meetings/hearing dates:** No schedule has been established at this time.

D) **Date agency anticipates First Notice:** We anticipate filing rulemakings during the next six months of this year.

E) **Effect on small business, small municipalities or not for profit corporations:** Municipalities are authorized to impose these taxes within business districts established by those municipalities. All businesses that are engaged in making sales of tangible personal property at retail and sales of service when tangible personal property is transferred incident to those sales of service within a business district where those taxes are imposed will be subject to those taxes.

F) **Agency contact person for information:**

   Jerilynn Gorden  
   Deputy General Counsel, Sales and Excise Tax  
   Illinois Department of Revenue  
   101 W. Jefferson, 5-500  
   Springfield, IL 62794  
   Telephone: (217) 782-2844

G) **Related rulemakings and other pertinent information:** None.
Part(s) (Heading and Code Citation): Dependency of Beneficiaries (80 Ill. Adm. Code 1600.20)

1) Rulemaking: No docket number presently assigned.

   A) Description: Modification of current dependency rule to clarify elements of dependency and the burden of proof.


   C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register. No public hearing is anticipated.

   D) Date agency anticipates First Notice:

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

   F) Agency contact person for information:

      Name: Dan M. Slack, General Counsel  
      1901 Fox Drive  
      Champaign, IL  61820  
      Telephone: (217) 378-8855

   G) Related rulemakings and other pertinent information:

Part(s) (Heading and Code Citation): Freedom of Information Act (80 Ill. Adm. Code 1600.100)

1) Rulemaking: No docket number presently assigned.

   A) Description: A revision to the current rule further defining “public records” and describing “personal information” under paragraph f (2)(A).
JULY 2005 REGULATORY AGENDA

B) **Statutory Authority:** Article 15 of the Illinois Pension Code, 40 ILCS 5/15-177.

C) **Scheduled meeting/hearing dates:** Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearing is anticipated.

D) **Date agency anticipates First Notice:** March 2005

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

F) **Agency contact person for information:**

   Name: Dan M. Slack, General Counsel  
   Address: State Universities Retirement System  
            1901 Fox Drive  
            Champaign, IL  61820  
   Telephone: (217) 378-8855

G) **Related rulemakings and other pertinent information:**

   c) **Part(s) (Heading and Code Citation):** Procurement (80 Ill. Adm. Code 1600.130)

   1) **Rulemaking:** No docket number presently assigned.

      A) **Description:** A revision will be made to the current rule regarding investment management.

      B) **Statutory Authority:** Article 15 of the Illinois Pension Code, 40 ILCS 5/15-177.

      C) **Scheduled meeting/hearing dates:** Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearing is anticipated.

      D) **Date agency anticipates First Notice:** March 2005
STATE UNIVERSITIES RETIREMENT SYSTEM
OF THE STATE OF ILLINOIS

JULY 2005 REGULATORY AGENDA

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

F) Agency contact person for information:

Name: Dan M. Slack, General Counsel
Address: State Universities Retirement System
        1901 Fox Drive
        Champaign, IL  61820
Telephone: (217) 378-8855

G) Related rulemakings and other pertinent information:

d) Part(s) (Heading and Code Citation): Twenty Percent Limit on Final Rate of Earnings Increases (80 Ill. Adm. Code 1600.120)

1) Rulemaking: No docket number presently assigned.

   A) Description: Revise the current 20% limit rule to provide clearer guidelines to employers, participants and others regarding the application of the 20% limit.


   C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register. No public hearing is anticipated.

   D) Date agency anticipates First Notice: March 2005

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

   F) Agency contact person for information:

       Name: Dan M. Slack, General Counsel
STATE UNIVERSITIES RETIREMENT SYSTEM
OF THE STATE OF ILLINOIS

JULY 2005 REGULATORY AGENDA

Address: State Universities Retirement System
1901 Fox Drive
Champaign, IL  61820
Telephone:  (217) 378-8855

G) Related rulemakings and other pertinent information:

e)  Part(s) (Heading and Code Citation):  Making Preliminary Estimated Payments
     (80 Ill. Adm. Code 1600.140)

1)  Rulemaking:  No docket number presently assigned.

    A)  Description:  Revise the current rule on Making Preliminary Estimated Payments to include procedures for holding payments when the member has not responded to informational requests.


    C)  Scheduled meeting/hearing dates:  Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the Illinois Register. No public hearing is anticipated.

    D)  Date agency anticipates First Notice:  September 2005

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

    F)  Agency contact person for information:

        Name:   Dan M. Slack, General Counsel
        Address:  State Universities Retirement System
                   1901 Fox Drive
                   Champaign, IL  61820
        Telephone:  (217) 378-8855

    G)  Related rulemakings and other pertinent information:
f) Part(s) (Heading and Code Citation): Document Retention (80 Ill. Adm. Code 1600.15)

1) Rulemaking: No docket number presently assigned.

A) Description: A Section to set forth retention periods for the various categories of documents used by the System in business operations.


C) Scheduled meeting/hearing dates: Written comments may be submitted during the 45-day public comment period following publication of the proposed rule in the *Illinois Register*. No public hearing is anticipated.

D) Date agency anticipates First Notice: September 2005

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

F) Agency contact person for information:

   Name: Dan M. Slack, General Counsel
   Address: State Universities Retirement System
            1901 Fox Drive
            Champaign, IL  61820
   Telephone: (217) 378-8855

G) Related rulemakings and other pertinent information:
POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

LISTINGS OF ADJUSTED STANDARDS AND COMBINED SEWER OVERFLOW
EXCEPTIONS GRANTED BY THE BOARD DURING FISCAL YEAR 2005

Section 28.1(d)(3) of the Environmental Protection Act (Act) (415 ILCS 5/28.1(d)(3) (2004)) requires the Board to annually publish in the Illinois Register and Environmental Register a listing of all determinations made pursuant to Section 28.1 at the end of each fiscal year. This notice sets forth all adjusted standard and combine sewer overflow exception determinations made by the Board during the fiscal year 2005 (July 1, 2004, through June 30, 2005).

Final Actions Taken by the Pollution Control Board in Adjusted Standards Proceedings
During Fiscal Year 2005 (July 1, 2004 through June 30, 2005)

Docket/Docket Title


Final Determination

The Board granted Prairie Material Sales’ motion to voluntarily withdraw this petition for an adjusted standard from various of the Board’s regulations to allow permit issuance for the on-site disposal of cement kiln dust in an old surface mine at the Dixon. Lee County facility.


Final Determination

The Board granted this West Frankfurt, Franklin County facility an adjusted standard, subject to certain conditions, from certain volatile organic material (VOM) requirements related to the materials and methods the company uses to manufacture fiberglass boats. The adjusted standard exempts the facility from the requirement found at 35 Ill. Adm. Code 215.301, which limits organic material emissions to being no more than 8lb/hr.

In the Matter Of: Petition of Noveon, Inc. for an adjusted standard from 35 Ill. Adm. Code 304.122 (November 4, 2004), AS 02-05

Final Determination

The Board granted this Henry, Marshall County specialty chemicals manufacturing facility an adjusted standard, subject to conditions, expiring November 4, 2011. The adjusted standard raises the level of allowable total ammonia nitrogen concentrations in the
POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

In the Matter Of: Petition of Hayden Wrecking Corporation for an Adjusted Standard from 35 Ill. Adm. Code 620.410(a) (January 6, 2005), AS 04-03

Hayden Wrecking Corporation petitioned for an adjusted standard for the discharge of pollutants from two landfills near the intersection of Illinois Route 203 and Interstate Highway 55/70 in St. Clair County. The Board granted Hayden an adjusted standard, subject to conditions, for two landfills covering 13 acres near the intersection of Illinois Route 203 and Interstate Highway 55/70 in St. Clair County. The Board granted relief from Class I groundwater standards for arsenic, lead, iron, and manganese. The site will be used as a parking lot, and the adjusted standard allows Hayden to avoid remediating contamination originating from an upgradient former landfill property Hayden neither owns nor controls.


SCA Tissue North America, L.L.C. petitioned for an adjusted standard for volatile organic material air emission standards. The Board dismissed the petition filed by this Alsip, Cook County recycler of magazines into tissue and toweling products. SCA sought for an adjusted standard from volatile organic material air emission standards, but failed to timely publish the newspaper notice required by Section 28.1(d)(1) of the Act. (Petitioner refiled the petition on February 4, 2005, and it is still pending as AS 5-4.)


Waste Management of Illinois Inc. petitioned for a Resource Conservation and Recovery Act (RCRA) hazardous waste delisting. The Board dismissed the petition for a Resource Conservation and Recovery Act (RCRA) hazardous waste delisting. The waste involved is lime conditioned filter cake from the treatment of hazardous and non-hazardous leachates and wastewaters at the facility in Calumet City, Cook County. The Board found the petition lacking necessary information, including proof of timely publication of the newspaper notice required by Section 28.1(d)(1) of the Act. (Petitioner refiled the petition on June 9, 2005, and it is still pending as AS 5-7.)
NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

In the Matter Of: Petition of Jo’Lyn Corporation and Falcon Waste and Recycling for an Adjusted Standard from 35 Ill. Adm. Code 807 or, in the alternative, A Finding of Inapplicability (April 7, 2005), AS 04-02

The Board denied as unnecessary the petition filed by this Woodstock, McHenry County facility for an adjusted standard from certain solid waste regulations. The Board found that, under the specific circumstances, the asphalt shingles that this facility recycles to make a road-based alternative are not a waste product and are therefore not subject to the Board’s solid waste regulations.

In the Matter Of: Petition of Schaefer Enterprises of Wolf Lake, Inc. for an Adjusted Standard from Tire Storage Rules at 35 Ill. Adm. Code 848.202(b)(5) and 848.404 (May 19, 2005), AS 05-06

The Board dismissed the petition filed on behalf of this Union County salvage yard facility for an adjusted standard from the Board’s regulations that cover storage, maintenance, and financial coverage for the management of used tires. The Board found the petition lacking necessary information, including proof of timely publication of the newspaper notice required by Section 28.1(d)(1) of the Act.

Final Actions Taken by the Pollution Control Board in Combine Sewer Overflow Exception Proceedings During Fiscal Year 2005 (July 1, 2004 through June 30, 2005)

The Board took no action in combined sewer overflow exception proceedings during fiscal year (FY) 2005, as none were filed with the Board or pending during FY 2005.

Address written comments or request copies, noting the appropriate docket number, to:

Name: Dorothy Gunn, Clerk
Address: Pollution Control Board
100 West Randolph Street, Suite 11-500
Chicago, Illinois  60601
Telephone: 312-814-3620

Address questions concerning this notice, noting the appropriate docket number, to:

Name: Erin Conley
Address: Pollution Control Board
POLLUTION CONTROL BOARD

NOTICE OF PUBLIC INFORMATION PURSUANT TO 415 ILCS 5/28.1(d)(3)

1021 North Grand Avenue East
Springfield, Illinois  62794-9274
Telephone:  217-782-2471
Internet:  conleye@ipcb.state.il.us
DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 SECOND QUARTER SUNSHINE INDEX – INCOME TAX

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

   Name of Act: Illinois Department of Revenue Sunshine Act
   Citation: 20 ILCS 2515/1 et seq.

2. Summary of information:

   Index of Department of Revenue income tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 2005. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 2 Ill. Adm. Code 1200.120)

   The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

   Alternative Apportionment  Exempt Organizations
   Apportionment – Sales Factor  Miscellaneous
   Base Income  Public Law 86-272/Nexus
   Collection  Residency/Nonresidency
   Compensation  Subtraction Modifications - Pensions
   Credits – Education  Subtraction Modifications – Other Rulings
   Credits – Foreign Tax
NOTICE OF PUBLIC INFORMATION

2005 SECOND QUARTER SUNSHINE INDEX – INCOME TAX

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1.00 per opinion plus 50 cents per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us.


3. Name and address of person to contact concerning this information:

   Linda Settle
   Illinois Department of Revenue
   Legal Services Office
   101 West Jefferson Street
   Springfield, Illinois 62794
   Telephone: (217) 782-7055

ALTERNATIVE APPORTIONMENT

IT 05-0022-GIL 05/06/2005 Petition contains insufficient evidence of distortion caused by statutory apportionment methods to support grant of permission to use alternative apportionment.

IT 05-0034-GIL 06/22/2005 Petition for alternative apportionment failed to meet its burden of proof to show distortion by the statutory apportionment method or correct apportionment by the proposed alternative.

APPORTIONMENT – SALES FACTOR

IT 05-0020-GIL 05/02/2005 General guidance on determination of the sales factor numerator.

BASE INCOME
DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 SECOND QUARTER SUNSHINE INDEX – INCOME TAX

IT 05-0014-GIL  04/01/2005  Illinois follows federal income tax treatment of health savings accounts under IRC Section 125.

IT 05-0027-GIL  05/25/2005  Base income does not include any item excluded from federal taxable income unless a specific statutory provision requires that item to be added back.

COLLECTION

IT 05-0024-GIL  05/18/2005  There is no statute of limitations for offsetting a refund against an assessed liability.

COMPENSATION

IT 05-0023-GIL  05/16/2005  Gain on employee stock options characterized as compensation for federal income tax purposes is compensation allocated to Illinois under the provisions of IITA Section 304(a)(2)(B).

CREDITS – EDUCATION

IT 05-0018-GIL  04/15/2005  Explanation of whether various expenditures may qualify for the credit.

IT 05-0021-GIL  05/02/2005  "Home school" costs may qualify for the credit.

CREDITS – FOREIGN TAX

IT 05-0016-GIL  04/11/2005  The amount of tax paid to Missouri that qualifies for the foreign tax credit is not reduced by the amount paid by the taxpayer for a transferable credit used against the liability.

IT 05-0019-GIL  04/29/2005  Explanation of computation of income double-taxed by Utah and Illinois.
DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 SECOND QUARTER SUNSHINE INDEX – INCOME TAX

IT 05-0026-GIL 05/20/2005  No credit is allowed for taxes paid to another state on compensation "paid in this State" under IITA Section 304(a)(2)(B).

IT 05-0029-GIL 06/06/2005  Computation of credit for taxes paid to Wisconsin explained.

EXEMPT ORGANIZATIONS

IT 05-0030-GIL 06/08/2005  Organizations exempt from federal income tax under IRC Section 501(a) are subject to Illinois income tax only on unrelated business taxable income.

MISCELLANEOUS

IT 05-0031-GIL 06/13/2005  A trust may use the address of a beneficiary's attorney on Form IL-1041 Schedule D rather than the beneficiary's home address.

IT 05-0033-GIL 06/21/2005  A partner included on a composite return of a partnership that does not file with the return a disclosure of a reportable transaction engaged in by the partner may fulfill his or her disclosure requirements by sending a copy of the required federal disclosure to the separate disclosure address, without attaching it to any return.

PUBLIC LAW 86-272/NEXUS

IT 05-0025-GIL 05/19/2005  Nexus issues are generally not suitable for resolution by letter ruling.

RESIDENCY/NONRESIDENCY

IT 05-0032-GIL 06/16/2005  A taxpayer who remains domiciled in another state, enters Illinois only for purposes of his or her job, and returns to the state of domicile every weekend remains a nonresident.
DEPARTMENT OF REVENUE

NOTICE OF PUBLIC INFORMATION

2005 SECOND QUARTER SUNSHINE INDEX – INCOME TAX

SUBTRACTION MODIFICATIONS – PENSIONS

IT 05-0013-GIL  04/01/2005   Annuity purchased from life insurance company outside any pension plan is not exempt from Illinois tax.

IT 05-0017-GIL  04/14/2005   Income from an inherited IRA may be subtracted.

SUBTRACTION MODIFICATIONS – OTHER RULINGS

IT 05-0003-PLR  06/13/2005   Partnership may subtract the portion of its income distributable to a charitable remainder unitrust.

IT 05-0004-PLR  06/13/2005   Partnership may subtract the portion of its income distributable to a charitable remainder unitrust.

IT 05-0015-GIL  04/05/2005   Individual with an IRC Section 1341 credit for claim-of-right income relinquished during the tax year is entitled to a subtraction for the amount relinquished, but may not carry over any resulting negative net income.

IT 05-0028-GIL  06/02/2005   Interest on an Illinois obligation may be subtracted only if expressly exempted from Illinois income taxation by statute.

IT 05-0035-GIL  06/23/2005   Interest on an Illinois obligation may be subtracted only if expressly exempted from Illinois income taxation by statute.
DEPARTMENT OF REVENUE

2005 SECOND QUARTER SUNSHINE INDEX – SALES TAX

1. Statute requiring agency to publish information concerning Private Letter Rulings in the Illinois Register:

   Name of Act: Illinois Department of Revenue Sunshine Act
   Citation: 20 ILCS 2515/1

2. Summary of information:

   Index of Department of Revenue sales tax Private Letter Rulings and General Information Letters issued for the Second Quarter of 2005. Private letter rulings are issued by the Department in response to specific taxpayer inquiries concerning the application of a tax statute or rule to a particular fact situation. Private letter rulings are binding on the Department only as to the taxpayer who is the subject of the request for ruling. (See 2 Ill. Adm. Code 1200.110) General information letters are issued by the Department in response to written inquiries from taxpayers, taxpayer representatives, business, trade, industrial associations or similar groups. General information letters contain general discussions of tax principles or applications. General information letters are designed to provide general background information on topics of interest to taxpayers. General information letters do not constitute statements of agency policy that apply, interpret, or prescribe tax laws administered by the Department. General information letters may not be relied upon by taxpayers in taking positions with reference to tax issues and create no rights for taxpayers under the Taxpayers' Bill of Rights Act. (See 2 Ill. Adm. Code 1200.120)

   The letters are listed numerically, are identified as either a General Information Letter or a Private Letter Ruling and are summarized with a brief synopsis under the following subjects:

   | Aircraft Use Tax | Local Taxes |
   | CDF Exemption     | Manufacturing Machinery & |
   | Charitable Games  | Equipment |
   | Cigarette Tax     | Medical Appliances |
   | Computer Software | Miscellaneous |
   | Construction Contractors | Motor Fuel Tax |
   | Delivery Charges  | Motor Vehicles |
   | Exempt Organizations | Occasional Sale |
   | Food, Drugs & Medical Appliances | Repairs |
   | Graphic Arts      | Replacement, Vehicles Tax |
   | Gross Receipts    | Returns |
   | Leasing           | Sale for Resale |
DEPARTMENT OF REVENUE

2005 SECOND QUARTER SUNSHINE INDEX – SALES TAX

Sale of Service Use Tax
Special Order

Copies of the ruling letters themselves are available for inspection and may be purchased for a minimum of $1.00 per opinion plus 50¢ per page for each page over one. Copies of the ruling letters may be downloaded free of charge from the Department's World Wide Web site at www.revenue.state.il.us/.

The annual index of Sales and Excise Tax letter rulings (all four quarters) is available for $3.00.

3. Name and address of person to contact concerning this information:

Marie Keeney
Legal Services Office
101 West Jefferson Street
Springfield, Illinois 62794
Telephone: (217) 782-2844

AIRCRAFT USE TAX

ST 05-0022-GIL 04/29/2005 The transfer of an aircraft from a parent corporation to a newly formed corporation created by a parent corporation, is a taxable event under the Aircraft Use Tax Law. See. 35 ILCS 157/10-1 et seq.

CDF EXEMPTION

ST 05-0035-GIL 05/24/2005 Persons may claim the commercial distribution fee sales tax exemption for a qualifying commercial motor vehicle even if the vehicle does not qualify for the rolling stock exemption. See 86 Ill. Adm. Code 130.341.

CHARITABLE GAMES

ST 05-0037-GIL 05/31/2005 Auxiliary organizations of a licensee shall not be eligible for a license to conduct charitable games, except for auxiliary organizations of veterans’ organizations. See 86 Ill. Adm. Code 435.120(a)(3).

CIGARETTE TAX
DEPARTMENT OF REVENUE

2005 SECOND QUARTER SUNSHINE INDEX – SALES TAX

ST 05-0028-GIL 05/04/2005 Under the Cigarette Tax Act, it is unlawful for any person to engage in the business as a distributor of cigarettes in this State without first having obtained a license or permit from the Department. See 86 Ill. Adm. Code 440.50.

COMPUTER SOFTWARE

ST 05-0001-PLR 04/22/2005 This letter discusses whether certain software agreements qualify as licenses of software. It also discusses whether certain software qualifies as custom software. See 86 Ill. Adm. Code 130.1935.

CONSTRUCTION CONTRACTORS

ST 05-0004-PLR 06/03/2005 Construction contractors owe Use Tax on the cost price of any tangible personal property they incorporate into real estate. See 86 Ill. Adm. Code 130.1940.

ST 05-0024-GIL 05/03/2005 Construction contractors incur Use Tax on the cost price of the tangible personal property they permanently affix to real estate. See Section 130.2075.

DELIVERY CHARGES

ST 05-0029-GIL 05/04/2005 If delivery charges are included in the selling price of the tangible personal property sold, the delivery expenses are not deductible from gross receipts for Retailers' Occupation Tax liability purposes. See 86 Ill. Adm. Code 130.415(c).

EXEMPT ORGANIZATIONS

ST 05-0027-GIL 05/04/2005 This letter discusses various taxes applicable to a food service company. See 86 Ill. Adm. Code 130.310 and 130.2070.

ST 05-00038-GIL 05/31/2005 This letter discusses the various tax liabilities of fund raising organizations and their suppliers. See 86 Ill. Adm. Code 130.2005.

FOOD, DRUGS & MEDICAL APPLIANCES

ST 05-0031-GIL 05/09/2005 A medicine or drug is “any pill, powder, potion, salve, or other preparation intended by the manufacturer for human use and which
purports on the label to have medicinal qualities.” See 86 Ill. Adm. Code 130.310.

GRAPHIC ARTS

ST 05-0036-GIL 05/26/2005 The date of delivery of qualifying graphic arts machinery and equipment will determine if a purchase qualifies under the reinstated graphics arts machinery and equipment exemption. See 86 Ill. Adm. Code 130.325.

GROSS RECEIPTS

ST 05-0025-GIL 05/04/2005 If a vendor is reimbursed in full or in part for the value of a coupon accepted by that vendor, the reimbursement amount would be a part of the gross receipts subject to sales tax. See 86 Ill. Adm. Code 130.2125(b)(2).

ST 05-0049-GIL 06/20/2005 This letter discusses reward credits, sometimes referred to as “hostess dollars.” See 86 Ill. Adm. Code 130.401(c).

LEASING

ST 05-0051-GIL 06/23/2005 Lessors of tangible personal property under true leases in Illinois are deemed end users of the property to be leased. See 86 Ill. Adm. Code 130.220.

LOCAL TAXES

ST 05-0005-PLR 06/09/2005 In general, the imposition of the various local sales taxes in Illinois takes effect when “selling” occurs in a jurisdiction imposing a tax. 86 Ill. Adm. Code 270.115(b).

ST 05-0039-GIL 05/31/205 Jurisdictional questions in relation to the situs of a sales transaction may be found in Section 270.115 of the Department’s regulations which sets forth the test used to determine what local tax is applicable to any given sale. See 86 Ill. Adm. Code 270.115.

MANUFACTURING MACHINERY & EQUIPMENT
DEPARTMENT OF REVENUE

2005 SECOND QUARTER SUNSHINE INDEX – SALES TAX


ST 05-0044-GIL 06/01/2005 The manufacturing machinery and equipment exemption includes machinery and equipment used to inspect, test or measure the tangible personal property to be sold, when that function is an integral part of the production process. See 86 Ill. Adm. Code 130.330.

MEDICAL APPLIANCES

ST 05-0003-PLR 05/13/2005 This letter concerns whether various mastectomy related products qualify for the reduced rate of tax provided to medical appliances. See 86 Ill. Adm. Code 130.310.

MISCELLANEOUS

ST 05-0047-GIL 06/20/2005 This letter responds to a general information request regarding sales and excise taxes. See 86 Ill. Adm. Code 130.101.

ST 05-0050-GIL 06/23/2005 The sale of a prescription discount card is the sale of an intangible and is not subject to tax. See 86 Ill. Adm. Code 130.101.

MOTOR FUEL TAX

ST 05-0021-GIL 04/29/05 County Motor Fuel Taxes imposed under the County Motor Fuel Tax Law are includable in gross receipts subject to Retailers' Occupation Tax because such taxes are imposed upon retailers of motor fuel and not upon consumers. See 86 Ill. Adm. Code 130.435(c).

ST 05-0034-GIL 05/20/2005 In the absence of acceptance of a purchase order in Illinois, the location of the sale is considered to be where the inventory from which the order is filled is maintained in the State. See 86 Ill. Adm. Code 270.115(b)(3).

MOTOR VEHICLES

ST 05-0030-GIL 05/05/2005 This letter concerns Department Bulletin FY 2005-13.

OCCASIONAL SALE

ST 05-0048-GIL 06/20/2005  This letter directs taxpayers to the Illinois Department of Revenue’s administrative rules on occasional sales and bulk sales as well as to sunshine letters on these subjects. See 86 Ill. Adm. Code 130.110 and 86 Ill. Adm. 130.1701.

REPAIRS

ST 05-0033-GIL 05/10/2005  The taxability of maintenance agreements is dependent upon whether the charge for the agreement is included in the selling price of tangible personal property. See 86 Ill. Adm. Code 140.141.

REPLACEMENT VEHICLE TAX

ST 05-0042-GIL 06/01/2005  The Replacement Vehicle Tax is applicable in transactions where an insured receives a check from his insurance company in settlement of a total loss claim and endorses that check over to a dealer, provided that the dealer is able to document in his books and records that the check was, in fact, endorsed over to the dealer and the gross proceeds were applied entirely to the purchase of a new replacement vehicle. See 625 ILCS 5/3-2001 et seq.

RETURNS

ST 05-0040-GIL 05/31/2005  Information regarding gross receipts and merchandise that is returned may be found at 86 Ill. Adm. Code 130.401.

SALE FOR RESALE

ST 05-0002-PLR 04/22/2005  A product manufacturer that purchases display racks that it gives to store owners to display the manufacturer’s products does not incur tax on those purchases because they are purchases for resale. See, Boye Needle Co. v. Department of Revenue, 45 Ill.2d (484) (1970) and 86 Ill. Adm. Code 130.201(b).

ST 05-0045-GIL 06/09/2005  This letter concerns sales for resale. See 86 Ill. Adm. Code Sections 130.1401 and 130.1405.
DEPARTMENT OF REVENUE

2005 SECOND QUARTER SUNSHINE INDEX – SALES TAX

ST 05-0046-GIL 06/17/2005 Unless an exemption is documented, the sale and delivery of tangible personal property to an Illinois customer creates a legal presumption that the sale is for use in Illinois and subject to tax. See 86 Ill. Adm. Code 130.210.

SALE OF SERVICE

ST 05-0026-GIL 05/04/2005 Exhibits and displays that are customized or personalized so as to have use or value only to a particular purchaser are subject to Service Occupation Tax and Service Use Tax. See 86 Ill. Adm. Code 140.101 et seq.

SPECIAL ORDER

ST 05-0041-GIL 05/31/2005 A sign manufacturer does not incur Retailers' Occupation Tax liability if he produces the sign on the special order of a particular purchaser and if the sign has use or value only to such purchaser. See 86 Ill. Adm. Code 130.2155.

TELECOMMUNICATIONS EXCISE TAX

ST 05-0043-GIL 06/01/2005 This letter discusses the various tax liabilities for wireless enhanced services. See 86 Ill. Adm. Code 495.100(c).

USE TAX

ST 05-0020-GIL 04/29/2005 Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605.

ST 05-0052-GIL 06/23/2005 Citizens of foreign countries are not exempt from Use Tax liability for purchases of merchandise at retail within the State of Illinois. See 86 Ill. Adm. Code 130.605.
Executive Order Creating the Illinois Regenerative Institute for Stem Cell Research

WHEREAS, millions of Illinoisans and their families suffer through debilitating diseases and injuries, and these conditions place enormous emotional and financial stress on the people afflicted and all those who care for them; and

WHEREAS, in August 2001, the President announced a policy limiting federal funding for research on embryonic stem cell lines; and

WHEREAS, several states have taken their own independent action in pursuit of developing better treatments and finding cures by implementing or proposing public funding initiatives for the development of embryonic stem cell research in their states; and

WHEREAS, the State of Illinois should maximize the use of state research funds by giving priority to stem cell research that has the greatest potential for therapies and cures that cannot or are unlikely to receive sufficient federal funding; and

WHEREAS, medical research advances that lead to better treatments of diseases and ultimately cures will help reduce long-term health care costs on Illinois taxpayers;

THEREFORE, I HEREBY ORDER THE FOLLOWING:

Illinois Department of Public Health (Grant program/ Rulemaking)

The Director of the Illinois Department of Public Health shall develop an Illinois Regenerative Medicine Institute (IRMI) program within the department that will provide for the awarding of grants to medical research facilities for the development of finding treatments and cures from stem cell research.

The Department of Public Health shall adopt rules for the issuance and administration of grants authorized by this Executive Order. All eligible grant recipients shall comply with all terms and conditions of the Department prior to acceptance of such awards.

Stem Cell Research Policy & IRMI Functions

All rules adopted by the Department shall be consistent with the policies and functions of the Illinois Regenerative Medicine Institute (IRMI) program as set forth below:

1) The Department of Public Health shall establish the IRMI program to make grants and loans for stem cell research to study therapies, protocols, medical procedures, possible cures for, and
EXECUTIVE ORDER

potential mitigations of, major diseases, injuries, and orphan diseases; to support all stages of the process of developing cures, from laboratory research through successful clinical trials; to establish the appropriate regulatory standards and oversight bodies for research and facilities development.

2) The IRMI program shall provide funding for stem cell research that involves adult stem cells, cord blood stem cells, pluripotent stem cells, totipotent stem cells, progenitor cells, the product of somatic cell nuclear transfer or any combination of those cells.

3) No funds authorized or made available under the IRMI program shall be used for research involving the reproductive cloning of a human being, fetuses from induced abortions or to create embryos through the combination of gametes solely for the purpose of research. As used in this Executive Order, "cloning of a human being" means asexual human reproduction by implanting or attempting to implant the product of nuclear transplantation into a woman's uterus to initiate a human pregnancy.

4) No funds shall be awarded to any person who knowingly, for valuable consideration, purchases or sells embryonic or cadaveric fetal tissue for research purposes. For the purposes of this paragraph, payment of customary medical charges for the removal, processing, disposal, preservation, quality control, storage, transplantation, or implantation of the tissue does not constitute valuable consideration. This paragraph does not prohibit reimbursement for removal, storage, or transportation of embryonic fetal tissue for research purposes pursuant to this Executive Order.

5) The Department shall issue an annual report to the Governor, and the appropriate appropriations committee of the General Assembly that sets forth grants awarded, grants in progress, research accomplishments, and future program directions.

Grantee Requirements & Conditions

Medical and scientific accountability standards.

All eligible grantees shall comply with all terms and conditions of the Department rules which shall include, but not be limited to, the specific requirements and conditions as set forth below prior to acceptance of any such grant awards.

(1) Informed consent. Standards for obtaining the informed consent of research donors, patients, or participants initially shall be generally based on the requirements at 45 CFR 46.116 for all research funded by the National Institutes of Health and consistent with the Guidelines for Human Embryonic Stem Cell Research issued by the National Academies of Sciences.
EXECUTIVE ORDER

(2) Controls on research involving humans. Standards for the review of research involving human subjects shall be generally based on the policies adopted at 45 CFR 46 for all research funded by the National Institutes of Health.

(3) Limitations on payments for cells. Department rules shall limit payments for the purchase of stem cells or stem cell lines to reasonable payment for removal, processing, disposal, preservation, quality control, storage, transplantation, implantation, or legal transaction or other administrative costs associated with these medical procedures and shall specifically include any required payments for medical or scientific technologies, products, or processes for royalties, patent, licensing fees, or other costs for intellectual property. Department rules shall be consistent with the Guidelines for Human Embryonic Stem Cell Research issued by the National Academies of Sciences.

(4) Patient privacy laws. Standards shall ensure compliance with State and federal patient privacy laws.

(5) Time limits for obtaining cells. Standards shall set a limit on the time during which cells may be extracted from blastocysts, which shall initially be 8 to 12 days after cell division begins, not counting any time during which the blastocysts or cells have been stored frozen.

(6) All grants and loan awards issued by the institute shall include intellectual property provisions that provide protections and incentives to encourage both the discovery and development of new knowledge and its transfer for the public benefit. It is the policy and objective of the institute to promote the utilization of intellectual property arising from program-supported research or development; to promote collaboration between commercial concerns and nonprofit organizations, including universities; to ensure that intellectual property is used in a manner to promote free competition and enterprise without unduly encumbering future research and discovery; to ensure that the State obtains proportionate rights in institute-supported intellectual property; to protect the public against nonuse or unreasonable use of such intellectual property; and to minimize the costs of administering policies in this area.

Severability

If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Effective Date
EXECUTIVE ORDER

This Executive Order shall become effective upon filing with the Secretary of State.

Issued by Governor: July 12, 2005

Filed with Secretary of State: July 12, 2005
PROCLAMATION

2005-232 (Revised)
TEEN APPRECIATION WEEK

WHEREAS, teenagers in this state and across the country play a variety of important roles in families and communities; and

WHEREAS, throughout the teenage years, a person undergoes transitional stages in human development between childhood and adulthood; and

WHEREAS, during these transitions, teenagers need and deserve the community's understanding, guidance, and support; and

WHEREAS, the creativity, energy, and passion of adolescents often help to refresh our culture and constructively challenge our ideas in a way that benefits our society; and

WHEREAS, negative publicity about teenagers often overshadows community awareness of their overwhelming accomplishments and positive contributions to the life of our community and society:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 7 – 13, 2005 as TEEN APPRECIATION WEEK in Illinois, and encourage all citizens to join in recognizing the great impact teenagers have on our communities.

Issued by the Governor July 12, 2005.
Filed by the Secretary of State July 12, 2005.

2005-236
NATIONAL BATON TWIRLING WEEK

WHEREAS, the art of baton twirling positively affects the lives of nearly one-half million young Americans; and

WHEREAS, baton twirling can build the confidence of these young girls and boys, and the dedication learned in training for and practicing the sport is beneficial to many situations in life; and

WHEREAS, baton twirling is one of the largest nationwide beneficial movements for today's young girls; and

WHEREAS, baton twirling is used in children's hospitals as a unique and effective method of physical therapy; and
PROCLAMATION

WHEREAS, baton twirlers provide inspiration and wholesome entertainment in our communities; and

WHEREAS, baton twirlers from all over the United States will gather at the University of Notre Dame July 19-23, 2005, to conduct a colorful pageant entitled "America's Youth On Parade":

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 17-23, 2005 as NATIONAL BATON TWIRLING WEEK in Illinois, and encourage our citizens to appreciate and support the colorful and beneficial youth movement of baton twirling.

Issued by the Governor July 12, 2005.
Filed by the Secretary of State July 12, 2005.

2005-237
CENTRAL ILLINOIS BRAGGIN RIGHTS BBQ STATE CHAMPIONSHIP DAYS

WHEREAS, on October 7 and 8, 2005, the Arthur Association of Commerce will host the "Second Annual Central Illinois Bragging Rights Competition Barbeque"; and

WHEREAS, the "Second Annual Central Illinois Bragging Rights Competition Barbeque," as an Illinois State Championship, allows teams to qualify for national level barbeque competitions; and

WHEREAS, like previous years, this event, a Kansas City Barbecue Society (KCBS) sanctioned event, is held in conjunction with the Chet Kingery Memorial Bluegrass Jam. During this event, hundreds of bluegrass lovers gather in Arthur, Illinois to enjoy great music and tasty barbeque; and

WHEREAS, the State of Illinois is proud to recognize the many talented individuals who are putting their barbeque grilling skills to the test during this two-day event:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim October 7–8, 2005 as the CENTRAL ILLINOIS BRAGGIN RIGHTS BBQ STATE CHAMPIONSHIP DAYS in Illinois, and encourage all citizens to recognize and participate in this entertaining event that will undoubtedly showcase a variety of tasty barbeque recipes.

Issued by the Governor July 12, 2005.
Filed by the Secretary of State July 12, 2005.

2005-238
CAPTIVE NATIONS WEEK
ILLINOIS REGISTER 12208

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WHEREAS, Captive Nations Week has been recognized for 45 years during the third week of July, originating from U.S. Public Law 86-90, a joint resolution of the 86th Congress; and

WHEREAS, Captive Nations, Incorporated focuses international attention on the plight and struggle of captive nations to rid themselves of oppressive rulers by organizing and unifying these country's voices of freedom; and

WHEREAS, although several former Captive Nations have been liberated from devastating and militaristic rule, the United States and the international community must remain cognizant of those countries still straining for freedom under precarious regimes; and

WHEREAS, this week should serve as a time of reflection and remembrance for all of the millions of people tragically lost to genocide and other forms of persecution under these cruel governments; and

WHEREAS, the 47th Annual Captive Nations week will highlight the struggle for freedom around the world in occupied territories:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois do hereby proclaim July 17-24, 2005 as CAPTIVE NATIONS WEEK in Illinois, and encourage all citizens to join in observance of this important week.

Issued by the Governor July 12, 2005.
File by the Secretary of State July 12, 2005.

2005-239
SUMMER LEARNING DAY

WHEREAS, the education of America's youth is of critical importance, and the summer is as good a time as any for children to further their pursuit of information and knowledge; and

WHEREAS, a wide array of public agencies, non-profit organizations, schools, universities, museums, libraries and summer camps across the country will celebrate the annual Summer Learning Day on July 14, 2005; and

WHEREAS, Summer Learning Day is an opportunity to reflect on the importance of high-quality summer learning opportunities in the lives of young people and their families; and

WHEREAS, Summer Learning Day is designed to highlight the need for more young people to be engaged in learning activities over the summer and to support
PROCLAMATION

local summer programs that benefit children, families and communities; and

WHEREAS, for this year's Summer Learning Day here in Illinois, the Center for Summer Learning has teamed up with the JCPenney Afterschool Fund and the YMCA of the USA to host an event for the purpose of: sending young people back to school ready to learn; supporting working families; and keeping children safe and healthy. The event will feature 500 children from YMCAs throughout Metropolitan Chicago who will be participating in a special field trip to the Museum of Science and Industry, and will include a donation of BrainQuest educational games by the JCPenney Afterschool Fund to over 9,000 Illinois children who are participating in summer learning programs; and

WHEREAS, Illinois is proud to join with the Center for Summer Learning at Johns Hopkins University and the Staples Foundation for Learning, along with the JCPenney Afterschool Fund and the YMCA of the USA, in promoting learning activities for our young people:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 14, 2005 as SUMMER LEARNING DAY in Illinois, and encourage all citizens to learn about the many educational programs available to children during the summer months here in this state.

Issued by the Governor July 12, 2005.
Filed by the Secretary of State July 12, 2005.

2005-240
AMERICANS WITH DISABILITIES ACT DAY

WHEREAS, the Americans with Disabilities Act (ADA), passed by Congress in 1990, established a "clear and comprehensive prohibition of discrimination on the basis of disability," with a disability being defined as "a physical or mental impairment that substantially limits one or more of the major life activities" of an individual; and

WHEREAS, the passage of the ADA represented a major step toward protecting civil rights and improving the quality of life for disabled persons, who had previously not only lacked federal protection, but were also often subjected to discrimination and even ridicule of the most flagrant kind; and
PROCLAMATION

WHEREAS, the year 2005 marks the 15th anniversary of the ADA's civil rights guarantee for individuals with disabilities; and

WHEREAS, Illinois has a long history of commitment to protecting the rights of disabled persons, going back 25 years to the passage of the Illinois Human Rights Act, which made discrimination against any person with a "physical or mental handicap" illegal; and

WHEREAS, an estimated 1.5 million citizens of Illinois are classified as having a disability; and

WHEREAS, the State of Illinois and its agencies are committed to continuing efforts to ensure that citizens with disabilities are able to fully participate in employment, transportation, education, communication, and community opportunities; and

WHEREAS, during the month of July 2005, the Illinois Department of Human Services, in cooperation with numerous other state agencies, councils, and consumers, will celebrate the anniversary of the ADA with special events in Springfield and Chicago:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 21, 2005 as AMERICANS WITH DISABILITIES ACT DAY in Illinois, and encourage all citizens to recognize the historical significance of the ADA, and in turn, do their part to ensure that people with disabilities live happy and productive lives.

Issued by the Governor July 12, 2005.
Filed by the Secretary of State July 12, 2005.

2005-241
NATIONAL INTERNET SAFETY MONTH

WHEREAS, the Internet has revolutionized communications and become an integral part of our daily lives; and

WHEREAS, the Internet provides people and businesses with new ways to interact and connect with one another; and

WHEREAS, unfortunately, the wealth of information and ease of use on the Internet have made new forms of criminal activity possible; and
PROCLAMATION

WHEREAS, youth in Illinois are accessing the Internet at higher rates every year, experiencing the new educational and recreational opportunities, but also exposing themselves to potential online youth victimization; and

WHEREAS, education is critical to protecting our youth online; and

WHEREAS, I-SAFE America, a non-profit Internet safety education foundation, has organized local communities to promote online safety for Illinois youth:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim June 2005 as NATIONAL INTERNET SAFETY MONTH in Illinois, and encourage all citizens to be aware of the dangers that exist online and to become educated on how to be responsible and accountable in cyber space.

Issued by the Governor July 12, 2005.
Filed by the Secretary of State July 12, 2005.

2005-242
SALVATION ARMY ADULT REHABILITATION CENTER DAY

WHEREAS, over 125 years ago, the Salvation Army marched into the United States battling poverty, hunger, disease, abuse, loneliness and other evils of society; and

WHEREAS, to this day, the Salvation Army continues its crusade to restore hope to countless men, women and children who have nowhere else to turn; and

WHEREAS, the Salvation Army serves as a symbol of compassion, but more so as an active participant in the provision of services to thousands of Illinois men, women and children across the country; and

WHEREAS, the Salvation Army provides its services to people in need without regard to race, color, creed, sex, or age; and

WHEREAS, there are 119 Salvation Army Adult Rehabilitation Centers (ARC) operating throughout the United States with these essential services: housing, clothing, food, counseling, education, work ethic development, socialization skills training, spiritual guidance, vocational development and recreational activities; and

WHEREAS, the State of Illinois proudly recognizes all of the Salvation Army Adult Rehabilitation Centers, especially the Springfield facility as they
PROCLAMATION

rededicate their center on July 17, 2005. Their exemplary commitment to service has made vital contributions to the community:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 17, 2005 as SALVATION ARMY ADULT REHABILITATION CENTER DAY in Illinois, and encourage all citizens to celebrate and honor the dedicated men and women who work or volunteer for this noble organization.

Issued by the Governor July 13, 2005.

Filed by the Secretary of State July 13, 2005.

2005-243
MOUNT SINAI DEAF ACCESS PROGRAM DAY

WHEREAS, according to the U.S. Census Bureau, there are approximately 500,000 persons in Illinois who currently suffer from hearing loss; and

WHEREAS, there are more than 40,000 deaf and hard of hearing individuals in the Chicago area struggling to find health providers with whom they can communicate; and

WHEREAS, Mount Sinai Hospital's Deaf Access Program (DAP) is one of the few programs in the state that meets the needs of deaf and hard of hearing adults; and

WHEREAS, DAP offers a broad range of medical, mental health, and support services for deaf and hard of hearing patients; and

WHEREAS, DAP is the largest program for the deaf and hard of hearing individuals in the United States with satellite clinics on Chicago's North and South sides; and

WHEREAS, DAP will have a 1000th Patient Celebration on July 16, 2005 at Mount Sinai Hospital's Glasser Auditorium:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 16, 2005 as MOUNT SINAI DEAF ACCESS PROGRAM DAY in Illinois, and encourage all citizens to recognize the significance of this important program.

Issued by the Governor July 13, 2005.

Filed by the Secretary of State July 13, 2005.

2005-244
PETE AND DONNA VONACHEREN DAY
PROCLAMATION

WHEREAS, Harold A. "Pete" Vonachen was born in Peoria on August 31, 1925 to Dr. and Mrs. Harold A. Vonachen. He graduated from St. Bernard's Grade School and Spalding Institute, participated in the V-12 Program at the University of Notre Dame and received his bachelor's degree in business administration and physical education from Bradley University in 1949; and

WHEREAS, on May 12, 1957, Pete married Donna Hurst, and together they had five children: Mary Michele, Harold A. III, Gregory, Daniel, and Mark; and

WHEREAS, Pete Vonachen has served notably in many roles. From January 4, 1944 until May 6, 1946, he served his country as a member of the United States Navy. Also, he was the manager of the Fall Food Concession for Bradley University Fieldhouse, a Peoria area salesman of dairy products for Soldwedel Dairy (now Bordens), and manager of the Original Murphy's Restaurant; he built and organized Vonachen's Junction; he was General Manager and Investor in Vonachen's Hyatt Lodge, general partner, developer, and Chief Executive Officer of the Days Inn Motel of Peoria, and President of Peoria Blacktop, Inc.; and

WHEREAS, in 1983, Pete Vonachen formed the Peoria Chiefs Professional Baseball Club; this corporation was an affiliate of the Chicago Cubs; he sold the franchise in 1988; Meinen Field was rebuilt in 1992 for $2.2 million and was renamed Pete Vonachen Stadium; he repurchased the Peoria Chiefs in 1994 and served as President; he was named Chairman of the Board in 1998; and

WHEREAS, Pete and Donna Vonachen have earned the respect and admiration of this state for their devotion to the community and to their family and friends. They are indeed worthy of this special honor:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 31, 2005 as PETE AND DONNA VONACHEN DAY in Illinois, and encourage all citizens to pay tribute to Pete and Donna Vonachen for their many contributions to the State of Illinois and its citizens.

Issued by the Governor July 13, 2005.
Filed by the Secretary of State July 13, 2005.

2005-245

MDA FIREFIGHTER APPRECIATION MONTH
PROCLAMATION

WHEREAS, firefighters are our unsung heroes—each day risking their lives to save the lives of others; and

WHEREAS, when these heroes are not battling life-threatening situations, they are unselfishly contributing to their communities in other ways, including raising money for local charities and volunteering with agencies such as the Muscular Dystrophy Association (MDA); and

WHEREAS, the Illinois Firefighters, who have pledged their lives in saving lives of others, have also pledged their efforts to help find cures for the devastating diseases by supporting MDA's fights against neuromuscular diseases; and

WHEREAS, the State of Illinois is proud to recognize Illinois Firefighters as they conduct Fundraising projects in our state for the MDA:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim August 2005 as MDA FIREFIGHTER APPRECIATION MONTH in Illinois, and encourage all citizens to acknowledge the ongoing contributions of these brave men and women.

Issued by the Governor July 13, 2005.
Filed by the Secretary of State July 13, 2005.

2005-246
LEUKEMIA, LYMPHOMA & MYELOMA AWARENESS MONTH

WHEREAS, blood cancers currently afflict more than 700,000 Americans with an estimated 110,000 new cases diagnosed each year; and

WHEREAS, leukemia, lymphoma and myeloma will kill an estimated 60,500 people in the United States this year; and

WHEREAS, the Leukemia & Lymphoma Society, through voluntary contributions, is dedicated to finding cures for these diseases through research efforts and supporting those that suffer from them; and

WHEREAS, the Leukemia & Lymphoma Society maintains offices in Chicago and Normal, Illinois to support patients with these diseases and their family members in the State of Illinois; and

WHEREAS, the State of Illinois is similarly committed to the eradication of these diseases and supports the treatment of its citizens that suffer from them; and
ILLINOIS REGISTER

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PROCLAMATION

WHEREAS, the State of Illinois encourages private efforts to enhance research funding and education programs that address these diseases:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 2005 as LEUKEMIA, LYMPHOMA & MYELOMA AWARENESS MONTH in Illinois, and encourage all citizens to improve their understanding of blood related cancers and participate in voluntary activities that support education programs, as well as help fund research programs dedicated to finding a cure.

Issued by the Governor July 13, 2005.
Filed by the Secretary of State July 13, 2005.

2005-247
MICHAEL FINLEY DAY

WHEREAS, Michael Finley, a Melrose Park native, has led a distinguished career in the National Basketball Association and generously donates his time helping Illinois youth attain their goals and dreams; and

WHEREAS, selected by the Phoenix Suns as the twenty-first overall pick in the 1995 National Basketball Association Draft, Michael Finley became only the third rookie in Suns's history to score over 1,000 points in his rookie season; and

WHEREAS, in 1997, Michael Finley was traded to the Dallas Mavericks, and in the following season, he led the team in scoring, assists and steals. He has since served many years with distinction in the sport of basketball; and

WHEREAS, in addition to his great athletic achievements, Michael Finley also serves the community by contributing his time and financial support; such as offering free basketball clinics, including lunch and gifts, to hundreds of young and aspiring children in Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 15, 2005 as MICHAEL FINLEY DAY in Illinois, and encourage all citizens to follow his example of leadership and charity.

Issued by the Governor July 14, 2005.
Filed by the Secretary of State July 14, 2005.

2005-247 (Revised)
MICHAEL FINLEY DAY
ILLINOIS REGISTER

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PROCLAMATION

WHEREAS, Michael Finley, a Melrose Park native, has led a distinguished career in the National Basketball Association and generously donates his time helping Illinois youth attain their goals and dreams; and

WHEREAS, selected by the Phoenix Suns as the twenty-first overall pick in the 1995 National Basketball Association Draft, Michael Finley became only the third rookie in Suns's history to score over 1,000 points in his rookie season; and

WHEREAS, in 1997, Michael Finley was traded to the Dallas Mavericks, and the following season, he led the team in scoring, assists and steals. He has since served many years with distinction in the sport of basketball; and

WHEREAS, in addition to his great athletic achievements, Michael Finley also serves the community by contributing his time and financial support; such as offering free basketball clinics, including lunch and gifts, to hundreds of young and aspiring children in Illinois:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim July 15, 2005 as MICHAEL FINLEY DAY in Illinois, and encourage all citizens to follow his example of leadership and charity.

Issued by the Governor July 14, 2005.
Filed by the Secretary of State July 14, 2005.

2005-248
WOMEN'S BUSINESS DEVELOPMENT DAYS

WHEREAS, the Women's Business Development Center (WBDC) is a nationally-recognized nonprofit women's business assistance organization, devoted to providing services and programs that support and accelerate women's business ownership and strengthen the impact of women on the economy; and

WHEREAS, the Women's Business Development Center will hold its 19th Annual Entrepreneurial Woman's Conference on September 13 & 14, 2005 at Chicago's Navy Pier; and

WHEREAS, this Conference marks the continuation of the second decade of the WBDC's commitment to the demands of women entrepreneurs for greater opportunities in business ownership and development; and

WHEREAS, the WBDC has, in response, put forth creative and innovative approaches to empowering women and their families, striving to influence the larger
PROCLAMATION

political and economic environment in a way that encourages and supports women's economic empowerment; and,

WHEREAS, the WBDC was founded in 1986 by S. Carol Dougal and Hedy M. Ratner and since then, more than 50,000 women business owners have used its programs and services: one-on-one counseling; workshops; entrepreneurial training; the Women's Business Finance Program; the Women's Business Enterprise Certification Program; Procurement and Technical Assistance Program and Child Care Business Initiative and Program; and Women's Venture Program; and

WHEREAS, there are now over 10.6 million women-owned businesses in the U.S., employing over 19.1 million workers, and over 350,000 of those businesses are in Illinois. Minority-owned businesses are growing faster than all firms, and 1 in 5 women-owned firms in the U.S. is owned by a woman of color. Women-owned businesses nationally generate over $2.46 trillion in sales:

THEREFORE, I, Rod R. Blagojevich, Governor of the State of Illinois, do hereby proclaim September 13-14, 2005 as WOMEN'S BUSINESS DEVELOPMENT DAYS in Illinois, in recognition of the Women's Business Development Center's 19th Annual Entrepreneurial Woman's Conference, and in celebration of nearly two decades of the WBDC's outstanding advocacy and service to women business owners.

Issued by the Governor July 15, 2005.

Filed by the Secretary of State July 15, 2005.
# ILLINOIS ADMINISTRATIVE CODE
## Issue Index - With Effective Dates

Rules acted upon in Volume 29, Issue 31 are listed in the Issues Index by Title number, Part number, Volume and Issue.

Inquiries about the Issue Index may be directed to the Administrative Code Division at (217) 782-7017/18.

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### JOINT COMMITTEE ON ADMINISTRATIVE RULES

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