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# ILLINOIS

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## REGISTER

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May 14, 2021 Volume 45, Issue 20

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## INTRODUCTION

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

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

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

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

## ILLINOIS REGISTER PUBLICATION SCHEDULE FOR 2021

Issue#	Rules Due Date	Date of Issue
1	December 21, 2020	January 4, 2021
2	December 28, 2020	January 8, 2021
3	January 4, 2021	January 15, 2021
4	January 11, 2021	January 22, 2021
5	January 19, 2021	January 29, 2021
6	January 25, 2021	February 5, 2021
7	February 1, 2021	February 16, 2021
8	February 8, 2021	February 19, 2021
9	February 16, 2021	February 26, 2021
10	February 22, 2021	March 5, 2021
11	March 1, 2021	March 12, 2021
12	March 8, 2021	March 19, 2021
13	March 15, 2021	March 26, 2021
14	March 22, 2021	April 2, 2021
15	March 29, 2021	April 9, 2021
16	April 5, 2021	April 16, 2021
17	April 12, 2021	April 23, 2021
18	April 19, 2021	April 30, 2021
19	April 26, 2021	May 7, 2021
20	May 3, 2021	May 14, 2021
21	May 10, 2021	May 21, 2021

22	May 17, 2021	May 28, 2021
23	May 24, 2021	June 4, 2021
24	June 1, 2021	June 11, 2021
25	June 7, 2021	June 18, 2021
26	June 14, 2021	June 25, 2021
27	June 21, 2021	July 2, 2021
28	June 28, 2021	July 9, 2021
29	July 6, 2021	July 16, 2021
30	July 12, 2021	July 23, 2021
31	July 19, 2021	July 30, 2021
32	July 26, 2021	August 6, 2021
33	August 2, 2021	August 13, 2021
34	August 9, 2021	August 20, 2021
35	August 16, 2021	August 27, 2021
36	August 23, 2021	September 3, 2021
37	August 30, 2021	September 10, 2021
38	September 7, 2021	September 17, 2021
39	September 13, 2021	September 24, 2021
40	September 20, 2021	October 1, 2021
41	September 27, 2021	October 8, 2021
42	October 4, 2021	October 15, 2021
43	October 12, 2021	October 22, 2021
44	October 18, 2021	October 29, 2021
45	October 25, 2021	November 5, 2021
46	November 1, 2021	November 12, 2021
47	November 8, 2021	November 19, 2021
48	November 15, 2021	November 29, 2021
49	November 22, 2021	December 3, 2021
50	November 29, 2021	December 10, 2021
51	December 6, 2021	December 17, 2021
52	December 13, 2021	December 27, 2021
53	December 20, 2021	December 31, 2021

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Consumer Installment Loan Act
- 2) Code Citation: 38 Ill. Adm. Code 110
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
110.1	Amendment
110.2	New Section
110.80	Amendment
110.100	Amendment
110.215	Repealed
110.216	Repealed
110.240	Amendment
110.290	Amendment
110.300	Amendment
110.320	Repealed
110.330	Repealed
110.340	Amendment
110.360	Amendment
110.370	Amendment
110.390	Amendment
110.420	Amendment
110.430	Amendment
110.APPENDIX C	New Section
- 4) Statutory Authority: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments require consumer installment lenders to provide a disclosure to consumers about the 36% APR rate cap established by the PLPA. These amendments would eliminate small consumer loans and implement rules for reporting all consumer installment loans to the state database. They would also include the implementation of a new definition and new rules for title-secured loans, including reporting to the state database. The agency is seeking these changes in order to implement the requirements of P.A. 101-658, which was signed into law on March 23, 2021. The rules identifying the information to be reported to the state database will allow consumer installment loan act licensees to comply with the general requirements of those Acts and to report information to the state database. There are additional changes that allow for the implementation of the consumer protection goal of the relevant portions of P.A. 101-658.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 2nd Floor  
Springfield IL 62786

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Lending institutions may be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: None

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- C) Types of professional skills necessary for compliance: Experience in the financial/lending industry may be beneficial.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rule:
- 54 Professional, Scientific and Technical Services
- B) Categories that the agency reasonably believes the rulemaking will impact, including:
- ii. Regulatory requirements
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on any Regulatory Agenda.

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



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 110

## CONSUMER INSTALLMENT LOAN ACT

## SUBPART A: GENERAL PROVISIONS

## Section

110.1	Definitions
<a href="#">110.2</a>	<a href="#">Rate Cap Disclosure Notices</a>
110.10	Minimum Requirements for Office Records
110.15	Application for License; Controlling Person
110.20	Loan Register
110.30	Individual Account Records
110.40	File of Original Papers
110.50	Cash Book
110.60	Alphabetical Record of Co-Makers, Obligors or Guarantors
110.65	Permanent File
110.70	Payments
110.80	Simple Interest Loans
110.90	Cancellation and Return of Documents
110.100	Finance Charges – Rebates and Delinquency Charges
110.110	Hypothecation at the Time of the Sale of Obligor's Notes
110.120	Legal Forms
110.130	Judgments
110.140	Sale of Security
110.150	Trouble File
110.160	Lien Charges
110.170	Insurance
110.180	Office and Office Hours
110.190	Advertising
110.200	Other Business
110.210	Examination Remittances
110.215	Document Preparation Fee <a href="#">(Repealed)</a>
110.216	Small Consumer Loans; Charges Permitted <a href="#">(Repealed)</a>
110.220	Credit Practices
110.225	Verification of Amount Owed
110.230	General

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

110.235	Relocation
110.236	Name Change
110.240	Hearing Procedures
110.250	Limited Purpose Branch
110.260	Off-Site Records
110.265	Servicing of Accounts by Contract
110.270	Revocation or Suspension of License
110.280	Gross Monthly Income Verification Documentation
110.290	Consumer Reporting Service

## SUBPART B: TITLE-SECURED LENDING

Section	
110.300	Definitions
110.310	Applicability of Rule
110.320	Application for License ( <a href="#">Repealed</a> )
110.330	Renewal of License ( <a href="#">Repealed</a> )
110.340	<a href="#">Loan Terms</a> <del>Simple Interest and Replacement</del>
110.350	Release of Lien
110.360	Availability of Debt Management Services
110.370	Lending Limits and Refinancing
110.380	Second Notice
110.390	Possession of Vehicle
110.400	Loan Proceeds
110.410	Security Interest
110.420	Approved Database
110.430	Gross Monthly Income Verification

## SUBPART C: MORTGAGE LENDING

Section	
110.500	Definitions (Repealed)
110.505	Applicability of Rule (Repealed)
110.510	Good Faith Requirements (Repealed)
110.515	Fraudulent or Deceptive Practices (Repealed)
110.520	Prohibited Refinances (Repealed)
110.525	Negative Amortization (Repealed)
110.530	Negative Equity (Repealed)
110.535	Balloon Payments (Repealed)
110.540	Financing of Certain Points and Fees (Repealed)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

110.545	Financing of Single Premium Insurance Products (Repealed)
110.550	Lending Without Due Regard to Ability to Repay (Repealed)
110.555	Verification of Ability to Repay (Repealed)
110.560	Payments to Contractors (Repealed)
110.565	Counseling Prior to Perfecting Foreclosure (Repealed)
110.570	Mortgage Awareness Program (Repealed)
110.575	Offer of Mortgage Awareness Program (Repealed)
110.580	Third Party Review (Repealed)
110.APPENDIX A	Estimated Monthly Income and Expenses Worksheet (Repealed)
110.APPENDIX B	Mortgage Ratio Worksheet (Repealed)
<u>110.APPENDIX C</u>	<u>Disclosure of 36% Rate Cap</u>
110.TABLE A	Illinois Rule of 78 Fractions for Rebating Charges According to Number of Months Originally Contracted For and Number of Months Prepaid in Full for Contracts of 2 to 120 Months (Repealed)
110.TABLE B	Rule of 78 Percentage Rebate Table (Repealed)

AUTHORITY: Implementing and authorized by Section 22 of the Consumer Installment Loan Act [205 ILCS 670].

SOURCE: Filed and effective June 19, 1970; amended at 3 Ill. Reg. 24, p. 16, effective June 15, 1979; emergency amendment at 4 Ill. Reg. 5, p. 372, effective January 16, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 36, p. 138, effective September 22, 1980; amended at 5 Ill. Reg. 1352, effective February 3, 1981; codified at 7 Ill. Reg. 11721; amended at 9 Ill. Reg. 1343, effective January 17, 1985; amended at 11 Ill. Reg. 2749, effective January 28, 1987; emergency amendment at 11 Ill. Reg. 14141, effective August 7, 1987, for a maximum of 150 days; amended at 12 Ill. Reg. 10456, effective June 7, 1988; amended at 19 Ill. Reg. 44, effective December 22, 1994; amended at 20 Ill. Reg. 5799, effective April 8, 1996; emergency amendment at 22 Ill. Reg. 1485, effective January 2, 1998, for a maximum of 150 days; emergency expired May 31, 1998; amended at 22 Ill. Reg. 13657, effective July 14, 1998; amended at 25 Ill. Reg. 6227, effective May 17, 2001; amended at 25 Ill. Reg. 7456, effective August 1, 2001; expedited correction at 29 Ill. Reg. 5776, effective August 1, 2001; amended at 26 Ill. Reg. 14232, effective October 1, 2002; amended at 30 Ill. Reg. 12558, effective July 7, 2006; amended at 33 Ill. Reg. 4142, effective April 1, 2009; amended at 35 Ill. Reg. 7319, effective April 21, 2011; amended at 41 Ill. Reg. 12380, effective October 6, 2017; amended at 45 Ill. Reg. 4449, effective March 24, 2021; amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

## SUBPART A: GENERAL PROVISIONS

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

**Section 110.1 Definitions**

"Act" means the Consumer Installment Loan Act [205 ILCS 670].

"Affiliate", for purposes of Section 1 of the Act, means any person or entity that directly or indirectly controls, is controlled by, or shares control with another person or entity. A person or entity has control over another if the person or entity has an ownership interest of 25% or more in the other.

"Annual percentage rate" or "APR" is the cost of the consumer credit expressed as an annual rate, and shall be calculated in accordance with 205 ILCS 670/16.

"Controlling person" means a person, entity, or ultimate equitable owner that:

owns or controls, directly or indirectly, 10% or more of any class of stock of the license applicant;

is not a depository institution, as defined in Section 1007.50 of the Savings Bank Act [205 ILCS 205], that lends, provides, or infuses, directly or indirectly, in any way, funds to or into a license applicant in an amount equal to more than 10% of the license applicant's net worth;

controls, directly or indirectly, the election of 25% or more of the members of the board of directors of a license applicant; or

the Director finds influences management of the license applicant.

"Date of the loan" means the date on which the loan agreement is signed or accepted by the lender.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Department of Financial and Professional Regulation-Division of Financial Institutions with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Financial Institutions.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

"Generally accepted accounting procedures" or "GAAP" means those adopted by the American Institute of Certified Public Accountants and Federal Accounting Standards Board.

"Hypothecate" means to pledge a security instrument without transfer of title.

"Insurance Code" means 215 ILCS 5.

"Licensee" means a person, partnership, association, limited liability company, corporation or other legal entity licensed under the Act. Any person or entity who holds himself, herself or itself out as a licensee or who is accused of unlicensed practice is considered a licensee for purposes of enforcement, investigation, hearings and the Illinois Administrative Procedure Act [5 ILCS 100].

"Missed Payment" means any failure to make a payment within ten days of the due date.

"Obligor" means a consumer who is contractually obligated to make all principal repayments and interest payments on an outstanding loan~~the person to whom the proceeds of a loan are delivered or on whose behalf the proceeds of a loan are expended.~~

"Predatory Loan Prevention Act Annual Percentage Rate" (PLPA APR) is the cost of the consumer credit expressed as an annual rate and shall be calculated in accordance with 32 CFR 232.4(c), as in effect on the effective date of the Act and as incorporated in 38 Ill. Adm. Code 215.

"Person" means an individual, partnership, association, joint stock association, corporation or any other form of business organization.

"Recording fee" is a fee paid to a government agency to record or release a security instrument.

"Sales Finance Agency Act" means 205 ILCS 660.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

~~"Small consumer loan" means a loan upon which interest is charged at an annual percentage rate exceeding 36.00% and with an amount financed of \$4,000 or less. Small Consumer Loan does not include a title secured loan as defined by Section 15(a) of the Act or a payday loan as defined by the Payday Loan Reform Act [815 ILCS 122].~~

"Uniform Commercial Code" means 810 ILCS 5.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.2 Rate Cap Disclosure Notices**

- a) All applications for a loan must include a separate disclosure signed by the consumer that states: "A lender shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a loan, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any loan with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan. The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR." This disclosure shall be written in no smaller than size 20 font, and shall be substantially similar to the form in Appendix C. A lender shall provide all disclosures required by this section in English and in the language in which the loan was negotiated.
- b) A lender shall prominently display at all times in any physical location, and on any website, mobile device application, or any other electronic medium owned or maintained by a lender where loans are made, advertised, or serviced, a disclosure that states: "Loans cannot exceed a 36% annual percentage rate as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any loan with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan. The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR." Any notice posted in any physical location must be written no smaller than size 36 font. Any notice posted on a website, application, or any other electronic medium must be no smaller than size 14 font. All notices must be posted in English and Spanish.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

- c) A lender shall prominently display a disclosure in any written solicitations or advertisements regarding loans, that states in at least size 14 font: "Loans cannot exceed a 36% annual percentage rate as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any loan with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan. The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR."

(Source: Added at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.80 Simple Interest Loans**

- a) No payment shall be accepted on the principal balance unless interest is paid to date or is agreed to by the licensee, except a payment may be credited to principal if the amount of the payment is not sufficient to pay the interest due for one day.
- b) A calendar month is the period from a given date in one month to the same numbered date in the following month, and if there is no same numbered date in the following month, to the last day of the following month.
- c) Interest shall be computed on the basis of one month's interest for each calendar month and 1/30th ~~1/30~~ of a month's interest for each day in a fraction of a month or, alternatively, 1/365th ~~1/365~~ of the agreed annual rate for each day actually elapsed.
- d) When a simple interest loan contract is renewed or refinanced, accrued but uncollected interest may be included in the principal amount of the new loan contract.
- e) Loans must be fully amortizing and repayable in substantially equal and consecutive weekly, biweekly, semimonthly, or monthly installments. Rates may vary according to an index that is independently verifiable and beyond the control of the licensee.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.100 Finance Charges – Rebates and Delinquency Charges**

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

a) ~~Computation of Finance Charge~~

- 1) ~~On loans other than Small Consumer Loans on which monthly installment account handling charges are charged, charges may be computed on the original face amount of the loan contract for the full term of the loan contract.~~
- 2) ~~Monthly installment account handling charges on Small Consumer Loans may be computed on the original amount financed under the loan contract for the full term of the loan contract at the permitted monthly installment account handling charge. Small Consumer Loans upon which monthly installment account handling charges are precomputed in this manner are deemed to be precomputed loans for all purposes unless otherwise specified by the Act.~~
- 3) ~~The maximum charge so computed (or any lesser amount) may be added to the original principal amount of the loan or may be deducted from the face amount of the contract when the loan is made.~~

ab) A standard payment schedule is one under which a loan is repayable in substantially equal and consecutive weekly, biweekly, semimonthly, or monthly installments of principal and charges combined, and the first installment is due one weekly, biweekly, semimonthly, or monthly period from the date of the note, except as provided in subsections (b)(1), (2) and (3).

- 1) The loan contract shall be drawn to reflect a standard payment schedule with payments to be made on a weekly, biweekly, semimonthly, or monthly basis, except that the first installment period may exceed one weekly, biweekly, semimonthly, or monthly period by as much as the following:
  - A) For weekly payments, by 4 days;
  - B) For biweekly and semimonthly payments, by 7 days;
  - C) For monthly payments, by 15 days.
- 2) If a charge is made for extra days in the first installment period it may be added to the first installment payment. The interest for such period may



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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be increased by  $\frac{1}{30}$  of the agreed monthly rate for each extra day. A charge for extra days in the first installment period does not change the amount of rebate required for prepayment in full on or after the first installment date.

- 3) If the first installment period is less than one month the loan charge shall be reduced by  $\frac{1}{30}$  of the agreed monthly rate for each day that the first installment period is less than one month, and the amount of the first installment shall be reduced by the same amount. Such adjustment in the first installment period does not change the amount of rebate required for prepayment in full on or after the first installment date.

be) The obligor shall have the right to prepay a loan in full on any installment due date. When prepayment in full occurs on a date other than a scheduled installment due date, the rebate may be computed as of the next following scheduled installment due date.

cd) When the contract is renewed or refinanced before maturity, or judgment is obtained before maturity, the same rebate is required as for prepayment in full.

de) Any required rebate of finance charge for a precomputed loan may be calculated using the actuarial method, defined by the federal Truth in Lending Act (15 USC 1601 et seq.) and Regulation Z, Appendix J (12 CFR 226) or any other method permitted by the Act. The required rebate is a fraction (or percentage) of the precomputed interest charge. The fraction differs for each number of months that the contract is prepaid in full.~~Rebate of Finance Charge~~

- ~~1) The Rule of 78 shall be the method of rebating precomputed contracts other than Small Consumer Loans. The rebate shall be that proportion of the original charge for the loan that the sum of the monthly balances scheduled to follow the prepayment in full bears to the sum of all the monthly balances, both sums to be determined according to the originally contracted payment schedule. The required rebate is a fraction (or percentage) of the precomputed interest charge. The fraction differs for each number of months that the contract is prepaid in full.~~

- ~~2) The unearned interest or unearned portion of the monthly installment account handling charge that is refunded shall be calculated based on a method that is at least as favorable to the consumer as the actuarial~~

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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~~method, defined by the federal Truth in Lending Act (15 USC 1601 et seq.) and Regulation Z, Appendix J (12 CFR 226 (2011); this incorporation by reference includes no subsequent dates or editions). The Department will post on its website a method of rebate calculation that conforms with Appendix J. Licensees may submit to the Department requests for approval of additional methods of rebate calculation that conform to Appendix J. All methods approved by the Department will be posted on the Department's website. The Department shall make its best efforts to respond to all licensee requests for use of a method. The use of any posted method will constitute compliance with the requirements of this subsection (c)(2). The sum of the digits method and Rule of 78 method of calculating prepaid interest refunds are prohibited.~~

- ~~ef)~~ When a precomputed interest loan contract is renewed or refinanced, accrued but uncollected interest may be included in the principal amount of the new loan contract.
- ~~fg)~~ Delinquency or Default Charges
- 1) All delinquency or default charges ~~(Default Charges)~~ shall comply with the requirements and provisions of the applicable statute under which the contract was made.
  - 2) Delinquency or default charges may be assessed and collected and added to the balance of the note, but interest shall not be collected on said charge.
  - 3) Earned, but uncollected, delinquency or default charges shall be recorded on the account record on the date the delinquent payment is received, if the licensee intends to collect the charges at a later date.
- ~~gh)~~ If two or more installments are delinquent on any installment date the contract balance may be reduced as of that date by the rebate that would be required for prepayment in full on that date. Thereafter, the agreed contractual rate may be charged on the actual unpaid balances of the loan contract until the contract is fully paid ~~or, in the case of Small Consumer Loans, interest at the rate of 18% per annum may be charged in the unpaid balance until fully paid~~. Interest so received shall be in lieu of the rebated charges and any delinquency or default charge that would otherwise accrue after the date of which the rebate was made.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- ~~hi~~) When a contract is prepaid in full, a statement or receipt shall be given to the obligor, showing the date of prepayment, the amount of the rebate, if any, and the amount paid to discharge the loan.
- ~~ij~~) Fifteen days after the expiration date of the loan contract, interest may be charged at the contractually agreed rate, not to exceed the rate permitted in Section 15 of the Act ~~or, in the case of precomputed Small Consumer Loans, interest at the rate of 18% per annum,~~ on any balance remaining unpaid. At the time of final payment the licensee shall notify the obligor of the balance unpaid.
- ~~jk~~) Deferment
- 1) The maximum amount that may be charged for a one month's deferment is equal to the difference between the rebate that would be required for prepayment in full as of the scheduled due date of the deferred installment and the rebate that would be required for prepayment in full as of one month prior to the due date.
  - 2) On a precomputed loan the rebate for prepayment in full after deferment interest has been charged shall be larger than the rebate that otherwise would be required.
  - 3) If a rebate is required one month or more before the deferred due date of the first deferred installment, the licensee, at its option, may make a separate rebate of deferment interest for each unexpired month of the deferment period and then rebate the standard precomputed finance charge for the number of months to the original final installment date, plus one month for each month that deferment is retained.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.215 Document Preparation Fee (Repealed)**

~~Except for Small Consumer Loans, a licensee may assess the obligor a document preparation fee not to exceed \$25. This fee may be assessed for consummated loans only and shall be itemized and disclosed in the loan contract as prescribed under the federal Truth in Lending Act. In the event of prepayment in full, no portion of this fee is required to be refunded.~~

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(Source: Repealed at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.216 Small Consumer Loans; Charges Permitted (Repealed)**

~~A licensee may charge fees for Small Consumer Loans as permitted by Section 17.2 of the Act and as otherwise permitted in the Act.~~

(Source: Repealed at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.240 Hearing Procedures**

- a) Hearings  
After receipt of a written request for a hearing, the Director shall send to the respondent requesting the hearing, by certified mail, at least 10 days prior to the date set for the hearing, a Notice of Hearing. The Notice shall include the date and the time and place of the hearing to review the propriety of any administrative actions made pursuant to the Act.
- b) The Director may designate, in writing, a Hearing Officer who shall have the minimum qualification of being licensed to practice law in Illinois. The Hearing Officer may be disqualified for bias or conflict of interest. The Hearing Officer shall have the authority to:
  - 1) Examine or permit examination of any witness under oath;
  - 2) Determine the order of appearance of all parties;
  - 3) Receive all evidence and testimony and rule on its admissibility, as well as require the production of any relevant document or witness;
  - 4) Rule on objections to evidence;
  - 5) Make a written report with recommendations to the Director, which shall include findings of fact and conclusions of law. Findings of fact shall be based exclusively on the evidence and on matters officially noticed; and
  - 6) Require any party or his or her attorney to provide proposed findings of fact or conclusions of law for consideration in the report.

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## c) General Provisions

- 1) Delivery of notice shall be deemed complete when the notice is deposited in the United States mail.
- 2) Continuances
  - A) A continuance shall be granted for good cause by the Hearing Officer, which shall be:
    - i) In writing and signed by the respondent or his or her attorney and shall state the reasons for the request.
    - ii) Delivered to the Hearing Officer at least three days prior to the scheduled hearing.
  - B) For the purposes of this subsection (c)(2), good cause shall require the respondent to demonstrate real and compelling need for additional time. It shall include but not be limited to illness, service in the armed forces, etc.
- 3) The respondent shall bear all the costs of the hearing.
- 4) A court reporter shall be present and considered part of the costs of the hearing.

## d) Conduct of Hearings

- 1) The Hearing Officer shall open the hearing by presenting for the record his or her letter of authorization from the Director.
- 2) The rules of evidence and privilege as applied in civil cases in the Circuit Courts of this State shall be followed. The Hearing Officer may admit evidence not admissible under those rules if the evidence may be relevant to the case.
- 3) The Hearing Officer may, on his or her own motion or the motion of one of the parties, take notice of matters of which the Circuit Courts of this State may take judicial notice. *Notice may be taken of generally*

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*recognized technical or scientific facts within the Department's specialized knowledge if parties are notified, before or during the hearing, and shall be afforded an opportunity to contest the material so noticed.* [5 ILCS 100/10-40(c)] The burden of opposing any material admitted upon notice shall be upon the opposing party.

- 4) Failure of the respondent to attend the hearing shall result in dismissal of the respondent's petition and an entry of a default [judgment](#) against the respondent. Within 30 days from dismissal of the respondent's petition, the respondent may petition the Hearing Officer for reconsideration if the respondent can establish that his or her failure to attend was caused by events beyond his or her control and he or she exercised due diligence to attend or seek a continuance.
- 5) The record of any hearing shall include:
  - A) All pleadings and evidence received, whether admitted or excluded;
  - B) A statement of all matters officially noticed;
  - C) All offers of proof, objections and rulings on that proof and those objections;
  - D) All proposed findings and exceptions;
  - E) Any decision, opinion, or report by the Hearing Officer;
  - F) Any evidence excluded by the Hearing Officer, even though the evidence is not used in the determination of the claim;
  - G) A proceeding transcript that shall be recorded to adequately ensure the preservation of the testimony.
- 6) Within 60 days after the hearing or the receipt of all necessary documents, the Hearing Officer shall report to the Director as required by subsection (b)(5).
- 7) Within 30 days after receiving the report of the Hearing Officer, the

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Director shall issue a decision that shall be served on the respondent by registered or certified mail, return receipt requested. Copies of the Hearing Officer's report to the Director are available upon written request.

- e) Petition to Reconsider
  - 1) Within 30 days after receipt of the Director's decision, the respondent may petition the Director for reconsideration based upon a verified petition. An affidavit shall accompany the petition stating that the decision was against the preponderance of the evidence, was contrary to law, or was arbitrary or capricious, or is affected by newly discovered evidence not in existence at the time of the initial hearing or that could not have been discovered using due diligence at that time.
  - 2) The Director shall determine within 15 days whether to reconsider the case. If the Director determines after reading the affidavit that one or more of the findings listed in subsection (e)(1) has been alleged by the respondent, a hearing may be held and shall be limited to only those issues raised in the petition to reconsider. If reconsideration is denied, the Director's initial decision shall be the final administrative decision of the Department.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.290 Consumer Reporting Service**

- a) For the purposes of this Section, "certified database" means the consumer reporting service database established pursuant to the Payday Loan Reform Act [815 ILCS 122].
- b) For any loan other than a title-secured loan the licensee shall enter the following information into the certified database within 30 days after the loan is made:
  - 1) Social security number or alien identification number;
  - 2) The principal amount of the loan;
  - 3) The total of payments;

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- 4) The term of the loan;
  - 5) The maturity date of the loan;
  - 6) The date of the loan;
  - 7) The number and amount of scheduled payments;
  - 8) Zip code of obligor and any co-maker;
  - 9) Security taken;
  - 10) APR;
  - 11) PLPA APR;
  - 12) Whether the loan is a rollover of a prior loan; and
  - 13) Any additional information the Director may require.~~Within 90 days after making a Small Consumer Loan, a licensee shall enter information about the loan into the certified database.~~
- c) The lender shall update the certified database within 30 days if any of the following events occur:
- 1) Missed Payment;
  - 2) Any type of default other than a Missed Payment;
  - 3) Paying the loan in full;
  - 4) Closing of the loan;
  - 5) Writing off the loan;
  - 6) Repossession of any security;
  - 7) Sale of any security; or



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- 8) ~~Any other event as the Director may require. For every Small Consumer Loan made, the licensee shall input the following information into the certified database within 90 days after the loan is made:~~
- 1) ~~the consumer's name and official identification number (for purposes of this Act, "official identification number" includes a Social Security Number, an Individual Taxpayer Identification Number, a Federal Employer Identification Number, an Alien Registration Number, or an identification number imprinted on a passport or consular identification document issued by a foreign government);~~
  - 2) ~~the consumer's gross monthly income;~~
  - 3) ~~the date of the loan;~~
  - 4) ~~the amount financed;~~
  - 5) ~~the term of the loan;~~
  - 6) ~~the acquisition charge;~~
  - 7) ~~the monthly installment account handling charge;~~
  - 8) ~~the fee permitted under Section 17.2(c) of the Act;~~
  - 9) ~~the number and amount of payments; and~~
  - 10) ~~whether the loan is a first or subsequent refinancing of a prior Small Consumer Loan.~~
- d) ~~Once a small consumer loan is entered into the certified database, the certified database shall provide to the licensee a dated, time-stamped statement acknowledging the certified database's receipt of the information and assigning each loan a unique loan number.~~
- e) ~~The licensee shall update the certified database within 90 days if any of the following events occur with respect to a small consumer loan:~~

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- 1) ~~the loan is paid in full by cash. For purposes of this subsection (e)(1), "cash" includes currency, personal checks, money orders, third party checks and any other medium of exchange representing immediately available funds;~~
  - 2) ~~the loan is refinanced;~~
  - 3) ~~the loan is renewed;~~
  - 4) ~~the loan is satisfied in full or in part by collateral being sold after default;~~
  - 5) ~~the loan is cancelled or rescinded; or~~
  - 6) ~~the consumer's obligation on the loan is otherwise discharged by the licensee.~~
- f) ~~To the extent a licensee sells a product or service to a consumer, in addition to a Small Consumer Loan, and finances any portion of the cost of the product or service, the licensee shall, in addition to and at the same time as the information inputted under subsection (d), enter into the certified database:~~
- 1) ~~a description of the product or service sold;~~
  - 2) ~~the charge for the product or service; and~~
  - 3) ~~the portion of the charge for the product or service, if any, that is included in the amount financed by a Small Consumer Loan.~~
- dg) The certified database provider shall indemnify the licensee against all claims and actions arising from illegal or willful or wanton acts on the part of the certified database provider. The certified database provider may charge a fee not to exceed \$1 for each loan entered into the certified database under subsection (be). The database provider shall not charge any additional fees or charges to the licensee.
- eh) All personally identifiable information regarding any consumer obtained by way of the certified database and maintained by the Department is strictly confidential and shall be exempt from disclosure under Section 7(1)(c) of the Freedom of Information Act [5 ILCS 140].

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- ~~f)~~ A licensee who submits information to a certified database provider in accordance with this Section shall not be liable to any person for any subsequent release or disclosure of that information by the certified database provider, the Department, or any other person acquiring possession of the information, regardless of whether the subsequent release or disclosure was lawful, authorized or intentional.
- ~~g)~~ To the extent the certified database becomes unavailable to a licensee as a result of some event or events outside the control of the licensee or the certified database is decertified, the requirements of this Section ~~and Section 17.4 of the Act~~ are suspended until such time as the certified database becomes available.
- ~~k)~~ ~~Beginning June 1, 2011, licensees must comply with the requirements of subsections (b) through (f) of this Section.~~

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## SUBPART B: TITLE-SECURED LENDING

**Section 110.300 Definitions**

~~"Interest bearing loan" shall mean a loan in which interest is charged upon the principal amount borrowed.~~

~~"Refinance" shall mean to renew or extend a loan beyond its original term.~~

"Motor vehicle" shall mean a motor vehicle as defined in the Illinois Vehicle Code [625 ILCS 5/1-146].

"Title-secured lender" shall mean any lender engaged in making any title-secured~~title-secured~~ loans.

"Title-secured loan" shall mean a loan in which~~upon which interest is charged at an annual percentage rate exceeding 36 percent in which~~, at commencement, an obligor provides to the licensee, as security for the loan, physical possession of the obligor's title to a motor vehicle. A title-secured loan does not include any loan or credit transaction that is expressly intended to finance the purchase of a motor vehicle.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 110.320 Application for License (Repealed)**

~~In addition to the licensing requirements of Section 110.15 of this Part, a title-secured lender making application for license shall provide, as part of the application submitted to the Division, a statement certifying compliance with any and all applicable local ordinances pertaining to the applicant's proposed business.~~

(Source: Repealed at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.330 Renewal of License (Repealed)**

~~At the time of renewal of a license, and in addition to paying the fees and complying with the other requirements of the Act, a title-secured lender must submit a statement certifying compliance with any and all applicable local ordinances pertaining to the licensed business.~~

(Source: Repealed at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.340 Loan Terms~~Simple Interest and Repayment~~**

- a) ~~All title-secured loans must be interest-bearing as defined in 205 ILCS 670/15A~~  
~~title-secured lender must compute interest on all title-secured loans as simple interest, as defined in Section 110.80(c) of this Part.~~
- b) Title-secured loans must be fully amortized and repayable in substantially equal installments.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.360 Availability of Debt Management Services**

- a) Before entering into a title-secured loan agreement, licensee must give to the prospective obligor a pamphlet, approved by the Director, describing the availability of debt management services and the obligor's rights and responsibilities in the transaction.
- b) Each title-secured loan agreement and refinancing agreement executed by a licensee shall include a statement, which shall be initialed by the obligor, as follows: "I have received from (name of lender) a toll free number from the

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Department of Financial and Professional Regulation-Division Financial Institutions that I can call for information regarding debt management services."

- c) At the time a title-secured lender conveys any written notice to an obligor indicating the obligor is in arrears or that the obligor is in delinquency or default, the lender shall include with the notice a statement indicating a toll free number of the Division that the obligor may contact for the purpose of the obligor receiving information from the Division regarding debt management services. The form and method of providing the information shall be subject to approval of the Division.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.370 Lending Limits and Refinancing**

- a) A title-secured loan may not exceed \$4,000 in principal amount. ~~No~~However, no loan shall be made in such amount that the scheduled principal and interest payment for any one monthly payment on the loan exceeds 22.5%~~50%~~ of the obligor's gross monthly income, ~~except to the extent that loan prepayment is allowed by Section 16(j) of the Act.~~
- b) Title-Secured Loan Refinancing
- 1) A title-secured loan may be refinanced, but only when the original principal of the loan has been reduced by at least 20%.
  - 2) The principal amount of the new title-secured loan may not exceed the total outstanding balance of the refinanced loan.
- c) No loan, other than the refinancing of an existing title-secured loan, may be made to an obligor who has had an outstanding title-secured loan within the preceding 15 days. No loan, other than the refinancing of an existing title-secured loan, may be made within 15 days after the occurrence of any event listed in Section 110.420(g)(2)(A)~~110.420(h)(4)(A)~~ through (G)(D) or within 15 days after the maturity date of a title-secured loan.
- d) The loan agreement must include a separate statement signed by the obligor attesting that the obligor has not had an outstanding title-secured loan within the preceding 15 days. ~~This subsection shall not apply if the Director has approved a~~

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~~database pursuant to subsection (g).~~

- e) The loan agreement shall advise the obligor that matters involving improprieties in the making of the loan or in loan collection practices may be referred to the Division and shall prominently disclose the Division's address and telephone number.
- f) Each title-secured loan refinancing agreement executed by a licensee shall include a statement, which shall be initialed by the obligor, as follows: "I have received from (name of lender) a toll free number from the Department of Financial and Professional Regulation-Division of Financial Institutions that I can call for information regarding debt management service."
- g) ~~Before entering into a loan agreement or refinancing agreement with an obligor, the lender shall use a database approved by the Director to verify that the proposed loan agreement or refinancing agreement is permissible under this Section.~~

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.390 Possession of Vehicle**

- a) Unless otherwise provided for in the loan agreement, a lender shall not take or retain possession of the keys (or a copy of the keys) to a motor vehicle used to secure a title-secured loan.
- b) No title-secured lender may take possession of a vehicle without first giving notice to the obligor; affording the obligor the opportunity to make the vehicle available to the lender at a place, date and time reasonably convenient to the lender and obligor; and permitting the obligor to remove any personal belongings from the vehicle without charge or additional cost to the obligor.
- c) Possession measures shall be in accordance with Section 19.1 of the Consumer Installment Loan Act.
- d) No title-secured lender may take possession of a motor vehicle for a loan default or delinquency and lease the vehicle back to the obligor.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 110.420 Approved Database**

- a) ~~The By October 1, 2009, the~~ Division shall approve a database as a method of verification of the requirements of Section 110.370 of this Part. Upon approving a database, the Department shall:
- 1) provide reasonable notice to all lenders identifying the approved database provider; and
  - 2) immediately upon approval, require each lender to use the database as a means of complying with Section 110.370 of this Part.
- b) Except as otherwise provided in this Section, all personally identifiable information regarding any prospective obligor or obligor obtained by way of the approved database and maintained by the Department is strictly confidential and shall be exempt from disclosure under Section ~~7(1)(c)7(1)(b)(i)~~ of the Freedom of Information Act [5 ILCS ~~140/7(1)(c)140/7(1)(b)(i)~~].
- ~~e)~~ ~~Notwithstanding any other provision of law to the contrary, an obligor seeking a title-secured loan may make a direct inquiry to the database to request a more detailed explanation of the basis for the database provider's determination that the obligor is ineligible for a title-secured loan.~~
- ~~c)~~ In approving a database provider, the Department shall ensure that the approved database complies with the following provisions:
- 1) Single, centralized consumer reporting service to track title-secured loan transactions made by lenders on a real time basis through an internet connection or, if real-time access through an internet connection becomes unavailable to lenders due to the database provider's technical problems, through alternative verification mechanisms, including, but not limited to, verification by telephone;
  - 2) Real-time access by the Department and lenders to verify that prospective individual obligors are eligible for a loan pursuant to the requirements of Section 110.370 and in order to provide any other information that the Department deems necessary;

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- 3) Customer support to lenders and obligors during regular business hours;
  - 4) Develop and provide training to Department staff and lenders prior to implementation and on an ongoing basis;
  - 5) Provide a charge-back methodology to lenders not to exceed \$1 for each search to determine eligibility of the prospective obligor for a loan under Section 110.370;
  - 6) Require lenders to input whatever information is required by the Department;
  - 7) Maintain a real-time copy of the required reporting information that is available to the Department at all times and is the property of the Department;
  - 8) Provide lenders only with a statement that a prospective~~an~~ obligor is eligible or ineligible for a title-secured loan and a description of the reason for the determination; and
  - 9) Implement safeguards to ensure that all information contained in the database regarding prospective obligors and obligors is kept strictly confidential.
- de) A lender may rely on the information contained in the approved database as accurate and is not subject to any administrative penalty or liability as a result of relying on inaccurate information contained in the database.
- df) The approved database provider shall indemnify the lender against all claims and actions arising from illegal or willful or wanton acts on the part of the approved database provider.
- fg) Database Provider Qualifications
- 1) The database provider shall have at all times a net worth of not less than \$1,000,000 calculated in accordance with generally accepted accounting principles (Wiley GAAP, published by John Wiley and Sons, 605 Third Avenue, New York NY 10158-0012, 2008, no later editions or amendments included).



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- 2) Each application for approval under this Section shall be accompanied by a nonrefundable investigation fee of \$2,500, together with an initial database approval fee of \$1,000.
- 3) On or before March 1st of each year, the approved database provider shall pay to the Department an approval fee in the amount of \$1,000.
- 4) The database provider shall have a surety bond of at least \$5,000,000. The surety bond shall be in a form satisfactory to the Department and shall run to the State of Illinois for the benefits of any claimants against the database provider to secure the faithful performance of its obligations under the Act and this Part. The aggregate liability of the surety may exceed the principal sum of the bond. Claimants against the database provider may themselves bring suit directly on the surety bond or the Department may bring suit on behalf of claimants, either in one action or successive actions.

~~gh)~~ Lender Input into Database

- ~~1) The lender shall input the following information into the approved database to determine whether the obligor is eligible for a title-secured loan pursuant to Section 110.370:~~
  - ~~A) Obligor's Social Security Number or Alien Identification Number;~~
  - ~~B) Obligor's gross monthly income;~~
  - ~~C) The principal amount of the loan;~~
  - ~~D) The term of the loan; and~~
  - ~~E) Any additional information required by the database provider.~~
- 2) The lender shall input the following information into the approved database to determine whether the obligor is eligible to refinance a title-secured loan pursuant to Section 110.370:
  - A) Obligor's Social Security Number or Alien Identification Number;

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- ~~B) Obligor's gross monthly income;~~
- ~~C) The principal amount of the loan;~~
- ~~D) The term of the loan; and~~
- ~~E) Any additional information required by the database provider.~~

13) ~~Within 30 days after~~On the same day a title-secured loan is made, the lender shall ~~enter into~~update the approved database ~~with~~ the following information:

- A) Obligor's Social Security Number or Alien Identification Number;
- B) The principal amount of the loan;
- C) The total of payments~~amount of the loan~~;
- D) The term of the loan and the maturity date of the loan; ~~and~~
- E) The date the loan was executed;
- F) The schedule number and amount of payments;
- G) Zip code of obligor and any co-maker;
- H) Any security taken;
- I) APR;
- J) PLPA APR;
- K) Vehicle identification number of security;
- L) Whether the loan is a rollover of a prior loan; and
- ME) Any additional information the Director may require~~required by the database provider.~~

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- 24) The lender shall update the approved database within 30 days if~~with the information required by the database provider on the same day that~~ any of the following events occur:
- A) Paying the loan in full;
  - B) Return of any security;
  - C) Closing the loan~~due to the collateral being sold after default;~~
  - D) Writing off the loan;~~or~~
  - E) Missed Payment;
  - F) Voluntary surrender of any security;
  - G) Involuntary repossession of any security;
  - H) Sale of any security;
  - I) Any other type of default except a Missed Payment; or
  - J) Any other transaction the Director may require~~as required by the database provider.~~
- h) All personally identifiable information regarding any consumer obtained by way of the certified database and maintained by the Department is strictly confidential and shall be exempt from disclosure under subsection (c) of Section 7 of the Freedom of Information Act.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.430 Gross Monthly Income Verification**

Prior to making a title-secured loan, the lender must obtain from the obligor one or more of the following types of documentation to verify the gross monthly income of the obligor as required by Section 110.370(a).

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- a) A copy of the prospective obligor's most recent official pay stub or official payroll receipt;
- b) A copy of the prospective obligor's most recent official receipt documenting payment of government benefits; or
- c) Other documentation as approved by the Director in writing.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 110.APPENDIX C Disclosure of 36% Rate Cap**DISCLOSURE OF 36% RATE CAP

A lender shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a loan, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR)

Any loan with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan.

The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR.

\_\_\_\_\_  
Applicant Signature

\_\_\_\_\_  
Co-Applicant Signature (If Applicable)

(Source: Added at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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- 1) Heading of the Part: Payday Loan Reform Act
- 2) Code Citation: 38 Ill. Adm. Code 210
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
210.1	Amendment
210.2	New Section
210.16	Amendment
210.70	Amendment
210.72	Amendment
210.75	Repealed
210.200	Amendment
210.250	Amendment
210.260	Amendment
210.APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed amendments will require payday lenders to provide a disclosure to consumers about the 36% APR rate cap established by the PLPA. These amendments also incorporate the 36% rate cap, eliminate installment payday loans, and amend the rules for the reporting of payday loans to the state database. The agency is seeking these changes in order to implement the requirements of P.A. 101-658, which was signed into law on March 23, 2021. The rules identifying the information to be reported to the state database will allow payday loan reform act licensees to comply with the general requirements of those Acts and to report information to the state database. The rules also implement the consumer protection goal of the relevant portions of P.A. 101-658.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No

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- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation  
Attention: Craig Cellini  
320 West Washington, 2nd Floor  
Springfield IL 62786

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

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

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Payday Loan businesses may be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Experience in the financial/lending industry may be beneficial.
- 14) Small Business Impact Analysis:
- A) Types of businesses subject to the proposed rule:

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- B) Categories that the agency reasonably believes the rulemaking will impact, including:
- ii. Regulatory requirements
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on any Regulatory Agenda.

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 210

## PAYDAY LOAN REFORM ACT

## Section

210.1	Definitions
<a href="#">210.2</a>	<a href="#">Rate Cap Disclosure Notices</a>
210.10	Minimum Requirements for Office Records
210.15	Application for Payday Lender License; Controlling Person
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210.20	Loan Register
210.30	Individual Account Records
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210.50	Cash Book
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210.65	Permanent File
210.70	Payments and Refunds
210.72	Loan Terms
210.75	Installment Payday Loans <a href="#">(Repealed)</a>
210.80	Cancellation and Return of Documents
210.90	Hypothecation at the Time of the Sale of Consumer's Loan Agreement
210.100	Legal Forms
210.110	Judgments
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210.200	Hearing Procedures
210.210	Off-Site Records
210.220	Servicing of Accounts by Contract
210.230	Revocation or Suspension of License
210.240	Consumer Written Verification of Compliance with Act
210.250	Gross Monthly Income Verification



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210.260 Certified Database/Commercially Reasonable Method of Verification  
210.270 Violation of Federal Law – Section 670 of the John Warner National Defense  
Authorization Act

210.APPENDIX A Disclosure of 36% Rate Cap

AUTHORITY: Implementing and authorized by the Payday Loan Reform Act [815 ILCS 122].

SOURCE: Adopted at 29 Ill. Reg. 21008, effective December 16, 2005; amended at 35 Ill. Reg. 7343, effective April 21, 2011; amended at 37 Ill. Reg. 216, effective February 19, 2013; amended at 41 Ill. Reg. 12400, effective October 6, 2017; amended at 45 Ill. Reg. 4467, effective March 24, 2021; amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 210.1 Definitions**

"Act" means the Payday Loan Reform Act [815 ILCS 122].

"Affiliate" means any person or entity that directly or indirectly controls, is controlled by, or shares control with another person or entity. A person or entity has control over another if the person or entity has an ownership interest of 25% or more in the other.

"Allotment" means a portion of military pay that is regularly deducted or set-aside.

"Annual percentage rate" or "APR" is the cost of the consumer credit expressed as an annual rate which is disclosed to the consumer under applicable law.

"Calendar month" means that period from a given date in one month to the same numbered date the following month, and if there is no same numbered date, to the last day of the following month. When a period of time includes a month and a fraction of a month, the fraction of the month is considered to follow the whole month.

"Controlling Person" means a person, entity, or ultimate equitable owner that:

owns or controls, directly or indirectly, 10% or more of any class of stock of the license applicant;

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is not a depository institution, as defined in Section 1007.50 of the Savings Bank Act [205 ILCS 205], that lends, provides, or infuses, directly or indirectly, in any way, funds to or into a license applicant, in an amount equal to or more than 10% of the license applicant's net worth;

controls, directly or indirectly, the election of 25% or more of the members of the board of directors of a license applicant; or

the Director finds influences management of the license applicant.

"Covered Dependent" with respect to a covered member, means the covered member's spouse; the covered member's child (as defined in 38 USC 101(4)); or an individual for whom the covered member provided more than one-half of the individual's support for 180 days immediately preceding an extension of consumer credit covered.

"Covered Military Member" or "Covered Member" means a member of the armed forces who is on active duty under a call or order that does not specify a period of 30 days or less or is on active Guard and Reserve Duty.

"Department" means the Department of Financial and Professional Regulation.

"Director" means the Director of the Division of Financial Institutions with the authority delegated by the Secretary.

"Division" means the Department of Financial and Professional Regulation-Division of Financial Institutions.

"Generally Accepted Accounting Principles" or "GAAP" means those adopted by the American Institute of Certified Public Accountants and Federal Accounting Standards Board and incorporated by reference in Section 210.15.

"Gross Monthly Income" means monthly income as demonstrated by official documentation of the income, including, but not limited to, a consumer's pay stub or receipt reflecting payment of government benefits, for the period 30 days prior to the date on which the loan was made.

"Hypothecate" means to pledge a security instrument without transfer of title.

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~~"Installment Payday Loan" means a payday loan with a term agreed to by the parties of not less than 112 days and not exceeding 180 days and that is repayable in substantially equal and consecutive installments pursuant to Section 2-5(c) of the Act.~~

"John Warner Act" or "Warner Act" means 10 USC 987.

"Lender and Licensee" means a lender and licensee as defined in Section 1-10 of the Act.

"Loan Receivables" means the outstanding balances due on the loans of the licensee.

"Other Business Authorization" means the authorization in writing required by Section 3-5(g) of the Act to conduct another business in a location licensed under the Act that would not be contrary to the best interest of consumers.

"Missed Payment" means any failure to make a payment within ten days of the due date.

"Payday Lender License" means a license issued pursuant to the Act.

"Person" means an individual, partnership, association, joint stock association, corporation, or any other form of business organization.

"Predatory Loan Prevention Act Annual Percentage Rate" or "PLPA APR" is the cost of the consumer credit expressed as an annual rate and shall be calculated in accordance with 32 CFR 232.4(c), as in effect on the effective date of the act and as incorporated in 38 Ill. Adm. Code 215.

"Secretary" means the Secretary of the Department of Financial and Professional Regulation.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 210.2 Rate Cap Disclosure Notices**

- a) All applications for a loan must include a separate disclosure signed by the consumer that states: "A lender shall not contract for or receive charges

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exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a loan, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any loan with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan. The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR." This disclosure shall be written in no smaller than size 20 font and shall be substantially similar to the form in Appendix A. A lender shall provide all disclosures required by this section in English and in the language in which the loan was negotiated.

- b) A lender shall prominently display at all times in any physical location, and on any website, mobile device application, or any other electronic medium owned or maintained by a lender where loans are made, advertised, or serviced, a disclosure that states: "Loans cannot exceed a 36% annual percentage rate as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any loan with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan. The annual percentage rate disclosed in any loan contract may be lower than PLPA APR." Any notice posted in any physical location must be written no smaller than size 36 font. Any notice posted on a website, application, or any other electronic medium must be no smaller than size 14 font. All notices must be posted in English and Spanish.
- c) A lender shall prominently display a disclosure in any written solicitations or advertisements regarding loans, that states in at least size 14 font: "Loans cannot exceed a 36% annual percentage rate as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any loan with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan. The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR.

(Source: Added at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 210.16 Dual Licensure Limitation**

In accordance with Section 3-5(g) of the Act, a licensee may obtain a license under the Consumer Installment Loan Act (CILA) for the exclusive purpose and use of making title

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secured loans, as defined in Section 15(a) of CILA and governed by 38 Ill. Adm. Code 110.300. ~~A licensee may continue to service CILA loans that were outstanding as of the effective date of the amendatory Act of 2010 (March 21, 2011) until the loans are repaid in full.~~

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 210.70 Payments and Refunds**

- a) All payments shall be credited on the account record as of the date received.
- b) When a payment is made in cash, the licensee shall give a receipt to the consumer. A receipt is not required for payment by check or money order unless requested by the consumer.
- c) When any loan contract is paid in full, the licensee shall refund any unearned finance charge. ~~Refunds of unearned finance charges for installment payday loans shall be paid to the consumer in cash, check or an Automated Clearing House (ACH) debit.~~ The unearned finance charge that is refunded shall be calculated based on a method that is at least as favorable to the consumer as the actuarial method, as defined by the federal Truth in Lending Act (15 USC 1601 et seq.) and Regulation Z, Appendix J (12 CFR 226 (2011); this incorporation by reference includes no subsequent dates or editions). The Department will post to its website a method of rebate calculation that conforms with Appendix J. Licensees may submit to the Department requests for approval of additional methods of rebate calculation that conform to Appendix J. All methods approved by the Department will be posted on the Department's website. The Department shall make its best efforts to respond to all licensee requests for use of a method. The use of any posted method will constitute compliance with the requirements of this subsection (c). The sum of the digits or rule of 78 method of calculating prepaid interest refunds is prohibited.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 210.72 Loan Terms**

- a) No lender may make a payday loan to a consumer if the total of all payday loan payments coming due within the first calendar month of the loan, when combined with the payment amount of all of the consumer's other outstanding payday loans coming due within the same month, exceeds the lesser of:

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- 1) \$1,000; or
  - 2) in the case of one or more payday loans, 25% of the consumer's gross monthly income; ~~or~~
  - 3) ~~in the case of one or more installment payday loans, 22.5% of the consumer's gross monthly income; or~~
  - 4) ~~in the case of a payday loan and an installment payday loan, 22.5% of the consumer's gross monthly income.~~
- b) A lender shall not contract for or receive charges exceeding a 36% PLPA APR on the unpaid balance of the amount financed for a payday loan. Any loan with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan.~~No lender may charge more than \$15.50 per \$100 loaned on any payday loan, or more than \$15.50 per \$100 on the initial principal balance and on the principal balances scheduled to be outstanding during any installment period on any installment payday loan. Except for installment payday loans and except as provided in Section 2-25 of the Act, this charge is considered fully earned as of the date on which the loan is made.~~
- c) A lender may not take or attempt to take an interest in any of the consumer's personal property to secure a payday loan.
- d) A consumer has the right to redeem a check or any other item described in the definition of payday loan under Section 1-10 of the Act issued in connection with a payday loan from the lender holding the check or other item at any time before the payday loan becomes payable by paying the full amount of the check or other item, except that, if the item is a check or an ACH debit that could not be cancelled before it was negotiated, the consumer shall be entitled to a full refund of the amount obtained by the check or ACH debit within 5 business days after the date of redemption.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 210.75 Installment Payday Loans (Repealed)**

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- a) ~~Notwithstanding anything in the Act to the contrary, a payday loan shall also include any installment loan otherwise meeting the definition of payday loan contained in Section 1-10 of the Act, but that has a term agreed to by the parties of not less than 112 days and not exceeding 180 days (referred to in this Section as an "installment payday loan"). The following provisions shall apply:~~
- 1) ~~Any installment payday loan must be fully amortizing, with a finance charge calculated on the principal balances scheduled to be outstanding and be repayable in substantially equal and consecutive installments, according to a payment schedule agreed to by the parties, with not less than 13 days and not more than one month between payments; except that, the first installment period may be longer than the remaining installment periods by not more than 15 days, and the first installment payment may be larger than the remaining installment payments by the amount of finance charges applicable to the extra days.~~
  - 2) ~~An installment payday loan may be refinanced by a new installment payday loan one time during the term of the initial loan; provided that the total duration of indebtedness on the initial installment payday loan, combined with the total term of indebtedness of the new loan refinancing that initial loan, shall not exceed 180 days. For purposes of the Act, a refinancing occurs when an existing installment payday loan is paid from the proceeds of a new installment payday loan.~~
  - 3) ~~In the event an installment payday loan is paid in full prior to the date on which the last scheduled installment payment before maturity is due, other than through a refinancing, no licensee may offer or make a payday loan to the consumer for at least 2 calendar days after the date on which the loan is paid in full.~~
  - 4) ~~No installment payday loan may be made to a consumer if the loan would result in the consumer being indebted to one or more payday lenders for a period in excess of 180 consecutive days.~~
- b) ~~No loan shall be made to a consumer who has an outstanding balance on 2 payday loans, except that, for a period of 12 months after the effective date of the amendatory Act of 2010 (effective March 21, 2011), consumers with an existing CILA loan may be issued an installment loan issued under the Act from the~~

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~~company from which their CILA loan was issued. For purposes of this Section, "company" means a person or legal entity.~~

- ~~c) No lender may charge more than \$15.50 per \$100 on the initial principal balance and on the principal balances scheduled to be outstanding during any installment period on any installment payday loans.~~
- ~~d) For purposes of determining the finance charge earned on an installment payday loan, the disclosed annual percentage rate shall be applied to the principal balance outstanding from time to time until the loan is paid in full, or until the maturity date, whichever occurs first. No finance charge may be imposed after the final scheduled maturity date.~~
- ~~e) The provisions of Section 2-40 of the Act concerning repayment plans do not apply to installment payday loans, except for Section 2-40(f).~~
- ~~f) In calculating finance charges under Section 2-5(c)(i) of the Act for an installment payday loan, when the first installment period is longer than the remaining installment periods, the amount of the finance charges applicable to the extra days shall not be greater than \$15.50 per \$100 of the original principal balance divided by the number of days in a regularly scheduled installment period and multiplied by the number of extra days determined by subtracting the number of days in a regularly scheduled installment period from the number of days in the first installment period.~~
- ~~g) No installment payday loan may be made to a consumer if the loan would result in the consumer being indebted to one or more payday lenders for a period in excess of 180 consecutive days. The term "consecutive day" does not include the date on which a consumer makes the final installment payment.~~

(Source: Repealed at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 210.200 Hearing Procedures**

- a) **Hearings**  
After receipt of a written request for a hearing, the Director shall send a Notice of Hearing to the respondent requesting the hearing, by certified mail, at least 10 days prior to the date set for the hearing. The notice shall include the date and the



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time and place of the hearing to review the propriety of any administrative actions taken pursuant to the Act.

- b) The Director may designate, in writing, a Hearing Officer who shall have the minimum qualification of being licensed to practice law in Illinois. The Hearing Officer may be disqualified for bias or conflict of interest. The Hearing Officer shall have the authority to:
  - 1) Examine or permit examination of any witness under oath;
  - 2) Determine the order of appearance of all parties;
  - 3) Receive all evidence and testimony and rule on its admissibility, as well as require the production of any relevant document or witness;
  - 4) Rule on objections to evidence;
  - 5) Make a written report with recommendations to the Director that shall include findings of fact and conclusions of law. Findings of fact shall be based exclusively on the evidence and on matters officially noticed; and
  - 6) Require any party or the party's attorney to provide proposed findings of fact or conclusions of law for consideration in the Hearing Officer's report.
- c) General Provisions
  - 1) Delivery of notice shall be deemed complete when the notice is deposited in the United States mail.
  - 2) A continuance shall be granted for good cause by the Hearing Officer. For the purposes of this subsection (c)(2), good cause shall require the respondent to demonstrate real and compelling need for additional time. It shall include, but not be limited to, illness, service in the armed forces, etc. The continuance shall be:
    - A) In writing and signed by the respondent or the respondent's attorney and shall state the reasons for the request.

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- B) Delivered to the Hearing Officer at least three days prior to the scheduled hearing.
- 3) The licensee shall bear all the costs of the hearing.
- 4) A court reporter will be present and considered as part of the costs of the hearing.
- d) Conduct of Hearings
  - 1) The Hearing Officer shall open the hearing by presenting for the record his letter of authorization from the Director.
  - 2) The rules of evidence and privilege as applied in civil cases in the circuit courts of this State shall be followed. The Hearing Officer may admit evidence not admissible under circuit court rules if that evidence may be relevant to the case.
  - 3) The Hearing Officer may, on his own motion or the motion of one of the parties, take notice of matters of which the circuit courts of this State may take judicial notice. Notice may be taken of generally recognized technical or scientific facts within the Division's specialized knowledge if parties are notified, before or during the hearing, and shall be afforded an opportunity to contest the material so noticed. The burden of opposing any material admitted upon notice shall be upon the party so opposing.
  - 4) Failure of the respondent to attend the hearing shall result in dismissal of the respondent's petition and an entry of a default judgment against the respondent. Within 30 days after dismissal of the respondent's petition, the respondent may petition the Hearing Officer for reconsideration if the respondent can establish that his or her failure to attend was caused by events beyond his or her control and he or she exercised due diligence to attend or seek a continuance.
  - 5) The record of any hearing shall include:
    - A) All pleadings and evidence received, whether admitted or excluded;

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- B) A statement of all matters officially noticed;
  - C) All offers of proof and objections and rulings on those offers;
  - D) All proposed findings and exceptions;
  - E) Any decision, opinion, or report by the Hearing Officer;
  - F) Any evidence excluded by the Hearing Officer, even though that evidence is not used in the determination of the claim;
  - G) A proceeding transcript that shall be recorded by a means that adequately ensures the preservation of the testimony.
- 6) Within 60 days after the hearing or the receipt of all necessary documents, the Hearing Officer shall report to the Director.
  - 7) Within 30 days after receiving the report of the Hearing Officer, the Director shall issue his or her decision, which shall be served on the respondent by registered or certified mail, return receipt requested. Copies of the Hearing Officer's report to the Director are available upon written request.
- e) Petition to Reconsider
    - 1) Within 30 days after receipt of the Director's decision, the respondent may petition the Director for reconsideration based upon a verified petition. An affidavit shall accompany the petition, stating that the decision was against the preponderance of the evidence, was contrary to law, or was arbitrary or capricious, or is affected by newly discovered evidence not in existence at the time of the initial hearing or that could not have been discovered using due diligence at that time.
    - 2) The Director shall determine within 15 days whether to reconsider the case. If the Director determines after reading the affidavit that one or more of the conditions outlined in subsection (e)(1) has been alleged by the respondent, a hearing may be held and shall be limited to only those issues raised in the petition to reconsider. If reconsideration is denied, the

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Director's initial decision shall be the final administrative decision of the Division.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 210.250 Gross Monthly Income Verification**

- a) Prior to making a loan under the Act, the licensee must obtain from the consumer one or more of the following types of documentation to verify the gross monthly income of the consumer as required by Section 2-5(e) of the Act.
- 1) A copy of the consumer's official pay stub or official payroll receipt, for the period 30 days prior to the date on which the loan is made.
  - 2) A copy of the consumer's official receipt documenting payment of government benefits, for the period 30 days prior to the date on which the loan is made.
  - ~~3) A copy, from the current or prior year, of the consumer's State or federal tax returns or the consumer's W-2 or 1099 forms.~~
  - ~~4) Signed and verifiable documentation prepared by the source of the income.~~
  - 35) A contract that provides for funds to have been paid to the consumer within the 30 days prior to the date on which the loan is made, and documentation reflecting that the funds have actually been paid.
  - 46) Other documentation as approved by the Director.
- b) If two or more persons jointly apply for credit, each must list income on the application, and the aggregate of all borrowers' income may be taken into account when calculating the maximum gross monthly income under Section 2-5(e) of the Act. The licensee must obtain documentation of gross monthly income pursuant to this Section with respect to all applicants.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 210.260 Certified Database/Commercially Reasonable Method of Verification**

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- a) Certified Database. In order to certify a consumer reporting service as a commercially reasonable database pursuant to the Act, the provider must comply with the following provisions:
  - 1) Single, centralized consumer reporting service to track payday loan transactions made by licensees under the Act on a real time basis.
  - 2) Real time access by the Division and licensees to verify that individual consumers are eligible for a loan pursuant to the requirements of the Act.
  - 3) All requirements in Section 2-15 of the Act regarding verification.
  - 4) Customer support to licensees and consumers during regular business hours.
  - 5) Develop and provide training to Division staff and licensees under the Act prior to implementation and on an ongoing basis.
  - 6) Provide a charge-back methodology to licensees not to exceed \$1 for each search to determine eligibility of the consumer for a loan under the Act.
  - 7) All requirements of Section 2-17 of the Act regarding qualifications and bonding.
  - 8) All confidentiality and privacy requirements of the Act and required by law.
- b) The certified consumer reporting service may charge a verification fee not to exceed \$1 upon a loan being made or entered into the database. The certified consumer reporting service shall not charge any additional fees or charges.
- c) Additional Database Providers. As technology advances permit, the Division may certify additional database providers in the future. Any additional database provider must guarantee, to the satisfaction of the Director, that the additional database can interface with any other certified database to provide a single point of verification for licensees and the Division to determine consumer eligibility for a loan pursuant to the Act and to provide a single source for reporting purposes.

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- d) Licensee Input into Database
- 1) The licensee shall input the following information into the certified database to determine whether the consumer is eligible for a loan pursuant to the requirements of the Act:
    - A) Consumer's Social Security Number or Alien Identification Number.
    - B) Consumer's gross monthly income.
    - C) Any additional information required by the Director~~database provider~~.
  - 2) On the same day the payday loan is made, the licensee shall update the certified database with the following information:
    - A) Consumer's Social Security Number or Alien Identification Number;~~;~~
    - B) The principal amount of the loan;~~;~~
    - C) The total of payments~~;amount of the loan~~.
    - D) The term of the loan;~~;~~
    - E) The security~~Security~~ accepted for the loan;~~;~~
    - F) Zip code of consumer;
    - G) Date of the loan;
    - H) APR;
    - I) PLPA APR;
    - J) Whether the loan is a rollover or a prior loan; and

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- KF) Any additional information required by the Director~~database provider~~.
- 3) On the same day any loan transaction is made, the licensee shall input the information into the certified database~~The licensee shall update the certified database with the information required by the database on the same day the loan transaction is made~~, including, but not limited to, the following transactions:
- A) Electing a repayment plan~~;~~
  - B) Paying the loan in full~~;~~~~including the refinancing of an installment payday loan as permitted under Section 2-5(c) of the Act.~~
  - C) Closing of the loan~~Making a partial payment.~~
  - D) Depositing a~~the~~ check used as security for the loan~~;~~
  - E) Canceling a loan within 48 hours as allowed by the Act~~;~~
  - F) Recording an NSF return on a previously closed transaction~~;~~
  - G) Return of security~~;~~
  - H) Writing of the loan;
  - I) Any missed Payment;
  - J) Any default other than a Missed Payment; and
- KH) Any other transaction as required by the Director~~database provider~~.
- e) Beginning June 1, 2011, licensees must comply with the requirements of subsection (d) of this Section.
- f) All personally identifiable information regarding any consumer obtained by way of the certified database and maintained by the Department is strictly confidential and shall be exempt from disclosure under subsection (c) of Section 7 of the Freedom of Information Act.

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(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 210.APPENDIX A Disclosure of 36% Rate Cap****DISCLOSURE OF 36% RATE CAP**

A lender shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a loan, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR)

Any loan with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the loan.

The annual percentage rate disclosed in any loan contract may be lower than the PLPA APR.

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Applicant Signature

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Co-Applicant Signature (If Applicable)

(Source: Added at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)



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- 1) Heading of the Part: Predatory Loan Prevention Act
- 2) Code Citation: 38 Ill. Adm. Code 215
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
215.10	New Section
215.20	New Section
- 4) Statutory Authority: Implementing and authorized by the Predatory Loan Prevention Act [815 ILCS 123].
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules incorporate the APR calculation method required by the PLPA and implement the consumer protection goal of the relevant portions of P.A. 101-658. The agency seeks these changes to implement the requirements of P.A. 101-658, which was signed into law on March 23, 2021.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation  
Attention: Craig Cellini

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

320 West Washington, 2<sup>nd</sup> Floor  
Springfield IL 62786

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

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Payday Loan businesses may be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Experience in the financial/lending industry may be beneficial.

14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed rule:  
54 professional, scientific and technical services
- B) Categories that the agency reasonably believes the rulemaking will impact, including:
  - ii. regulatory requirements

15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on any Regulatory Agenda.

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 215

## PREDATORY LOAN PREVENTION ACT

## Section

215.10 Definitions

215.20 Terms of Loans Extended to Consumers

AUTHORITY: Implementing and authorized by the Predatory Loan Prevention Act [815 ILCS 123].

SOURCE: Adopted at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 215.10 Definitions**

"Act" means the Predatory Loan Prevention Act [815 ILCS 123].

"Billing cycle" has the same meaning as "billing cycle" in Regulation Z.

"Bureau" means the federal agency called the Consumer Financial Protection Bureau or the Bureau of Consumer Financial Protection.

"Consumer" means any natural person, including consumers acting jointly.

"Closed-end credit" means consumer credit but for the conditions applicable to consumer credit under this Part other than consumer credit that is "open-end credit" as that term is defined in Regulation Z.

"Finance charge" has the same meaning as "finance charge" in Regulation Z.

"Lender" means any person or entity, including any affiliate or subsidiary of a lender, that offers or makes a loan, buys a whole or partial interest in a loan, arranges a loan for a third party, or acts as an agent for a third party in making a loan, regardless of whether approval, acceptance, or ratification by the third party is necessary to create a legal obligation for the third party, and includes any other person or entity if the Department determines that the person or entity is engaged

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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in a transaction that is in substance a disguised loan or a subterfuge for the purpose of avoiding the Act.

"Loan" means money or credit provided to a consumer in exchange for the consumer's agreement to a certain set of terms, including, but not limited to, any finance charges, interest, or other conditions. This includes closed-end and open-end credit, retail installment sales contracts, motor vehicle retail installment sales contracts, and any transaction conducted via any medium whatsoever, including, but not limited to, paper, facsimile, Internet, or telephone. It does not include a commercial loan.

"Predatory Loan Prevention Act APR (PLPA APR)" is the cost of the consumer credit expressed as an annual rate, and shall be calculated in accordance with 32 CFR. 232.4(c), as in effect on the effective date of the Act and as incorporated in 38 Ill. Adm. Code 215.

"Open-end credit" means consumer credit that (but for the conditions applicable to consumer credit under this part) is "open-end credit" under Regulation Z.

"Person" means any natural person.

"Regulation Z" means any rules, or interpretations thereof, issued by the Bureau to implement the Truth in Lending Act, as amended from time to time, including any interpretation or approval issued by an official or employee duly authorized by the Bureau to issue such interpretations or approvals. However, for any provision of this Part requiring a creditor to comply with Regulation Z, a creditor who is subject to Regulation Z (12 CFR 226) issued by the Board of Governors of the Federal Reserve System must continue to comply with 12 CFR 226.

Words that are not defined in this part have the same meanings given to them in Regulation Z (12 CFR 1026) issued by the Bureau, as amendment from time to time, including any interpretation thereof by the Bureau or an official or employee of the Bureau duly authorized by the Bureau to issue such interpretations.

Words that are not defined in this part or Regulation Z, or any interpretation thereof, have the meanings given to them by State or federal law.

**Section 215.20 Terms of Loans Extended to Consumers**

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- a) General conditions. A lender who extends a loan to a consumer may not require the consumer to pay a PLPA APR for the loan with respect to such extension of a loan, except as:
  - 1) Agreed to under the terms of the loan agreement or promissory note;
  - 2) Authorized by applicable State or federal law; and
  - 3) Not specifically prohibited by this part.
- b) Limit on cost of a loan. A lender may not impose a PLPA APR greater than 36 percent in connection with an extension of a loan that is closed-end credit or in any billing cycle for open-end credit.
- c) Calculation of the PLPA APR
  - 1) Charges included in the PLPA APR. The charges for the PLPA APR shall include, as applicable to the extension of the loan:
    - A) Any credit insurance premium or fee, any charge for single premium credit insurance, any fee for a debt cancellation contract, or any fee for a debt suspension agreement;
    - B) Any fee for a credit-related ancillary product sold in connection with the credit transaction for closed-end credit or an account for open-end credit; and
    - C) Except for a bona fide fee (other than a periodic rate) which may be excluded under paragraph (d) of this section:
      - i) Finance charges associated with the loan;
      - ii) Any application fee charged to a consumer who applies for a loan; and
      - iii) Any fee imposed for participation in any plan or arrangement for a loan, subject to paragraph (c)(2)(B)(ii) of this section.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

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- D) Certain exclusions of Regulation Z inapplicable. Any charge set forth in paragraphs (c)(1)(A) through (C) of this section shall be included in the calculation of the PLPA APR even if that charge would be excluded from the finance charge under Regulation Z.
- 2) Computing the PLPA APR
- A) Closed-end credit. For closed-end credit, the PLPA APR shall be calculated following the rules for calculating and disclosing the "Annual Percentage Rate (APR)" for credit transactions under Regulation Z based on the charges set forth in paragraph (c)(1) of this Section.
  - B) Open-end credit
    - i) In general. Except as provided in paragraph (c)(2)(B)(ii) of this Section, for open-end credit, the PLPA APR shall be calculated following the rules for calculating the effective annual percentage rate for a billing cycle as set forth in Section 1026.14(c) and (d) of Regulation Z (as if a lender must comply with that Section) based on the charges set forth in paragraph (c)(1) of this Section. Notwithstanding Section 1026.14(c) and (d) of Regulation Z, the amount of charges related to opening, renewing, or continuing an account must be included in the calculation of the PLPA APR to the extent those charges are set forth in paragraph (c)(1) of this Section.
    - ii) No balance during a billing cycle. For open-end credit, if the PLPA APR cannot be calculated in a billing cycle because there is no balance in the billing cycle, a lender may not impose any fee or charge during that billing cycle, except that the lender may impose a fee for participation in any plan or arrangement for that open-end credit so long as the participation fee does not exceed \$100 per annum, regardless of the billing cycle in which the participation fee is imposed; provided, however, that the \$100-per annum limitation on the amount of the participation fee does not

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

apply to a bona fide participation fee imposed in accordance with paragraph (d) of this Section.

- d) Bona Fide Fee Charged to a Credit Card Account
  - 1) In general. For a loan extended in a credit card account under an open-end (not home-secured) loan plan, a bona fide fee, other than a periodic rate, is not a charge required to be included in the PLPA APR pursuant to paragraph (c)(1) of this Section. The exclusion provided for any bona fide fee under this paragraph (d) applies only to the extent that the charge by the lender is a bona fide fee and must be reasonable for that type of fee.
  - 2) Ineligible items. The exclusion for bona fide fees in paragraph (d)(1) of this Section does not apply to:
    - A) Any credit insurance premium or fee, including any charge for single premium credit insurance, any fee for a debt cancellation contract, or any fee for a debt suspension agreement; or
    - B) Any fee for a credit-related ancillary product sold in connection with the credit transaction for closed-end credit or an account for open-end credit.
  - 3) Standards Relating to Bona Fide Fees
    - A) Like-kind fees. To assess whether a bona fide fee is reasonable under paragraph (d)(1) of this Section, the fee must be compared to fees typically imposed by other lenders for the same or a substantially similar product or service. For example, when assessing a bona fide cash advance fee, that fee must be compared to fees charged by other lenders for transactions in which consumers receive extensions of credit in the form of cash or its equivalent. Conversely, when assessing a foreign transaction fee, that fee may not be compared to a cash advance fee because the foreign transaction fee involves the service of exchanging the consumer's currency (e.g. a reserve currency) for the local currency demanded by a merchant for a good or service, and does not involve the provision of cash to the customer.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- B) Safe harbor. A bona fide fee is reasonable under paragraph (d)(1) of this Section if the amount of the fee is less than or equal to an average amount of a fee for the same or a substantially similar product or service charged by 5 or more lenders each of whose U.S. credit cards in force is at least \$3 billion in an outstanding balance (or at least \$3 billion in loans on U.S. credit card accounts initially extended by the lender) at any time during the 3-year period preceding the time such average is computed.
  - C) Reasonable fee. A bona fide fee that is higher than an average amount, as calculated under paragraph (d)(3)(B) of this Section, also may be reasonable under paragraph (d)(1) of this Section depending on other factors relating to the credit card account. A bona fide fee charged by a lender is not unreasonable solely because other lenders do not charge a fee for the same or a substantially similar product or service.
  - D) Indicia of reasonableness for a participation fee. An amount of a bona fide fee for participation in a credit card account may be reasonable under paragraph (d)(1) of this Section if that amount reasonably corresponds to the credit limit in effect or credit made available when the fee is imposed, to the services offered under the credit card account, or to other factors relating to the credit card account. For example, even if other lenders typically charge \$100 per annum for participation in credit card accounts, a \$400 fee nevertheless may be reasonable if (relative to other accounts carrying participation fees) the credit made available to the consumer is significantly higher or additional services or other benefits are offered under that account.
- 4) Effect of Charging Fees on Bona Fide Fees
- A) Bona fide fees treated separately from charges for credit insurance products or credit-related ancillary products. If a lender imposes a fee described in paragraph (c)(1) of this Section and imposes a finance charge to a consumer, the total amount of the fee(s) and finance charge(s) shall be included in the PLPA APR pursuant to paragraph (c) of this Section, and the imposition of any fee or finance charge described in paragraph (c)(1) of this Section shall



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

not affect whether another type of fee may be excluded as a bona fide fee under this paragraph (d).

- B) Effect of charges for non-bona fide fees. If a lender imposes any fee (other than a periodic rate or a fee that must be included in the PLPA APR pursuant to paragraph (c)(1) of this Section) that is not a bona fide fee and imposes a finance charge to a consumer, the total amount of those fees, including any bona fide fees, and other finance charges shall be included in the PLPA APR pursuant to paragraph (c) of this Section.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Retail Installment Sales Act
- 2) Code Citation: 38 Ill. Adm. Code 216
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
216.100	New Section
216.APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by the Retail Installment Sales Act [815 ILCS 405/33.1] and the Predatory Loan Prevention Act [815 ILCS 123]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules require retail installment contract makers to provide a disclosure to consumers about the 36% APR rate cap established by the PLPA. The agency seeks these changes to implement the consumer protection goals and requirements of P.A.101-658, which was signed into law on March 23, 2021.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation  
Attention: Craig Cellini

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

320 West Washington, 2<sup>nd</sup> Floor  
Springfield IL 62786

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

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Those providing loans to purchasers of motor vehicles may be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Experience in the financial/lending industry may be beneficial.

14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed rule:  
54 professional, scientific and technical services
- B) Categories that the agency reasonably believes the rulemaking will impact, including:
  - ii. regulatory requirements

15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on any Regulatory Agenda.

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

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 216

## RETAIL INSTALLMENT SALES ACT

## Section

## 216.100 Rate Cap Disclosure Notices

## 216.APPENDIX A Disclosure of 36% Rate Cap

**AUTHORITY:** Implementing and authorized by the Retail Installment Sales Act [815 ILCS 405/33.1] and the Predatory Loan Prevention Act [815 ILCS 123]

**SOURCE:** Adopted at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 216.100 Rate Cap Disclosure Notices**

- a) All applications for a retail installment contract must include a separate disclosure signed by the consumer that states: "A retailer shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a retail installment contract, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any retail installment contract with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the retail installment contract. The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR." This disclosure shall be written in no smaller than size 20 font, and shall be substantially similar to the form in Appendix A. A retailer shall provide all disclosures required by this section in English and in the language in which the retail installment contract was negotiated.
- b) A retailer shall prominently display at all times in any physical location, and on any website, mobile device application, or any other electronic medium owned or maintained by a retailer where retail installment contracts are made, advertised, or serviced, a disclosure that states: "Retail installment contracts cannot exceed a 36% annual percentage rate as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any retail installment contract with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the retail installment contract. The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR." Any notice posted in any physical location must be written no smaller than size 36 font. Any notice posted on a website, application, or any other electronic medium must be no smaller than size 14 font. All notices must be posted in English and Spanish.

- c) A retailer shall prominently display a disclosure in any written solicitations or advertisements regarding retail installment contracts, that states in at least size 14 font: "Retail installment contracts cannot exceed a 36% annual percentage rate as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any retail installment contract with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the retail installment contract. The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

**Section 216.APPENDIX A Disclosure of 36% Rate Cap**

## DISCLOSURE OF 36% RATE CAP

A retailer shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a retail installment contract, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR)

Any retail installment contract with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the retail installment contract.

The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR.

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Applicant Signature

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Co-Applicant Signature (If Applicable)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

- 1) Heading of the Part: Motor Vehicle Retail Installment Sales Act
- 2) Code Citation: 38 Ill. Adm. Code 217
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
217.100	New Section
217.APPENDIX A	New Section
- 4) Statutory Authority: Implementing and authorized by the Motor Vehicle Retail Installment Sales Act [815 ILCS 375/26.1] and the Predatory Loan Prevention Act [815 ILCS 123]
- 5) A Complete Description of the Subjects and Issues Involved: The proposed rules would require motor vehicle retail installment contract makers to provide a disclosure to consumers about the 36% APR rate cap established by the PLPA. The Agency is seeking these changes in order to implement the consumer protection goals and requirements of P.A. 101-658, which was signed into law on March 23, 2021.
- 6) Any published studies or reports, along with the sources of underlying data, that were used when comprising this rulemaking, in accordance with 1 Ill. Adm. Code 100.355:  
None
- 7) Will this rulemaking replace any emergency rule currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not require a local government to establish, expand or modify its activities in such a way as to necessitate additional expenditures from local revenues.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to comment on this proposed rulemaking may submit written comments no later than 45 days after the publication of this Notice to:

Department of Financial and Professional Regulation

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

Attention: Craig Cellini  
320 West Washington, 2<sup>nd</sup> Floor  
Springfield IL 62786

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

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

13) Initial Regulatory Flexibility Analysis:

- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Those providing loans to purchasers of motor vehicles may be affected.
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: Experience in the financial/lending industry may be beneficial.

14) Small Business Impact Analysis:

- A) Types of businesses subject to the proposed rule:  
54 professional, scientific and technical services
- B) Categories that the agency reasonably believes the rulemaking will impact, including:
  - ii. regulatory requirements

15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on any Regulatory Agenda.

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



## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

## TITLE 38: FINANCIAL INSTITUTIONS

## CHAPTER I: DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## PART 217

## MOTOR VEHICLE RETAIL INSTALLMENT SALES ACT

## Section

217.100 Rate Cap Disclosure Notices

## 217.APPENDIX A Disclosure of 36% Rate Cap

AUTHORITY: Implementing and authorized by Section 26.1 of the Motor Vehicle Retail Installment Sales Act [815 ILCS 375] and the Predatory Loan Prevention Act [815 ILCS 123]

SOURCE: Adopted at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 217.100 Rate Cap Disclosure Notices**

- a) All applications for a retail installment contract must include a separate disclosure signed by the consumer that states: "A retailer shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a retail installment contract, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any retail installment contract with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the retail installment contract. The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR." This disclosure shall be written in no smaller than size 20 font, and shall be substantially similar to the form in Appendix A. A retailer shall provide all disclosures required by this section in English and in the language in which the retail installment contract was negotiated.
- b) A retailer shall prominently display at all times in any physical location, and on any website, mobile device application, or any other electronic medium owned or maintained by a retailer where retail installment contracts are made, advertised, or serviced, a disclosure that states: "Retail installment contracts cannot exceed a 36% annual percentage rate as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any retail installment contract with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the retail installment contract. The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR." Any notice posted in any physical location must be written no smaller than size 36 font. Any notice posted on a website, application, or any other electronic medium must be no smaller than size 14 font. All notices must be posted in English and Spanish.

- c) A retailer shall prominently display a disclosure in any written solicitations or advertisements regarding retail installment contracts, that states in at least size 14 font: "Retail installment contracts cannot exceed a 36% annual percentage rate as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR). Any retail installment contract with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the retail installment contract. The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR.

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

## NOTICE OF PROPOSED RULES

**Section 217.APPENDIX A Disclosure of 36% Rate Cap**

## DISCLOSURE OF 36% RATE CAP

A retailer shall not contract for or receive charges exceeding a 36% annual percentage rate on the unpaid balance of the amount financed for a retail installment contract, as calculated under the Illinois Predatory Loan Prevention Act (PLPA APR)

Any retail installment contract with a PLPA APR over 36% is null and void, such that no person or entity shall have any right to collect, attempt to collect, receive, or retain any principal, fee, interest, or charges related to the retail installment contract.

The annual percentage rate disclosed in any retail installment contract may be lower than the PLPA APR.

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Applicant Signature

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Co-Applicant Signature (If Applicable)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Home Health, Home Services, and Home Nursing Agency Code
- 2) Code Citation: 77 Ill. Adm. Code 245
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
245.200	Amendment
245.205	Amendment
- 4) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
- 5) A Complete Description of the Subjects and Issues Involved: This rulemaking brings this Part into compliance with State and federal law to allow home health agencies to accept orders from advanced practice registered nurses and physician assistants. The Home Health, Home Services, and Home Nursing Agency Licensing Act (the Act) has permitted home health agencies to accept orders from advanced practice registered nurses and physician assistants since 2013. The federal CARES Act permitted this in federal law during the COVID-19 public health emergency. On April 30, 2020, federal CMS issued an interim final rulemaking implementing this authority on a permanent basis, applicable to services provided on or after March 1, 2020, even after the conclusion of the public health emergency.
- 6) Published studies or reports, and sources of underlying data, used to compose this rulemaking: None
- 7) Will this rulemaking replace an emergency rule currently in effect? Yes
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? Yes
- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after this issue of the *Illinois Register* to:

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

Department of Public Health  
Attention: Tracey Trigillo, Rules Coordinator  
Lincoln Plaza  
524 South 2<sup>nd</sup> Street, 6<sup>th</sup> Floor  
Springfield IL 62701

217/782-1159  
dph.rules@illinois.gov

- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: Home health and home nursing agencies
  - B) Reporting, bookkeeping or other procedures required for compliance: Accurate recordkeeping
  - C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: Most of the businesses that are affected by the Department of Public Health's rules fall under the definition of a small business. It is the Department's policy to adopt only minimum standards and thus not cause an extreme hardship on these businesses. The proposed rules were written with small businesses in mind and the requirements are the bare minimum requirements needed to assure the public health, safety, and welfare of the citizens of the State of Illinois.
- A) Types of businesses subject to the proposed amendments:  
  
62 Health Care and Social Assistance
  - B) Categories that the agency reasonably believes the rulemaking will impact, including:
    - ii. regulatory requirements
    - viii. record keeping

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF PROPOSED AMENDMENTS

- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the two most recent Regulatory Agendas because the need for the rulemaking was not apparent when the Regulatory Agendas were prepared.

The full text of the Proposed Amendments is identical to the Emergency Amendments that begins on page 6335.

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 1) Heading of the Part: Vehicle Use Tax
- 2) Code Citation: 86 Ill. Adm. Code 151
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
151.105	Amendment
151.110	Amendment
- 4) Statutory Authority: 625 ILCS 5/3-1005
- 5) A Complete Description of the Subjects and Issues Involved: The rulemaking amends Sections 151.105 and 151.110 of the Vehicle Use Tax regulations. 86 Ill. Adm Code 151.

The Illinois Vehicle Title & Registration Law (625 ILCS 5/3-1001) and rules identify 3 situations where the tax rate is assessed at the rate of \$15 per transfer or purchase of a motor vehicle in a private transaction. One situation is when the transferee or purchaser is the spouse, mother, father, brother, sister or child of the transferor. Section 151.105(d)(3). Subsection (d)(3) is being amended to clarify that the tax rate shall be \$15 per transfer of a motor vehicle when the transfer is from one spouse to the other spouse in a dissolution of marriage proceeding and the transfer is made no later than 90 days from the date of a final, non-appealable order of dissolution of marriage.

Presently, the Law and rules do not specify a date by which a return must be filed by the transferee of a motor vehicle subject to the Vehicle Use Tax. The Law empowers the Department to adopt rules that are reasonable and necessary to implement the Law. Generally, under the Use Tax Act, transaction reporting returns must be filed not later than 20 days after the date of delivery of the item that is being sold, but may be filed by the retailer at any time sooner than that if he chooses to do so. 35 ILCS 105/9. The proposed amendment to Section 151.115 provides that a transferee in a private transaction has 30 days to pay the tax and file a return.

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

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

- 10) Are there any other rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objective: These rules do not create or enlarge a mandate as described in Section 3(b) of the State Mandates Act.
- 12) Time, Place, and Manner in which interested persons may comment on this proposed rulemaking: Persons who wish to submit comments on this proposed rulemaking may submit them in writing by no later than 45 days after publication of this Notice to:
- Richard S. Wolters  
Illinois Department of Revenue  
Legal Services Office  
101 West Jefferson  
Springfield IL 62794
- 217/782-2844
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: The rule affects all persons and entities making private sales of motor vehicles by stating the time when a return must be filed and the tax must be paid.
- B) Reporting, bookkeeping or other procedures required for compliance: Simple bookkeeping and accounting skills.
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no adverse impact on small business. Any small business purchasing or acquiring a motor vehicle by private sale presently must file a return and pay the Vehicle Use tax. The rule simply states that a transferee of a motor vehicle must make payment of the tax and file a return within 30 days after the sale or transfer.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not included on either of the 2 most recent agendas because the need for the amendments became apparent during several audits of taxpayers conducted by the Department of Revenue.



DEPARTMENT OF REVENUE

NOTICE OF PROPOSED AMENDMENTS

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

## DEPARTMENT OF REVENUE

## NOTICE OF PROPOSED AMENDMENTS

## TITLE 86: REVENUE

## CHAPTER I: DEPARTMENT OF REVENUE

## PART 151

## VEHICLE USE TAX

## Section

151.101	Nature of Vehicle Use Tax
151.105	Basis and Rate of the Tax
151.110	Title Application – Returns and Payment
151.115	Nontaxable Transactions

**AUTHORITY:** Implementing and authorized by Section 3-1005 of the Illinois Vehicle Title & Registration Law [625 ILCS 5/3-1005].

**SOURCE:** Adopted at 13 Ill. Reg. 14080, effective August 25, 1989; amended at 24 Ill. Reg. 12087, effective July 28, 2000; amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 151.105 Basis and Rate of the Tax**

- a) *Prior to January 1, 1988, the rate of tax shall be 5% of the selling price for each purchase of a motor vehicle.*
- b) *Except as hereinafter provided, beginning January 1, 1988, the rate of tax shall be as follows for transactions in which the selling price of the motor vehicle is less than \$15,000:*

NUMBER OF YEARS TRANSPIRED AFTER MODEL YEAR OF MOTOR VEHICLE	APPLICABLE TAX
1 OR LESS	\$390
2	290
3	215
4	165
5	115
6	90
7	80
8	65
9	50

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10	40
OVER 10	25

- c) *Except as hereinafter provided, beginning January 1, 1988, the rate of tax shall be as follows for transactions in which the selling price of the motor vehicle is \$15,000 or more:*

SELLING PRICE	APPLICABLE TAX
\$15,000 – \$19,999	\$ 750
\$20,000 – \$24,999	\$1,000
\$25,000 – \$29,999	\$1,250
\$30,000 and over	\$1,500

- d) Effective January 1, 1988, the tax rate shall be \$15 for each motor vehicle acquired in the following transactions:
- 1) *When the transfer is a gift to a beneficiary in the administration of an estate;*
  - 2) *When a motor vehicle which has once been subjected to the Illinois retailers' occupation tax or use tax is transferred in connection with the organization, reorganization, dissolution or partial liquidation of an incorporated or unincorporated business wherein the beneficial ownership is not changed;*
  - 3) *When the transferee or purchaser is the spouse, mother, father, brother, sister or child of the transferor. Section 3-1001 of the Illinois Vehicle Title & Registration Law. When the transfer is from one spouse to the other spouse in a dissolution of marriage proceeding the transfer is considered a transfer between spouses for purposes of this subsection. The transfer must be made no later than 90 days after the date of a final, non-appealable order of dissolution of marriage.*
- e) A claim that a transaction is taxable under subsection (d)(3) of this Section must be supported by a certification of family relationship. The certificate must be executed by the transferee and submitted at the time of filing the return. The certification must include the transferor's name and address, the transferee's name and address and a statement that describes the family relationship between them.

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In the case of a dissolution of marriage, the transferee spouse shall also certify that the order of dissolution of marriage is final and shall provide a copy of the order of dissolution of marriage.

- f) *For a transaction in which a motorcycle, motor driven cycle or motorized pedalcycle is acquired the tax rate shall be \$25. Section 3-1001 of the Illinois Vehicle Title & Registration Law.*
- g) For a transaction in which an all terrain vehicle is acquired, the tax rate shall be \$25.
- h) For purposes of this Section, "selling price" means the consideration received for a motor vehicle subject to the tax imposed by this Section valued in money, whether received in money or otherwise, including cash, credits, service or property. In the case of gifts or transfers without reasonable consideration, "selling price" shall be deemed to be the fair market value as determined by the Department or the Department's vendor. In determining the fair market value, the Department or its vendor shall consider the year, make, model and Vehicle Identification Number.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 151.110 Title Application – Returns and Payment**

- a) *The purchaser shall file a return signed by the purchaser with the Department of Revenue on a form prescribed by the Department.*
- b) *Such return and payment from the purchaser shall be submitted to the Department after the sale and shall be a condition to securing the title to the motor vehicle from the Secretary of State. Section 3-1002 of the Illinois Vehicle Title & Registration Law (Ill. Rev. Stat. 1987, ch. 95½, par. 3-1002). Such return and payment from the purchaser or transferee shall be submitted to the Department no later than 30 days after the sale or transfer of the vehicle.*
- c) When the applicable tax depends upon the "model age" of the vehicle, such "model age" shall be calculated on the date of title application.
- d) The "model age" of the vehicle shall be determined by subtracting the model year of the vehicle from the year of the date of title application.

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(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

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- 1) Heading of the Part: The Administration and Operation of the State Employees' Retirement System of Illinois
- 2) Code Citation: 80 Ill. Adm. Code 1540
- 3) 

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
1540.60	Amendment
1540.70	Amendment
1540.80	Amendment
1540.85	New Section
1540.90	Amendment
1540.350	Amendment
- 4) Statutory Authority: 40 ILCS 5/14-123; 40 ILCS 5/14-124; 40 ILCS 5/14-124.1; and 40 ILCS 5/14-135.03;
- 5) A Complete Description of the Subjects and Issues Involved: The System proposes many provisions with this proposed rulemaking. These proposed rules:

provide that a Department is not required to certify to the System the date that a member terminates service if the member retires while on inactive or disabled status and has been off the Department's payroll for at least 5 years;

codify that any person claiming a survivor's annuity must file a written application with the System, must provide a copy of the death certificate for the deceased member or annuitant, and may be required to provide an affidavit that states his or her relationship to the deceased member;

move the gainful employment rules into a stand-alone section and codify the process used by the System to suspend the payment of disability benefits, occupational death benefits, and survivor's annuities to benefit recipients who have engaged in gainful employment or activity;

provide that lump sum payments issued under the Workers' Compensation or Workers' Occupational Diseases Act are generally to be applied as an offset to SERS occupational disability benefits for the period prescribed in the workers' compensation award or settlement, unless the award or settlement does not prescribe a period of time for the payment of the benefit, in which case the System will offset the amount of the award as it has historically (i.e., using the average weekly wage);

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

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provide that the workers' compensation offset shall be reduced by medical, hospital, or burial expenses only if such expenses are incurred before either a final determination is made on the member's claim by the Illinois Workers' Compensation Commission or the member's claim is otherwise settled;

allow the System to accept a QILDRO calculation order that was issued by an Illinois court after a member's death;

clarify that any member, including a Tier 2 member, whose occupational disability benefit is terminated as a result of either attaining age 65 or attaining the 5th anniversary date of the benefit start date, if benefit began after age 60, shall be eligible for a retirement annuity upon the benefit ceasing, provided that he or she remains disabled;

provide that the term "licensed healthcare professional" includes licensed healthcare professionals that are licensed or otherwise certified in other states;

provide that the term "licensed healthcare professional's registration number" means the unique license, registration, or certification number or other identifier issued by the Department of Financial and Professional Regulation or the licensing body of another state to an individual who is licensed or otherwise credentialed by the Department or the licensing body as a licensed healthcare professional; and

eliminate the requirement that the System must pay for independent medical examinations, hospital records, and activity inspection reports when substantiating the continuance of disability benefits and allow for such services to be paid by the System at its discretion.

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

## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

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<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
1540.330	Amendment	45 Ill. Reg. 1464; February 5, 2021
1540.380	Amendment	45 Ill. Reg. 1464; February 5, 2021

- 11) Statement of Statewide Policy Objective: This rulemaking does not create or expand the State Mandate as defined in Section 3(b) of the State Mandates Act [30 ILCS 805/3(b)].
- 12) Time, Place and Manner in which interested persons may comment on this rulemaking: Comments on this proposed rulemaking may be submitted in writing for a period of 45 days following publication of this notice. Comments should be submitted to:
- Jeff Houch  
State Retirement Systems  
2101 South Veterans Parkway  
PO Box 19255  
Springfield IL 62794-9255
- 217/524-8105  
fax: 217/557-3943  
jeff.houch@srs.illinois.gov
- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not-for-profit corporations affected: None
- B) Reporting, bookkeeping or other procedures required for compliance: None
- C) Types of professional skills necessary for compliance: None
- 14) Small Business Impact Analysis: There is no impact on small businesses.
- 15) Regulatory Agenda on which this rulemaking was summarized: This rulemaking was not anticipated by the System when the most recent regulatory agendas were published.

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



## STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

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## TITLE 80: PUBLIC OFFICIALS AND EMPLOYEES

## SUBTITLE D: RETIREMENT SYSTEMS

## CHAPTER I: STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## PART 1540

THE ADMINISTRATION AND OPERATION OF THE  
STATE EMPLOYEES' RETIREMENT SYSTEM OF ILLINOIS

## Section

1540.5	Introduction (Repealed)
1540.10	Appointment of Retirement System Coordinator
1540.20	Member's Contribution and Service Credit
1540.30	Determination of Rate of Compensation
1540.40	Prior Service Credit
1540.50	Credit for Service for Which Contributions are Permitted
1540.60	Severance of Employment – A Condition to the Payment of a Refund or Retirement Annuity
1540.70	Death Benefits <a href="#">and Survivor's Annuities</a>
1540.80	Disability Claims
<a href="#">1540.85</a>	<a href="#">Benefit Suspension and Termination for Gainful Employment or Activity</a>
1540.90	Benefit Offset
1540.100	Birth Date Verification
1540.110	Marriage Verification
1540.120	Level Income Option
1540.125	Reversionary Annuity
1540.130	Pension Credit for Unused Sick Leave
1540.140	Removal of Children from Care of Surviving Spouse
1540.150	Proof of Dependency
1540.160	Investigations of Benefit Recipients
1540.170	Interest on Member Contributions
1540.180	Date of Application – Retirement Annuity, Occupational and Nonoccupational and Temporary Disability Benefits, and Resignation Refund Payments
1540.190	Lump Sum Salary Payments
1540.195	Mandatory Distributions Pursuant to Section 401(a)(9) of the Internal Revenue Code
1540.200	Removal from the Payroll
1540.210	Latest Date of Membership
1540.220	Period for Payment and Amount of Payment of Contributions
1540.230	Contributions by the State (Repealed)

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1540.240	Actuarially Funded Basis (Repealed)
1540.250	Payments to Establish Credit for Service for Which Contributions are Permitted
1540.255	Pick-up Option for Optional Service Contributions
1540.260	Contributions and Service Credit During Nonwork Periods
1540.270	Written Appeals and Hearings
1540.280	Availability for Public Inspection (Recodified)
1540.290	Procedure for Submission, Consideration and Disposition of Petitions Seeking the Promulgation, Amendment or Repeal of these Rules and Regulations (Recodified)
1540.300	Organization of the State Employees' Retirement System (Recodified)
1540.310	Amendments
1540.320	Optional Forms of Benefits – Basis of Computation
1540.330	Board Elections
1540.340	Excess Benefit Arrangement
1540.350	Qualified Illinois Domestic Relations Orders (QILDRO)
1540.360	Election to be an Employee under Section 14-103.05(b)(3) of the Illinois Pension Code
1540.370	Americans With Disabilities Act
1540.380	Correction of Mistakes in Benefit Payments
1540.385	Suspension of Benefits from Uncashed Warrants
1540.390	Freedom of Information Act
1540.395	Accelerated Pension Benefit Payment Program
1540.400	Multiple Survivors of a Tier 2 Member
1540.410	Final Average Compensation for Certain Alternative Retirement Annuity Recipients
1540.APPENDIX A	Grievance Form
1540.TABLE A	Optional Forms of Benefits – Basis of Computation

AUTHORITY: Implementing and authorized by Article 14 of the Illinois Pension Code [40 ILCS 5].

SOURCE: Filed December 20, 1977, effective December 31, 1977; filed and effective February 28, 1978; emergency rule at 4 Ill. Reg. 2, page 246, effective January 1, 1980; amended at 4 Ill. Reg. 12, pages 530, 532, 534, effective March 11, 1980; emergency rule at 4 Ill. Reg. 46, page 1300, effective November 1, 1980; amended at 5 Ill. Reg. 3454, effective March 19, 1981; amended at 5 Ill. Reg. 7225, effective July 1, 1981; amended at 5 Ill. Reg. 12846, effective October 30, 1981; amended at 6 Ill. Reg. 2114, effective January 29, 1982; amended at 6 Ill. Reg. 5505, effective April 16, 1982; codified at 6 Ill. Reg. 10935; emergency amendment at 6 Ill. Reg. 11084, effective August 31, 1982, for a maximum of 150 days; amended at 7 Ill. Reg. 677,

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effective December 30, 1982; amended at 7 Ill. Reg. 8831, effective July 15, 1983; emergency amendment at 8 Ill. Reg. 359, effective January 1, 1984, for a maximum of 150 days; amended at 8 Ill. Reg. 4144, effective March 26, 1984; Sections 1540.280, 1540.290 and 1540.300 recodified to 2 Ill. Adm. Code 2375 at 8 Ill. Reg. 15902; amended at 9 Ill. Reg. 12375, effective July 30, 1985; emergency amendment at 9 Ill. Reg. 19752, effective December 5, 1985, for a maximum of 150 days; amended at 10 Ill. Reg. 8889, effective May 14, 1986; amended at 11 Ill. Reg. 11155, effective June 15, 1987; amended at 14 Ill. Reg. 10498, effective June 19, 1990; amended at 15 Ill. Reg. 7379, effective April 26, 1991; amended at 16 Ill. Reg. 14407, effective September 4, 1992; amended at 20 Ill. Reg. 8033, effective June 15, 1996; emergency amendment at 21 Ill. Reg. 476, effective January 1, 1997, for a maximum of 150 days; amended at 21 Ill. Reg. 4992, effective April 1, 1997; emergency amendment at 21 Ill. Reg. 13187, effective September 15, 1997, for a maximum of 150 days; amended at 22 Ill. Reg. 967, effective December 22, 1997; amended at 22 Ill. Reg. 15363, effective August 10, 1998; amended at 23 Ill. Reg. 3824, effective March 9, 1999; amended at 23 Ill. Reg. 11313, effective September 1, 1999; amended at 24 Ill. Reg. 6975, effective April 20, 2000; amended at 24 Ill. Reg. 18090, effective December 1, 2000; amended at 25 Ill. Reg. 5632, effective April 4, 2001; emergency amendment at 26 Ill. Reg. 11133, effective June 28, 2002, for a maximum of 150 days; amended at 26 Ill. Reg. 16575, effective October 22, 2002; emergency amendment at 28 Ill. Reg. 8775, effective July 1, 2004, for a maximum of 150 days; amended at 28 Ill. Reg. 15628, effective November 18, 2004; amended at 29 Ill. Reg. 15554, effective October 1, 2005; amended at 30 Ill. Reg. 12303, effective July 1, 2006; amended at 31 Ill. Reg. 211, effective December 21, 2006; amended at 32 Ill. Reg. 17779, effective October 29, 2008; emergency amendment at 33 Ill. Reg. 9449, effective June 19, 2009, for a maximum of 150 days; emergency expired November 15, 2009; amended at 34 Ill. Reg. 285, effective December 15, 2009; amended at 34 Ill. Reg. 8313, effective June 10, 2010; amended at 38 Ill. Reg. 4023, effective January 24, 2014; emergency amendment at 39 Ill. Reg. 2792, effective February 6, 2015, for a maximum of 150 days; emergency amendment modified in response to Joint Committee on Administrative Rules Objection at 39 Ill. Adm. Code 5626, effective April 7, 2015, for the remainder of the 150 days; amended at 39 Ill. Reg. 9582, effective June 26, 2015; amended at 41 Ill. Reg. 4217, effective March 22, 2017; amended at 42 Ill. Reg. 9568, effective May 29, 2018; emergency amendment at 42 Ill. Reg. 21436, effective November 13, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. 768, effective December 19, 2018; amended at 43 Ill. Reg. 3965, effective March 18, 2019; amended at 43 Ill. Reg. 9252, effective August 16, 2019; amended at 44 Ill. Reg. 534, effective December 27, 2019; amended at 44 Ill. Reg. 7888, effective April 27, 2020; amended at 44 Ill. Reg. 11172, effective June 19, 2020; amended at 44 Ill. Reg. 19510, effective December 2, 2020; amended at 45 Ill. Reg. 3023, effective February 26, 2021; amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_.

**Section 1540.60 Severance of Employment – A Condition to the Payment of a Refund or**

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**Retirement Annuity**

- a) **Application**  
Any member eligible to receive a refund of his contribution or a retirement annuity shall, if he so elects, make written request thereof at the Springfield Office of the System upon a form prescribed by the Board.
- b) **Verification of Withdrawal From Service**  
A request for any of the payments outlined in this Section shall not be considered until the Board shall have received a written notice from the Department in which the member was employed certifying to the member's withdrawal from service and the effective date thereof, except that the written notice described in this subsection shall not be required for a member who retires while on inactive or disabled status and has been off the Department's payroll for a period of at least 5 years.
- c) **Withdrawal From Service – Period of Separation**  
A member who terminates employment and then returns to State employment shall be eligible for a refund of contributions only if there is at least a fourteen day break in State employment as reflected on a payroll and the refund application is executed by the member prior to the date of reemployment. A member who is placed on "Temporary Layoff" as defined by rule of the Department of Central Management Services shall not be considered to have met the definition of "Withdrawal" as defined in the Act.
- d) **Effect of Legal Action**  
In the event a refund or a retirement annuity is paid and legal action results in the member being reinstated to his position with full restoration of all rights and privileges, he shall be permitted to reestablish his credit by repaying the amount of contributions refunded to him, without interest, if paid within 30 days from the date of notification by the System. If a member does not repay the amount of contributions refunded to him, without interest, within 30 days from the date of notification by the System, he may request to re-establish the service credit either in a lump sum or installment payments by direct payment or payroll deduction. The two-year minimum service requirement is waived for purposes of determining the period within which the member may commence payment of the refund. All other repayment terms and conditions will be the same as those contained in Section 1540.250, Payments to Establish Credit for Service for Which Contributions are Permitted. If a retirement annuity has been initiated it

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shall be discontinued immediately and he shall repay the total amount of benefits received during the reinstated period.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1540.70 Death Benefits and Survivor's Annuities**

- a) **Benefit Application**  
Any person claiming a death benefit or survivor's annuity, shall file at the Springfield Office of the System a written application for such benefit on a form prescribed by the Board.
- b) **Proof of Death**  
An application for a death benefit or survivor's annuity shall be accompanied by a certified copy of the Certificate of Death for the deceased member or annuitant.
- c) **Identification of Claimant**  
Any person or persons applying for a survivor's annuity or death benefits of any kind shall, when requested by the Board, file at the Springfield Office of the System an affidavit alleging at least the name of the claimant and his or her relationship to the deceased member.
- d) **Suspension and Termination of Benefit for Gainful Activity**  
The occupational death benefits and survivors' annuities payable to the unmarried adult disabled children of deceased members and annuitants under Article 14 of the Illinois Pension Code are subject to suspension and termination for gainful activity in accordance with Section 1540.85.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1540.80 Disability Claims**

- a) **Nonoccupational Disability and Temporary Disability**
  - 1) Any member of the State Employees' Retirement System (SERS) claiming benefits for nonoccupational disability or temporary disability shall file at the Springfield Office of SERS a written application on forms prescribed by the Board.

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- 2) If a member makes a payment of contributions to SERS in order to establish sufficient credit to qualify for a nonoccupational disability benefit, payment of the benefit shall accrue as of the latter of the 31<sup>st</sup> day of absence from work (including any periods of the absence for which sick pay was received), the day after the member is last entitled to receive compensation (including any sick pay), or the date of payment to SERS. The date of payment of the required contributions shall be determined in accordance with the provisions of Section 1540.220(a) (Period for Payment). If a member is receiving a nonoccupational disability benefit, and incurs a concurrent sickness or condition that is severe enough to disable the member past the period in which the member is disabled from the original sickness or condition, the nonoccupational benefit would continue uninterrupted and the member would not be required to obtain a new leave of absence or incur a new 30 day waiting period. A benefit will continue uninterrupted in the manner described only if the member is otherwise eligible for the benefit and a physician's report is provided and supports the disabling sickness or condition.
- 3) If a member makes a payment of contributions to SERS in order to establish sufficient credit to qualify for a temporary disability benefit, payment of the benefit shall accrue as of the latter of the 31<sup>st</sup> day after the member is last entitled to receive compensation or the date of payment to SERS. The date of payment of the required contributions shall be determined in accordance with the provisions of Section 1540.220(a) (Period for Payment).
- 4) If a member who is receiving a nonoccupational or temporary disability benefit wishes to make a payment of contributions to extend the period of eligibility for receipt of the benefit, the request to make the payment must be received at the Springfield Office of SERS before the period of eligibility terminates and the date of payment of the required contributions shall be determined in accordance with the provisions of Section 1540.220(a) (Period for Payment).
- 5) If a member requests to have service credits under the State Universities Retirement System (SURS) or the Teachers' Retirement System of the State of Illinois (TRS) considered for the purposes of determining nonoccupational or temporary disability benefit eligibility under Section 14-124 or 14-123.1 of the Illinois Pension Code, or for purposes of

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calculating the total period of time for which benefit will be paid, SERS shall not include in its calculations any credits accrued under Article 15 or 16 of the Code that have been forfeited by acceptance of a refund or applied toward a retirement annuity and that have not been restored or otherwise reestablished in accordance with the requirements of those Articles of the Code. Credits accrued under Article 15 or 16 of the Code that have been forfeited by acceptance of a refund or applied toward a retirement annuity, and that have not been restored or otherwise reestablished in accordance with the requirements of those Articles of the Code, shall not be considered for purposes of determining eligibility for a nonoccupational or temporary disability benefit under Section 14-124 or 14-123.1 of the Code or in determining the total period of time for which such a benefit is payable.

- 6) The System may deem the requirement of Section 14-124(4) of the Code to be satisfied with respect to a member if the member who is applying for a nonoccupational disability benefit is eligible to be granted a leave of absence for disability but, before the leave could be granted, upon medical examination, the member is found to be permanently and totally incapacitated to perform the duties of the member's position.
- b) Occupational Disability  
Any member of SERS claiming benefits for occupational disability shall file at the Springfield Office of SERS a written application on forms prescribed by the Board.
  - c) Licensed Healthcare Professionals
    - 1) Before an occupational, nonoccupational or temporary disability benefit can be approved, one statement must be received from a licensed healthcare professional attesting to the disability. An additional statement from a second licensed healthcare professional may be required by the disability examiner assigned to the case, depending on the nature of the disabling condition.
    - 2) The term "licensed healthcare professional" shall mean any individual defined as a "licensed healthcare professional" by Section 14-103.42 of the Code.

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- d) Report of Licensed Healthcare Professionals
- 1) All ~~licensed healthcare professional's~~ reports provided to the System by a licensed healthcare professional shall contain, among other things, the date and place of the first examination by the licensed healthcare professional, the cause and nature of the member's disability, information regarding surgical work or laboratory tests performed for the member, the date of last examination by the licensed healthcare professional, prognosis regarding the member's disability, ~~and~~ an estimate of the probable length of the member's disability, and the licensed healthcare professional's registration number.
  - 2) All licensed healthcare professional's reports shall be signed by a licensed ~~practicing~~ healthcare professional or by medical records personnel employed by or acting pursuant to the direction of the licensed healthcare professional of a licensed clinic.
- e) Suspension and Termination for Gainful Employment  
The occupational, non-occupational, and temporary disability benefits that are payable to members under Article 14 of the Illinois Pension Code are subject to suspension and termination for gainful employment in accordance with Section 1540.85. In the case of occupational, nonoccupational or temporary disability, an individual who is found to be gainfully employed shall have the benefit terminated. The term "gainfully employed" shall mean either of the following:
- 1) ~~Any employment by or for the State of Illinois.~~
  - 2) ~~Effective January 1, 2020, any individual who exceeds \$3,660 in remuneration in any calendar quarter (the "calendar quarter limitation") will have his or her benefit suspended at the end of the quarter when the calendar quarter limitation was exceeded. The individual may appeal the suspension of benefits to the Executive Committee. If the Executive Committee determines that the individual exceeded the calendar quarter limitation, SERS will recover the dollar amount of the earnings that exceeded the calendar quarter limitation. In addition, the individual must sign an agreement not to exceed the calendar quarter limitation in the future and to acknowledge that termination of benefits shall occur if a second violation occurs. Any individual who exceeds the calendar quarter limitation a second time will have his or her benefit suspended at the end~~



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~~of the quarter when the calendar quarter limitation was exceeded. The individual may appeal this suspension of benefits to the Executive Committee. If the Executive Committee determines that the individual exceeded the calendar quarter limitation a second time, the individual will be considered gainfully employed and benefits will be terminated as of the date of suspension. Any overpayment of benefits due to the termination will be recovered in full.~~

- A) ~~For purposes of this Section, "remuneration" shall mean:~~
- ~~i) any compensation for personal services, including fees, wages, salary, commissions, and similar items;~~
  - ~~ii) any income derived from the participation in a business activity, as opposed to a passive investment, through the performance of physical and/or mental activities generally performed for the production of income.~~
- B) ~~For purposes of this Section, remuneration shall be computed on a gross rather than net basis (i.e., no deductions of any kind including but not limited to deductions for losses, expenses, taxes or withholding, will be considered in the computation). Remuneration shall also include the fair market value of goods or services received, which if received in money would otherwise constitute remuneration. Remuneration representing gain from the sale, exchange or other disposition of goods or other property shall be equal to: the sum of the amount of money and the fair market value of any property received on the sale, exchange, or disposition, less the amount representing the cost to the seller in acquiring the goods or other property that is sold, exchanged, or disposed of. In applying this Section, SERS shall consider the date on which the remuneration was earned rather than when it was received. For purposes of this Section, remuneration may be earned through either self-employment or employment by others.~~
- C) ~~Gainful employment shall not include remuneration from income producing opportunities or activities created by the member prior to the onset of the disability, except to the extent that the remuneration level has increased through the performance of physical and/or mental activities.~~

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~~D) A dependent unmarried child over age 18 who is receiving a survivor's annuity shall be considered to be engaged in substantial gainful activity if he or she is gainfully employed as defined in this subsection (e).~~

## f) Investigation of Claims

- 1) The SERS Board of Trustees recognizes its obligation to provide a systematic program for the continued investigation, control and supervision of disability claims.
- 2) Each disability benefit recipient is required to provide a current medical examination report each 6 months to substantiate continued disability. In order to substantiate the member's continued eligibility for disability benefits, the Disability Claims Examiner may require that the member submit to independent medical examinations and may request additional medical statements; hospital records; activity inspection reports; Department of Employment Security Earning Statements; Social Security benefit payment information; income tax records; or other pertinent information, all as deemed reasonable and necessary by the Examiner. SERS ~~may~~will pay for independent medical examinations, hospital records, and activity inspection reports that it requires. SERS may waive the medical examination report requirement for cases in which the evidence supports that a member is permanently disabled and that the member will never be able to return to his or her former position.
- 3) Failure of a disability benefit recipient to submit to an independent medical examination, to cooperate with an activity inspection, or to provide the information required shall result in suspension of benefit payments.
- 4) Any benefit suspended as a result of a medical examination will be suspended on the last day of the month in which the claim is reviewed by the Executive Committee.
- 5) Any person who applies for or who is receiving disability benefits and knowingly makes to SERS any false statement, falsifies or permits to be falsified any record submitted to SERS, or omits pertinent information in an attempt to defraud SERS, shall have the benefit suspended until the correct information has been provided to SERS.

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- A) If the correct information that is provided does not substantiate eligibility for the disability benefit payments, then the benefit shall be terminated.
  - B) If it is determined that the person omitted pertinent information and the correct information that is provided supports that the individual is gainfully employed, then the process prescribed in subsection (e) shall determine if the benefit payments shall resume.
  - C) If it is determined that the person knowingly made to SERS a false statement, or falsified or permitted to be falsified any record submitted to SERS, in an attempt to defraud SERS and the correct information that is provided supports that the individual is gainfully employed, then the benefit shall be terminated.
- g) A disability benefit claim will be processed after the date that the final payroll payment received by the member has been posted to SERS' accounting database.
- h) When calculating the amount of a nonoccupational, occupational, or temporary disability benefit under Section 14-123, 14-123.1, or 14-125 of the Code, the "date of disability" or "time disability occurred" is the date the member is removed from payroll by virtue of being placed on disability leave.
- i) When calculating the final average compensation of a disability benefit claim, the calculation shall include the actual compensation received during the month in which the member left the regular payroll.
- j) Any individual receiving an occupational disability benefit under Section 14-123 of the Illinois Pension Code who remains disabled at the end of the month in which that benefit ceases under paragraph (3) or (4) of Section 14-123 shall become entitled to a retirement annuity and have the minimum period of service prescribed for the receipt of such annuity waived as described in that Section. The disability benefit described in this subsection (j) applies regardless of whether the member first became a member on or after January 1, 2011.
- kj) Definitions
- As used in this Section:

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"The duties of the member's position" means the duties of the member's position as of the date the member's name is removed from the payroll without regard to subsequent changes in the duties of the position, availability of the position, or the member's right to return to the position.

"Licensed healthcare professional" means any individual who is licensed by the Department of Financial and Professional Regulation as a physician under the Medical Practice Act of 1987, as a physician assistant under the Physician Assistant Practice Act of 1987, as a psychologist under the Clinical Psychologist Licensing Act, or as an advanced practice registered nurse under the Nurse Practice Act or who is licensed or otherwise credentialed by the licensing body of another state as a physician, physician assistant, clinical psychologist, or advanced practice registered nurse under the laws of that state.

"Licensed healthcare professional's registration number" means the unique license, registration, or certification number or other identifier issued by the Department of Financial and Professional Regulation (or the licensing body of another state) to an individual who is licensed or otherwise credentialed by the Department (or the licensing body) as a licensed healthcare professional.

"Member", for purposes of Sections 14-123, 14-123.1, and 14-124 of the Illinois Pension Code [40 ILCS 5] (Code), means an employee in active service at the time of incurring a disabling condition.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1540.85 Benefit Suspension and Termination for Gainful Employment or Activity**

- a) Suspension of Benefit for Gainful Employment or Activity  
If the System becomes aware that a member who is receiving an occupational, non-occupational, or temporary disability benefit under Article 14 of the Illinois Pension Code has engaged in gainful employment or if the System becomes aware that the unmarried adult disabled child of a deceased member or annuitant is receiving a survivor's annuity or occupational death benefit under Article 14 of the Illinois Pension Code and has engaged in substantial gainful activity, then it shall immediately suspend the respective Article 14 benefit and provide the affected individual with written notice of the benefit suspension and of his or her right to appeal the benefit suspension under subsection (e) of this Section.

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b) Gainful Employment or Activity

For purposes of this Section and Article 14 of the Illinois Pension Code, an individual engages in gainful employment and substantial gainful activity when he or she:

- 1) returns to active employment or becomes employed with the State of Illinois in any capacity;
- 2) violates the Calendar Quarter Remuneration Limit in subsection (c) of this Section for the first time and fails within the period specified by the System:
  - A) to execute an agreement with the System to repay the System all amounts earned in excess of the Calendar Quarter Remuneration Limit; and
  - B) to repay the System the amount described in the agreement; or
- 3) violates the Calendar Quarter Remuneration Limit in subsection (c) of this Section for a second or subsequent time.

c) Calendar Quarter Remuneration Limit

No member who is receiving an occupational, nonoccupational, or temporary disability benefit under Article 14 of the Illinois Pension Code and no adult disabled child who is receiving a survivor's annuity or occupational death benefit under Article 14 of the Illinois Pension Code may receive more than \$3,660 in remuneration in any calendar quarter.

d) Remuneration

- 1) As used in this Section, "remuneration" means any compensation for personal services, including fees, wages, salary, commissions, and similar items, as well as any income derived from active participation in a business activity or through the performance of physical or mental activities generally performed for the production of income, regardless of whether the compensation or income is earned through self-employment or employment by others.

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- 2) "Remuneration" includes the fair market value of non-monetary goods or services received as remuneration.
  - 3) "Remuneration" does not include:
    - A) income from income-producing opportunities or activities created by the member or individual before the onset of disability except to the extent that the level of income produced by the opportunity or activity has increased through the member or individual's performance of physical or mental activities;
    - B) passive investment income; or
    - C) income generated from the sale of the member or individual's personal residence.
  - 4) Remuneration shall be computed based on the date earned (rather than the date received) and on a gross rather than net basis. No deductions of any kind, including, but not limited to, deductions for losses, expenses, taxes, or withholding shall be considered in the computation of remuneration under this Section.
  - 5) Remuneration representing gain from the sale, exchange or other disposition of goods or other property shall be equal to the sum received on the sale, exchange, or disposition, less the amount representing the cost to the seller in acquiring the goods or other property that is sold, exchanged, or disposed of.
- e) Administrative Appeal Rights  
An adversely affected individual may appeal the suspension of his or her survivor's annuity, occupational death benefit, or disability benefit under this Section to the Executive Committee in the same manner as a member may appeal the disposition of a claim to the Executive Committee under Section 1540.270, except that all Petitions for Hearings and Petitions for Written Appeals must be received by the Executive Secretary of the System within 30 days after the date of the written notice described in subsection (a) of this Section. If the Executive Committee determines on appeal that an individual has not engaged in gainful employment and substantial gainful activity, as described in subsection (b) of this Section, while receiving a survivor's annuity, occupational death benefit, or

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disability benefit under Article 14 of the Illinois Pension Code, then the Executive Committee shall direct the System to reinstate the suspended benefit. If the Executive Committee determines on appeal that an individual has engaged in gainful employment and substantial gainful activity, as described in subsection (b) of this Section, while receiving a survivor's annuity, occupational death benefit, or disability benefit under Article 14 of the Illinois Pension Code, then the Executive Committee shall issue a recommendation to the Board of Trustees that it terminate payment to the individual of any survivor's annuity, occupational death benefit, or disability benefit under Article 14 of the Illinois Pension Code.

f) Benefit Termination or Reinstatement

If the Board of Trustees ratifies the Executive Committee's recommendation under subsection (e) of this Section, then the System shall terminate the affected individual's survivor's annuity, occupational death benefit, or disability benefit under Article 14 of the Illinois Pension Code retroactively to the date of its initial suspension under this Section. If the Board of Trustees objects to ratification of the Executive Committee's recommendation under subsection (e) of this Section, then the individual's survivor's annuity, occupational death benefit, or disability benefit under Article 14 of the Illinois Pension Code shall be reinstated retroactively to the date of benefit suspension under this Section.

(Source: Added at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

**Section 1540.90 Benefit Offset**

a) Occupational Disability and Occupational Death

Any amounts~~Benefits~~ received under the Workers' Compensation Act [820 ILCS 305] or the Workers' Occupational Diseases Act [820 ILCS 310] as compensation for the ~~with respect to~~ disability or death of a member shall be applied, for the period of time prescribed by those Acts for payments thereunder, as an offset against any occupational disability benefit or occupational death benefit provided under Article 14 of the Illinois Pension Code for that ~~the Retirement System with respect to the same~~ disability or death, as follows: ~~The Workers' Compensation average weekly wage will be converted to a monthly rate for use as an offset to the Retirement System monthly benefit.~~

- 1) If the amount of compensation received under the Workers' Compensation Act or the Workers' Occupational Diseases Act for a month is less than the occupational disability or death benefit provided under Article 14 of the

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Illinois Pension Code for that month ~~monthly benefit provided under the Pension Code, then~~ only the amount of the ~~excess of that~~ monthly occupational disability or death benefit that exceeds the monthly compensation received under the Workers' Compensation Act or the Workers' Occupational Diseases Act ~~over the amount of the compensation~~ shall be payable by the Retirement System, subject, in the case of occupational death, to any minimum benefit provided by ~~Section~~ Sections 14-103.18 or subsection (h) of Section and 14-121(h) of the Illinois Pension Code. If the amount of compensation received under the Workers' Compensation Act or the Workers' Occupational Diseases Act for a month equals or exceeds the monthly occupational disability or death benefit provided under Article 14 of the Illinois Pension Code, then no benefit shall be payable by the Retirement System for that month ~~during the period compensation is paid under the Workers' Compensation Act or Workers' Occupational Diseases Act.~~

- 2) If the compensation for disability or death is received in a ~~commuted~~ lump sum or partly in a ~~commuted~~ lump sum and partly in monthly or weekly sums and if a period of time is not prescribed for payment of that compensation by the Workers' Compensation Act or the Workers' Occupational Diseases Act, then the Retirement System shall, for offset purposes, consider the compensation as if it had been paid using the average weekly wage as prescribed under ~~those Acts~~ the Workers' Compensation Act or Workers' Occupational Diseases Act. Salary or wages paid on or after the ~~beyond~~ date of the member's disability shall not be included in the amount to be offset under this subsection against benefits payable under Article 14 of the Illinois Pension Code on account of the member's service ~~considered part of the Workers' Compensation offset.~~
- 3) In the event the whole or any part of the benefits received under the Workers' Compensation Act or Workers' Occupational Diseases Act is commuted into one sum, the aggregate sum of the benefits so commuted and not the commuted value thereof shall be used for purposes of ascertaining the amount of the offset under this subsection.
- 4) No ~~such~~ offset ~~or compensation~~ shall be applied under this subsection against the member's ~~made after retirement of a member of a retirement annuity.~~



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- 5) The ~~amount considered for~~ offset described in this subsection ~~purposes~~ shall be reduced by any legal expenses granted in the award.
- 6) The offset described in this subsection shall be reduced by~~No offset shall be made with respect to~~ amounts received or paid under the Workers' Compensation Act or Workers' Occupational Diseases Act for medical, hospital, or burial expenses, provided that, in the case of medical and hospital expenses, the expenses are incurred before either a final determination is made on the member's claim by the Illinois Workers' Compensation Commission or the member's claim is otherwise settled.
- 7) That portion of the occupational death benefit consisting of accumulated contributions of a member shall not be subject to any offset mentioned in this ~~Section~~section.
- 8) The termination of death benefits under the Workers' Compensation Act or Workers' Occupational Diseases Act due to remarriage of the benefit recipient shall cause the offset to the Occupational Death Benefit applicable to the remarried benefit recipient to terminate effective with the last month of eligibility represented in the final benefit payment under the Workers' Compensation Act or Workers' Occupational Diseases Act.
- 9) In those cases in which the injury or death, for which an occupational disability or death benefit is payable, creates a legal liability for damages on the part of some person other than the employer to pay damages, the Workers' Compensation offset shall be applied as follows:
  - A) Any amounts paid under the Workers' Compensation Act or Workers' Occupational Diseases Act are subject to the offset provisions of Article 14 of the Pension Code [40 ILCS 5] and this Part, even though those amounts are recoverable under Section 5(b) of the Workers' Compensation Act (subrogation).
  - B) In the event that benefits due under the Workers' Compensation Act or Workers' Occupational Diseases Act are commuted into one sum or waived in lieu of the member seeking recovery against a third party, the System shall use the amount of any judgment, settlement or payment for the injury by the third party as a credit

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against any benefits paid or payable by the System.

- 10) Any periods of disability for which payment under the Workers' Compensation Act is denied, due to the failure of the individual to comply with that Act, that result in a period of noncompensability under the Workers' Compensation Act will not be considered for Occupational Disability until the entire Workers' Compensation case has been finalized through the Illinois Workers' Compensation Commission.
- b) Nonoccupational Disability and Temporary Disability  
As used in this Section, "full retirement age" means the age at which an individual is eligible to receive full Social Security retirement benefits.
  - 1) The nonoccupational and temporary disability benefit payable to a covered member shall be offset before the full retirement age by the amount of Social Security disability benefit payable prior to the member attaining the full retirement age and after the full retirement age by the amount of the Social Security retirement benefit for which the individual is first eligible on or after attaining the full retirement age less legal expenses paid by the member to obtain the award up to the maximum allowed by the Social Security Administration.
  - 2) The Social Security retirement benefit offset will be applied as follows, at the full retirement age. For a disability benefit recipient who received Social Security disability benefits before attaining the full retirement age, the Social Security disability benefit payment applied as the offset prior to attaining the full retirement age will remain in effect as the Social Security retirement benefit offset on or after attaining the full retirement age.
  - 3) Disability benefits payable from the System commencing after the full retirement age will be offset by Social Security retirement benefits for which the individual is eligible on the commencement of disability.
- c) Social Security Benefit Offset to Widow's and Survivor's Annuities
  - 1) Beginning July 1, 2009, the Social Security survivor benefit offset (offset) shall not apply to any widow's or survivor's annuity of any person who began receiving a retirement annuity or a survivor's or widow's annuity prior to January 1, 1998.

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- 2) Beginning July 1, 2009, the offset shall not apply to the widow's or survivor's annuity of any person who began receiving a widow's or survivor's annuity on or after January 1, 1998 and prior to July 1, 2009.
- 3) If the widow's or survivor's annuity is payable based on a coordinated employee's death in service, the offset shall not be applied to the widow's or survivor's annuity.
- 4) Any person who began receiving a retirement annuity after January 1, 1998 and before July 1, 2009 may make a one-time election before July 1, 2009 to reduce the monthly retirement annuity payable by 3.825% in exchange for not having the offset applied to any survivor's annuity payable.
- 5) Any employee with a retirement annuity effective date on or later than July 1, 2009 may, at the time of retirement, elect to reduce the monthly retirement annuity payable by 3.825% in exchange for not having the offset applied to any survivor's annuity payable.
- 6) For a person on the level income option under Section 14-112 of the Illinois Pension Code who makes an election under subsection (c)(4) or (c)(5), the reduction shall be computed based on the reduced amount of the retirement annuity to be paid after the person has become eligible for old age payments under the federal Social Security Act plus any automatic annual increases received as of the date of the election.
- 7) For a member whose accrued benefits are payable, in whole or in part, to an alternate payee pursuant to a QILDRO, as established by Section 1-119 of the Illinois Pension Code, any reduction due to an election made by the member under subsection (c)(4) or (c)(5) shall be computed based on the total amount of the member's retirement annuity prior to and without giving effect to any QILDRO reduction for amounts payable to an alternate payee. However, the actual reduction under subsection (c)(4) or (c)(5) shall be applied exclusively to the member's retirement annuity and not to any payment to an alternate payee.
- 8) If a coordinated employee does not elect to reduce the retirement annuity in exchange for not applying the offset to the SERS survivor's annuity, the

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survivor's annuity shall be reduced by one-half of any Social Security survivor's benefits for which all beneficiaries included in the widow's or survivor's annuity are eligible. The offset shall not reduce any survivor's or widow's benefit by more than 50%. If a coordinated employee does not elect to reduce the retirement annuity in exchange for not applying the offset to the SERS survivor's annuity, the offset will commence on the date the beneficiaries first become eligible to receive any portion of the Social Security benefit, regardless of whether the beneficiaries elect to accept the Social Security benefit on that date or if the beneficiaries' own earnings preclude payment of Social Security survivor's benefits.

- 9) If an annuitant who elected to have the retirement annuity reduced 3.825% to prevent an offset from taking place to any survivor benefits payable has a change in marital status due to death or divorce, that annuitant may make an irrevocable election to prospectively discontinue the reduction. However, no reimbursement of prior reductions will be made.
- 10) If, at the time the offset is to be commenced, the survivor is eligible to receive a monthly benefit amount from the Social Security Administration based on his/her own Primary Insurance Amount, that amount shall be deducted from the amount of survivor's benefit payable by Social Security and the offset computed on the difference. If the survivor is eligible to receive a monthly benefit amount based on his/her own Primary Insurance Amount and a governmental pension offset would have been applied to the Social Security survivor's benefit, that amount shall be deducted from the amount of the survivor's benefit payable by Social Security and the offset computed on the difference.
- 11) The Social Security reduction amount once established shall remain constant except for the following conditions:
  - A) If a survivor under age 50 previously receiving the survivor's benefit because of minor children becomes a deferred annuitant, the offset amount will be recomputed when he or she first becomes eligible for Social Security survivor's benefits. The offset amount will be based on the original widow's or widower's Social Security survivor's amount, ignoring subsequent increases to the deceased's Primary Insurance Amount. The recomputed offset amount shall be the balance of the Social Security survivor's benefit minus the

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governmental pension offset, if any.

- B) The offset amount will be adjusted when a child is removed from consideration for the System's annuity.
  - C) The offset amount will be adjusted when any benefit recipients become ineligible for Social Security benefits.
  - D) Beginning July 1, 2009, if a survivor under age 62 receiving a survivor's benefit subject to the Social Security offset becomes eligible to receive a monthly benefit amount based on a Primary Insurance Amount on his or her own record, the offset will be recomputed when he or she first becomes eligible to receive his or her own Primary Insurance Amount. The offset amount will be based on the estimated widow's or widower's Social Security survivor's amount determined at the date of death of the member less the estimated monthly benefit amount based on the Primary Insurance Amount of the survivor determined at the date of death of member, and the government pension offset, if any, ignoring any subsequent increases to the deceased Primary Insurance Amount or the survivor's Primary Insurance Amount. The monthly benefit amount based on the primary insurance amount of the survivor shall be determined from the Social Security Administration's Personal Earnings and Benefit Estimate Statement, including any adjustment due to the application of the Windfall Elimination Provision.
- d) Retirement Annuity
- Pursuant to Section 14-108(f) of the Pension Code, for members under age 65, the primary insurance benefit payable to the member upon attainment of age 65 shall, at the date of acceptance of a retirement annuity, be determined from the Social Security Administration's Personal Earnings and Benefit Estimate Statement, including any adjustments due to the application of the Windfall Elimination Provision. For members over age 65, the primary insurance benefit shall be the amount of Social Security benefits payable at the date of retirement with the State Employees' Retirement System.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

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**Section 1540.350 Qualified Illinois Domestic Relations Orders (QILDRO)**

## a) Definitions

- 1) The definitions in Section 1-119(a) of the Illinois Pension Code (the Act) [40 ILCS 5/1-119(a)(2)] shall apply to this Section.
- 2) "Death Benefit" in Section 1-119(a)(2) of the Act [40 ILCS 5/1-119(a)(2)] includes a lump sum payment described in Sections 14-116, 14-117 and 14-128 of the Act.
- 3) "Member's Refund" in Section 1-119(a)(5) of the Act [40 ILCS 5/1-119(a)(5)] does not include an error refund as defined in subsection (a)(4) of this Section.
- 4) "Error Refund" as used in this Section includes:
  - A) a refund paid to a member as the result of an error in a payment to the System;
  - B) an interest rebate; or
  - C) a refund paid to a member as the result of the member's failing to complete the required contributions necessary to purchase or reinstate service credit.
- 5) "Disability Benefit" in Section 1-119(a)(3) of the Act [40 ILCS 5/1-119(a)(3)] includes:
  - A) an occupational disability benefit under Section 14-123 of the Act [40 ILCS 5/14-123];
  - B) a temporary disability benefit under Section 14-123.1 of the Act [40 ILCS 5/14-123.1]; or
  - C) a nonoccupational disability benefit under Section 14-124 of the Act [40 ILCS 5/14-124].
- 6) "Member's Retirement Benefit" as used in this Section means the total

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amount of the retirement benefit as defined in Section 1-119(a)(8) of the Act [40 ILCS 5/1-119(a)(8)] that would be payable to the member in the absence of a QILDRO.

- 7) "Partial Member's Refund" as used in this Section includes:
    - A) a refund of widow/survivor benefit contributions;
    - B) a refund of alternative formula contributions as a result of the member not completing sufficient service to qualify for the alternative formula retirement benefit; or
    - C) a refund of early retirement contributions.
  - 8) "Permissive Service" in Section 1-119(a)(5.5) of the Act includes credit purchased by the member for military service, leaves of absence, early retirement incentives, contractual service, federal or out-of-state service, visually handicapped service, legislative staff intern service and unused sick and vacation time.
  - 9) "Regular Service" in Section 1-119(a)(7.5) of the Act includes service for which compensation was paid on a State payroll and purchased by the member for a qualifying period, short periods of employment, full or partial refund, emergency or temporary employment, and service credit where the member previously opted not to participate in the System and subsequently opted to purchase the service credit for the participation.
  - 10) "Accelerated Retirement Benefit" means an accelerated pension benefit payment under Sections 14-147.5 and 14-147.6 of the Illinois Pension Code [40 ILCS 5].
- b) Requirements for a Valid Qualified Illinois Domestic Relations Order  
The System will accept a court order as a valid Qualified Illinois Domestic Relations Order, or QILDRO, that meets all of the following requirements:
- 1) The order must be accompanied by a \$50 non-refundable processing fee, by check payable to the State Employees' Retirement System.
  - 2) If the order applies to a person who became a member of the System

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before July 1, 1999, the order must be accompanied by the original Consent to Issuance of QILDRO signed by the member.

- 3) The order must be a certified copy of an original order dated on or after July 1, 1999.
- 4) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce such a property distribution, prior to the death of the member.
- 5) The order must contain the name, residence address, and Social Security number of the member.
- 6) The order must contain the name, residence address, and Social Security number of the alternate payee.
- 7) The order must identify the State Employees' Retirement System as the retirement system to which it is directed.
- 8) The order must express any amount to be paid to the alternate payee from a member's retirement benefit as a dollar amount per month or as a percentage per month.
- 9) The order must express any amount to be paid to the alternate payee from a member's refund or partial refund as a dollar amount or as a percentage of the refund.
- 10) The order must express any amount to be paid to the alternate payee from a member's death benefit as a dollar amount or as a percentage of the death benefit.
- 11) The order must apply only to benefits that are statutorily subject to QILDROs as provided in Section 1-119(b)(1) of the Act [40 ILCS 5/1-119(b)(1)].
- 12) The order and, if applicable, the Consent to Issuance of QILDRO must be in the form adopted by the System.



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- 13) No language may be added to, or omitted from, the QILDRO form or the consent form adopted by the System.
- c) Requirement for a Valid QILDRO Calculation Order  
The System will accept a court order as a valid QILDRO Calculation Order or as a QILDRO Calculation Order that meets all of the following requirements:
  - 1) The order must be accompanied by a \$50 non-refundable processing fee, with the check made payable to the State Employees' Retirement System.
  - 2) The order must be a certified copy of an original order dated on or after July 1, 2006.
  - 3) The order must have been issued by an Illinois court of competent jurisdiction in a proceeding for declaration of invalidity of marriage, legal separation, or dissolution of marriage that provides for the distribution of property, or any proceeding to amend or enforce such a property distribution, ~~prior to the death of the member.~~
  - 4) The order must contain the name, residence address, and Social Security number of the member.
  - 5) The order must contain the name, residence address, and Social Security number of the alternate payee.
  - 6) The order must identify the State Employees' Retirement System as the retirement system to which it is directed.
  - 7) The order must apply only to benefits that are statutorily subject to QILDRO Calculation Orders as provided in Section 1-119(b)(1) of the Act.
  - 8) The order must be in the form directed by Section 1-119 of the Act.
  - 9) No language may be added to, or omitted from, the QILDRO Calculation Order form adopted by the System.

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- 10) The QILDRO Calculation Order must not be completed in a manner that changes the intent of the QILDRO to which it relates.
- d) Required Form
    - 1) A QILDRO/QILDRO Calculation Order must be in the form directed by Section 1-119 of the Act. The required QILDRO/QILDRO Calculation Order form is available from the System upon request or in PDF at [www.state.il.us/srs](http://www.state.il.us/srs).
    - 2) A QILDRO/QILDRO Calculation Order that is not in the form adopted by the System is invalid.
    - 3) A Consent to Issuance of QILDRO must be in the form adopted by the System as of the date that the QILDRO is received. The required consent form is available from the System upon request or in PDF at [www.state.il.us/srs](http://www.state.il.us/srs).
    - 4) A consent form that is not in the form adopted by the System is invalid.
  - e) Filing a QILDRO with the System
    - 1) A QILDRO should be sent to the System's Springfield Office, accompanied by the consent form, if applicable, and a \$50 non-refundable processing fee.
    - 2) A QILDRO will be deemed received by the System on the date that it is received in the System's Springfield Office.
    - 3) Within 45 calendar days after receipt of a QILDRO, the System will review the order and notify the member and each alternate payee by first class mail that it has received the order, and whether the order is a valid QILDRO. If the System determines that the order is not a valid QILDRO, the notice will specify the reason or reasons.
    - 4) A QILDRO that has been modified by the issuing court should be submitted in the same manner as the original QILDRO. A separate \$50 non-refundable processing fee is required for each modified QILDRO.

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- f) Filing a QILDRO Calculation Order with the System
- 1) A QILDRO Calculation Order should be sent to the System's Springfield Office, accompanied by a \$50 non-refundable processing fee.
  - 2) A QILDRO Calculation Order will be deemed received by the System on the date that it is received in the System's Springfield Office.
  - 3) Within 45 calendar days after receipt of a QILDRO Calculation Order, the System will review the order and notify the member and each alternate payee by first class mail that it has received the order, and whether the order is a valid QILDRO Calculation Order. If the System determines that the order is not a valid QILDRO Calculation Order, the notice will specify the reason or reasons.
  - 4) A QILDRO Calculation Order that has been modified by the issuing court should be submitted in the same manner as the original QILDRO Calculation Order. A separate \$50 non-refundable processing fee is required for each modified QILDRO Calculation Order. A modified QILDRO Calculation Order will not affect the priority of the QILDROs on file.
- g) Benefits Affected by a QILDRO
- 1) A QILDRO may apply only to the following benefits administered by the System:
    - A) a monthly retirement benefit;
    - B) a member's termination refund;
    - C) a member's partial refund;
    - D) a member's death benefit; and
    - E) a member's accelerated retirement benefit.
  - 2) If a QILDRO specifies a dollar amount or percentage payable to an alternate payee from any partial member's refund that becomes payable,

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the aggregate amount paid to the alternate payee from all partial member's refunds shall not exceed the dollar amount or percentage specified in the QILDRO.

- 3) A QILDRO shall not apply to any of the following:
    - A) a reversionary annuity that becomes payable following the death of the member;
    - B) a survivor benefit;
    - C) any disability benefit;
    - D) an error refund; and
    - E) any other benefit paid under Article 14 [40 ILCS 5/Art. 14] not specifically listed in subsection (g)(1) of this Section.
  - 4) If the space provided on the QILDRO form for the dollar amount or percentage the alternate payee is to receive from the member's retirement benefit, member's refund, partial member's refund or death benefit is left blank, then the alternate payee will receive no portion of the benefit or refund for which the space is left blank.
- h) Effect of a Valid QILDRO
- 1) Retirement Benefit
    - A) After the System has determined that a QILDRO applying to a retirement benefit on a dollar basis is valid, one of the following will occur:
      - i) If the member has not yet started receiving benefits, the QILDRO will be placed in the member's file and will be implemented when the first affected benefit payment commences; or
      - ii) If the member is already receiving benefits subject to the QILDRO, payment to the alternate payee will begin with

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the first payment to the member occurring at least 30 days after the QILDRO is received.

- B) After the System has determined that a QILDRO applying to a retirement benefit on a percentage basis is valid, that the member has not retired, and that a QILDRO Calculation Order will be needed, the following will occur:
- i) Within 45 days, the System will provide the information required in Section 1-119(h)(1.5)(B) of the Act;
  - ii) When the member requests a retirement benefit, within 45 days after the System receives all information necessary to determine the actual benefit payable, the System will provide the information required in Section 1-119(h)(1.5)(C) of the Act; and
  - iii) When the member requests a retirement benefit and there is no QILDRO Calculation Order on file, the System will advise the member and alternate payee of the need for a QILDRO Calculation Order. The System will determine an anticipated payment to the alternate payee based on information in the QILDRO, if it is possible to do so. The System will hold the alternate payee's anticipated payment and pay the member's monthly retirement benefit, less the amount held for the alternate payee, pending receipt of the QILDRO Calculation Order. Once the QILDRO Calculation Order is received, the System will adjust the amounts payable in accordance with the QILDRO Calculation Order and begin paying the alternate payee. However, if it is not possible for the System to determine an anticipated payment based only on the QILDRO, then neither the member nor the alternate payee will be paid until the QILDRO Calculation Order is received.
- C) After the System has determined that a QILDRO applying to a retirement benefit on a percentage basis is valid, and that the member is receiving a retirement benefit, the following will occur:

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- i) Within 45 days, the System will provide the information required in Section 1-119 (h)(1.5)(C) of the Act; and
  - ii) If there is no QILDRO Calculation Order on file, the System will advise the member and alternate payee of the need for a QILDRO Calculation Order. The System will determine an anticipated payment to the alternate payee based on information in the QILDRO, if it is possible to do so. The System will hold the alternate payee's anticipated payment and pay the member's monthly retirement benefit, less the amount held for the alternate payee, pending receipt of the QILDRO Calculation Order. Once the QILDRO Calculation Order is received, the System will adjust the amounts payable in accordance with the QILDRO Calculation Order and begin paying the alternate payee. However, if it is not possible for the System to determine an anticipated payment based only on the QILDRO, then neither the member nor the alternate payee will be paid until the QILDRO Calculation Order is received.
- 2) Refund or Partial Refund
- A) After the System has determined that a QILDRO applicable to a member's refund or partial member's refund is valid, one of the following will occur:
    - i) If the QILDRO provides that the refund or partial refund will be allocated on a dollar amount basis and the member has not applied for a refund or partial refund, the QILDRO will be placed in the member's file and will be implemented when payment of the affected refund or partial refund is made;
    - ii) If the QILDRO provides that the refund or partial refund will be allocated on a percentage basis and a QILDRO Calculation Order is not on file when the member requests a refund or partial refund, the System will provide the refund or partial refund amount to the member and

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alternate payee and will advise of the need for a QILDRO Calculation Order. The System will hold the refund or partial refund until the QILDRO Calculation Order is received;

- iii) If a refund application is pending when the System receives a QILDRO that purports to apply to the refund but the refund payment has not yet been vouchered, the System will hold the portion of the refund that would be payable to the alternate payee until it receives clarification from the court as to whether the QILDRO is effective against that pending refund. It is the member's or alternate payee's responsibility to obtain clarification from the court and to notify the System of the court's clarification; or
  - iv) If a refund payment has already been vouchered when the System receives a QILDRO that purports to apply to the refund, the QILDRO shall not be effective against that refund.
- B) "Vouchered", as used in subsection (h)(2)(A), means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.
- 3) Death Benefit
- A) After the System has determined that a QILDRO applicable to a member's death benefit is valid, one of the following will occur:
    - i) If the QILDRO provides that the death benefit will be allocated on a dollar amount basis and if the System has not received notice of the member's death, the QILDRO will be placed in the member's file and will be implemented when payment of the affected death benefit is made;
    - ii) If the QILDRO provides that the death benefit will be allocated on a percentage basis and a QILDRO Calculation Order is not on file when the System is notified of the death of the member, the System will provide the death benefit

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amount to the beneficiary on file and the alternate payee and will advise of the need for a QILDRO Calculation [Order](#). The System will hold the death benefit until the QILDRO Calculation Order is received.

- If a death benefit application is pending when the System receives a QILDRO that purports to apply to the death benefit but the death benefit payment has not yet been vouchered, the System will hold the portion of the death benefit that would be payable to the alternate payee until it receives clarification from the court as to whether the QILDRO is effective against that pending death benefit. It is the beneficiary or alternate payee's responsibility to obtain clarification from the court and to notify the System of the court's clarification;
- If a death benefit payment has already been vouchered when the System receives a QILDRO that purports to apply to the death benefit, the QILDRO shall not be effective against that death benefit;

B) "Vouchered", as used in subsection (h)(3)(A), means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

4) Accelerated Retirement Benefit

- A) For cases in which a valid QILDRO filed with the System grants prospective automatic annual increases to benefits of an alternate payee and the member subject to that QILDRO elects the accelerated retirement benefit under Section 14-147.6 of the Illinois Pension Code, a supplemental order clarifying how the payment option is to be divided must be accepted before any of the retirement benefits payable to the member and alternative payee are vouchered. If no supplemental order was provided by or on behalf of the member subject to the QILDRO at the time he or she applies for the accelerated retirement benefit under Section 14-



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147.6, the System will advise of the need for a supplemental order. It is the member's or alternate payee's responsibility to obtain the supplemental order.

- B) If a member subject to a valid QILDRO elects the accelerated retirement benefit under Section 14-147.5 of the Illinois Pension Code, a supplemental order clarifying how the accelerated retirement benefit is to be divided must be accepted by the System before any benefits payable to the member or the alternate payee may be vouchered. If no supplemental order was provided by or on behalf of the member subject to the QILDRO at the time he or she applies for the accelerated retirement benefit under Section 14-147.5, the System will advise of the need for a supplemental order. It is the member's or alternate payee's responsibility to obtain a supplemental order.

- C) "Vouchered", as used in this subsection (h)(4), means that the voucher has been signed and dated, even though the warrant has not been issued by the Office of the State Comptroller.

i) Termination of QILDRO

The System will consider a QILDRO as having been terminated in any of the following situations:

- 1) Upon receipt of a certified copy of a court order terminating the QILDRO;
- 2) Upon payment of all amounts provided for in the QILDRO; or
- 3) When the person to whom the QILDRO applies ceases to be a member or annuitant of the System.

j) QILDROs Against Persons Who Became Members Prior to July 1, 1999

- 1) A QILDRO that applies to a person who became a member of the System prior to July 1, 1999, must be accompanied by the original Consent to Issuance of QILDRO signed by the member. If the original is unavailable, a certified copy of the consent form filed with the court that issued the QILDRO is acceptable in lieu of the original.

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- 2) The Consent to Issuance of QILDRO must be in the form adopted by the System (including judicial district and county, case number and caption, member's name and SSN, alternate payee's name and SSN, member's signature and date) as of the date the QILDRO is received. A consent form that is not in the form adopted by the System is invalid.
  - 3) In accordance with Section 1-119(m)(1) of the Act [40 ILCS 5/1-119(m)(1)], a consent form must be signed by the member to whom the QILDRO applies. A consent form signed by a judge in lieu of the member is invalid.
- k) Alternate Payee's Address
- 1) An alternate payee is responsible to report to the System in writing each change in his or her name and residence address.
  - 2) When a member's retirement benefit, refund or death benefit subject to a QILDRO becomes payable, the System will send notice to the last address of the alternate payee reported to the System that the benefit, refund or death benefit is payable. Other than sending such notice, the System shall have no duty to take any other action to locate an alternate payee.
  - 3) The 180-day period during which the System will hold the retirement benefit, refund or death benefit as provided in Section 1-119(e)(2) of the Act [40 ILCS 5/1-119(e)(2)] begins on the date that the notice described in subsection (j)(2) of this Section is sent to the last address of the alternate payee reported to the System, or on the date that the retirement benefit, refund or death benefit becomes payable, whichever is later.
- l) Electing Form of Payment
- 1) A member's election either to receive or forego a proportional annuity under the Retirement Systems Reciprocal Act [40 ILCS 5/20] is not a prohibited election under Section 1-119(j)(1) of the Act [40 ILCS 5/1-119(j)(1)].
  - 2) A member's election to take a refund is not a prohibited election under Section 1-119(j)(1) of the Act.

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- 3) A member's election of a form of payment of annuity that reduces the member's total benefit, while still allowing full payment to the alternate payee under a QILDRO at the date of the election, is not a prohibited election under Section 1-119(j)(1) of the Act.
- m) Automatic Annual Increases
- 1) The alternate payee will or will not receive a proportionate share of any automatic annual increase in the member's retirement benefit under Section 14-114 or 14-115 of the Act [40 ILCS 5/14-114, 14-115], according to the designation in the QILDRO. If the QILDRO fails to designate whether the alternate payee is intended to receive a proportionate share of the automatic annual increase, then the System will presume that the alternate payee is not entitled to a proportionate share of the automatic annual increase in the member's share.
  - 2) The initial increase in the amount due the alternate payee under the QILDRO is payable with the next succeeding increase due the member after the date the QILDRO first took effect.
  - 3) The System will calculate the amount of any increase payable to the alternate payee under the QILDRO.
  - 4) The amount of any increase payable to the alternate payee is the percentage of increase due the member under Sections 14-114 or 14-115 of the Act, multiplied by the alternate payee's monthly benefit as of the date of the increase.
- n) Providing Benefit Information for Divorce Purposes
- 1) Within 45 days after receiving a subpoena or request from a member, the System will provide the information required in Section 1-119(h)(1) of the Act.
  - 2) Information provided by the System for divorce purposes does not include the amount of a member's retirement benefit for which no information is yet on file with the System. The System will not provide a retirement benefit amount if the member is not vested. The System will not project

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earnings or future service. The System will not assume future eligibility for special formula employees or elections by members.

- 3) Information provided by the System for divorce purposes does not reflect an actuarial opinion as to the present value of a member's retirement benefit, refund, death benefits or other interests.
- 4) Except as otherwise indicated by the System in a statement regarding a member's benefits, information provided by the System for divorce purposes reflects the member's total service career for which service credit in the System has accrued, and is not isolated as to the marital period only. The System will not provide benefit information for the marital period or specific years.
- 5) The System does not calculate the amount of a member's retirement benefit, refund or death benefit that would be payable to a former spouse pursuant to a divorce decree or dissolution judgment.
- 6) While the System makes every effort to provide accurate information for divorce purposes, benefit estimates are by their nature approximate and subject to revision due to errors, omissions, erroneous assumptions, or future changes in the rules and laws governing the System.
- 7) The System does not disclose information for divorce purposes to spouses, former spouses, relatives, or other third parties including the member's attorney, except in response to the member's written authorization to release such information, or in response to a subpoena.

(Source: Amended at 45 Ill. Reg. \_\_\_\_\_, effective \_\_\_\_\_)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Compassionate Use of Medical Cannabis Pilot Program
- 2) Code Citation: 77 Ill. Adm. Code 946
- 3)

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
946.10	Amendment
946.15	Amendment
946.25	Amendment
946.30	Amendment
946.35	Repealed
946.40	Amendment
946.50	Amendment
946.60	Amendment
946.200	Amendment
946.201	Amendment
946.205	Amendment
946.210	Amendment
946.230	Amendment
946.235	Amendment
946.240	Amendment
946.250	Repealed
946.260	Amendment
946.275	Amendment
946.280	Amendment
946.290	Amendment
946.300	Amendment
946.310	Amendment
946.315	Amendment
946.320	Amendment
946.400	Amendment
946.410	Amendment
946.420	Amendment
946.600	Amendment
946.620	Amendment
946.625	New Section
- 4) Statutory Authority: Implementing and authorized by the Compassionate Use of Medical Cannabis Pilot Program Act [410 ILCS 130].

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- 5) Effective Date of Rules: April 27, 2021
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? Yes
- 8) A copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 44 Ill Reg. 17323; October 30, 2020
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version:

Section 946.10, the definition of "Physician" has been added.

Section 946.40, subsection (a)(2)(E), "tamper-evident" has been restored and "tamper resistant" has been added.

Section 946.40, subsection (j)(4), "or the patient's designated caregiver" has been added.

Section 946.50, subsection (b)(4 and 5), proposed stricken language has been restored.

Section 946.200, subsection (d)(6, 7 and 8), proposed stricken language has been restored.

Section 946.235, subsection (a), "or the patient's designated caregiver" has been added.

Section 946.250 has been repealed.

Section 946.290(b), subsection (b), "patient" has been removed and replaced with "certifying health care professional".
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace any emergency rule currently in effect? No

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- 14) Are there any other rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: This rulemaking implements P.A. 101-363 and updates definitions and incorporated references, adds debilitating conditions, adds health care professions for the completion of a written certification, and adds requirements for veterans receiving care at a VA medical facility for participation in the Opioid Alternative Pilot Program. Additionally, the Department has added the debilitating condition of "intractable pain".
- 16) Information and questions regarding these adopted rules shall be directed to:

Department of Public Health  
Attention: Tracey Trigillo, Rules Coordinator  
535 W. Jefferson St., 5th Floor  
Springfield IL 62761

217/782-1159  
dph.rules@illinois.gov

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

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## TITLE 77: PUBLIC HEALTH

## CHAPTER I: DEPARTMENT OF PUBLIC HEALTH

## SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

## PART 946

## COMPASSIONATE USE OF MEDICAL CANNABIS PILOT PROGRAM

## SUBPART A: GENERAL PROVISIONS

## Section

946.10	Definitions
946.15	Referenced Materials
946.20	Debilitating Medical Conditions
946.25	Terminal Illness
946.30	Addition of Debilitating Medical Conditions
946.35	Medical Cannabis Advisory Committee <a href="#">(Repealed)</a>
946.40	Limitations and Penalties
946.50	Notifications to the Department
946.60	Confidentiality
946.70	Applicability to the Smoke Free Illinois Act

## SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

## Section

946.200	Application for Registry Identification Card for Qualifying Patients and Designated Caregivers
946.201	Application for Registry Identification Card for Qualifying Patients under 18 Years of Age
946.205	Deadlines for Submission of Application for Registry Identification Card
946.210	Fees
946.220	Fingerprint-Based Criminal History Records Check (Repealed)
946.230	General Provisions
946.235	Provisional Access to Licensed Dispensing Organizations
946.240	Persons Receiving Medical Care at U.S. Department of Veterans Affairs Facilities
946.250	Disposal of Medical Cannabis by Qualifying Patients <a href="#">(Repealed)</a>
946.260	Responsibilities of Designated Caregivers
946.270	Revocation of a Registry Identification Card
946.275	Suspension of a Registry Identification Card
946.280	Medical Cannabis Obtained from a Medical Cannabis Dispensing Organization



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946.290 Extension or Renewal of Registry Identification Cards

## SUBPART C: PHYSICIAN REQUIREMENTS

## Section

- 946.300 Qualifications of the Certifying [Health Care Professional](#)~~Physician~~  
946.310 [Health Care Professional](#)~~Physician~~ Written Certification for the Medical Cannabis  
[Pilot](#) Program  
946.315 Waiver for Increasing the Adequate Supply of Medical Cannabis  
946.320 Records Maintained by the [Health Care Professional](#)~~Physician~~ and Department

## SUBPART D: CANNABIS-INFUSED PRODUCTS

## Section

- 946.400 Manufacture of Cannabis-Infused Products  
946.410 Sale and Distribution of Cannabis-Infused Products  
946.420 Preparation [of Cannabis-Infused Products](#)  
946.430 Health Hazards

## SUBPART E: ENFORCEMENT

## Section

- 946.500 Circuit Court Review

## SUBPART F: OPIOID ALTERNATIVE PILOT PROGRAM

## Section

- 946.600 Registration for the Opioid Alternative Pilot Program  
946.610 Medical Cannabis Dispensing Organizations  
946.620 [Health Care Professional](#)~~Physician~~ Certification for Opioid Alternative Pilot  
Program  
[946.625 Persons Receiving Care at U.S. Department of Veterans Affairs Facilities Seeking  
to Qualify for the Opioid Alternative Pilot Program](#)  
946.630 Fees

AUTHORITY: Implementing and authorized by the Compassionate Use of Medical Cannabis Program Act [410 ILCS 130] and the Cannabis Regulation and Tax Act [410 ILCS 705].

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SOURCE: Adopted at 38 Ill. Reg. 17367, effective July 29, 2014; emergency amendment at 39 Ill. Reg. 444, effective December 22, 2014, for a maximum of 150 days; amended at 39 Ill. Reg. 7712, effective May 15, 2015; emergency amendment at 40 Ill. Reg. 10992, effective August 1, 2016, for a maximum of 150 days; emergency amendment to emergency rule at 40 Ill. Reg. 13732, effective September 16, 2016, for the remainder of the 150 days; amended at 40 Ill. Reg. 16753, effective December 15, 2016; emergency amendment at 42 Ill. Reg. 22254, effective December 1, 2018, for a maximum of 150 days; amended at 43 Ill. Reg. 5012, effective April 17, 2019; amended at 45 Ill. Reg. 6205, effective April 27, 2021.

## SUBPART A: GENERAL PROVISIONS

**Section 946.10 Definitions**

"Act" means the Compassionate Use of Medical Cannabis ~~Pilot~~ Program Act [410 ILCS 130].

*"Adequate supply" means 2.5 ounces of usable cannabis during a period of 14 days and that is derived solely from an intrastate source and purchased at a licensed Illinois dispensing organization.* (Section 10(a)(1) of the Act)

"Administer" or "Administration" means the direct introduction of medical cannabis into the body of a person, whether by inhalation, ingestion, or any other means.

*"Advanced practice registered nurse" means a person who is licensed under the Nurse Practice Act as an advanced practice registered nurse and has a controlled substances license under Article III of the Illinois Controlled Substances Act.* (Section 10(a-5) of the Act)

*"Bona-fide health care professional~~physician~~-patient relationship" means a relationship established at a hospital, certifying health care professional's~~physician's~~ office, or other health care facility in which the certifying health care professional~~physician~~ has an ongoing responsibility for the assessment, care, and treatment of a patient's debilitating medical condition or a symptom of the patient's debilitating medical condition or has diagnosed a disease or condition for which an opioid was prescribed or could be prescribed and is actively monitoring the effectiveness of the treatment.* (Section 10(z) of the Act)

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"Cannabis" means *marihuana, hashish and other substances which are identified as including any parts of the plant Cannabis sativa and including any and all derivatives or subspecies, such as Indica, of all strains of cannabis, whether growing or not; the seeds thereof, the resin extracted from any part of such plant; and any compound, manufacture, salt, derivative, mixture, or preparation of such plant, its seeds, or resin, including tetrahydrocannabinol (THC) and all other cannabinol derivatives, including its naturally occurring or synthetically produced ingredients, whether produced directly or indirectly by extraction, or independently by means of chemical synthesis or by a combination of extraction and chemical synthesis; but shall not include the mature stalks of such plant, fiber produced from such stalks, oil or cake made from the seeds of such plant, any other compound, manufacture, salt, derivative, mixture, or preparation of such mature stalks (except the resin extracted therefrom), fiber, oil or cake, or the sterilized seed of such plant which is incapable of germination.* (Section 3(a) of the Cannabis Control Act)

"Caregiver" or "designated caregiver" means a person who is designated by a qualifying patient as the person authorized, on the qualifying patient's behalf, to possess, obtain from a certified medical cannabis dispensary, dispense and assist in the administration of medical cannabis.

"Certifying health care professional" means a physician, an advanced practice registered nurse, or a physician assistant. (Section 10(d-5) of the Act)

"Cultivation center" means *a facility operated by an organization or business that is registered by the Department of Agriculture to perform necessary activities to provide only registered medical cannabis dispensing organizations with usable medical cannabis.* (Section 10(e) of the Act)

"DD214" means a certified DD214 Certificate of Release or Discharge from Active Duty Member Copy 4 or State Director of Veteran Affairs Copy 6; a certified DD214 Report of Separation from Active Duty Copy 2; or equivalent certified document indicating character of service and dates of service. A DD214 can be certified by the State Department of Veterans' Affairs, county veteran's officials, and the federal Department of Veterans Affairs.

"Debilitating medical condition" means *cancer, glaucoma, positive status for human immunodeficiency virus (HIV), acquired immune deficiency syndrome (AIDS), hepatitis C, amyotrophic lateral sclerosis (ALS), Crohn's disease*

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*(including, but not limited to, ulcerative colitis), agitation of Alzheimer's disease, cachexia/wasting syndrome, muscular dystrophy, severe fibromyalgia, spinal cord disease, including but not limited to arachnoiditis, Tarlov cysts, hydromyelia, syringomyelia, Rheumatoid arthritis (RA), fibrous dysplasia, spinal cord injury, traumatic brain injury (TBI) and post-concussion syndrome, Multiple Sclerosis, Arnold-Chiari malformation and Syringomyelia, Spinocerebellar Ataxia (SCA), Parkinson's disease, Tourette's syndrome, Myoclonus, Dystonia, Reflex Sympathetic Dystrophy, RSD (Complex Regional Pain Syndromes Type I), Causalgia, CRPS (Complex Regional Pain Syndromes Type II), Neurofibromatosis, Chronic Inflammatory Demyelinating Polyneuropathy, Sjogren's syndrome, Lupus, Interstitial Cystitis, Myasthenia Gravis, Hydrocephalus, nail-patella syndrome, residual limb pain, seizures (including those characteristic of epilepsy); and post-traumatic stress disorder (PTSD), autism, chronic pain, irritable bowel syndrome, migraines, osteoarthritis, anorexia nervosa, Ehlers-Danlos Syndrome, Neuro-Behcet's Autoimmune Disease, neuropathy, polycystic kidney disease, superior canal dehiscence syndrome, intractable pain, or the treatment of these conditions; or any other debilitating medical condition that is added pursuant to the statute or by the Department by rule as provided in Section 946.30. (Section 10(h) of the Act)*

"Department" means the Illinois Department of Public Health.

"Director" means the Director of the Illinois Department of Public Health or his or her designee.

~~"Dispensing organization district" or "District" means one of the 43 geographically dispersed areas identified in the Act and by the Department of Financial and Professional Regulation where one or more dispensing organizations may be located.~~

"Evidence-based medical research" means documentation of published, peer-reviewed best evidence on research related to the use of medical cannabis, which includes up-to-date information from relevant, valid research about the effects of medical cannabis on different forms of diseases and conditions, its use in health care, the potential for harm from exposure, and other relevant medical information.

"Health care facility" means any and all facilities and agencies licensed by the Department, including, but not limited to, those registered under the Hospital

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Licensing Act, Nursing Home Care Act, Ambulatory Surgical Treatment Center Act, Alternative Health Care Delivery Act, Hospice Program Licensing Act, Specialized Mental Health Rehabilitation Act of 2013 and any nursing facility operated by the Illinois Department of Veterans' Affairs.

"Health care professional" means a physician, an advanced practice registered nurse, or a physician assistant.

"Medical cannabis" means cannabis and its constituent cannabinoids, such as tetrahydrocannabinol (THC) and cannabidiol (CBD), used as an herbal remedy or therapy to treat disease or alleviate symptoms. Medical cannabis can be administered in a variety of ways, including, but not limited to: vaporizing or smoking dried buds; using concentrates; administering tinctures or tonics; applying topicals such as ointments or balms; or consuming medical cannabis-infused food products.

*"Medical cannabis container" means a sealed, traceable, food compliant, tamper resistant, ~~tamper evident~~ container or package used for the purpose of containment of medical cannabis. (Section 10(n) of the Act)*

*"Medical cannabis dispensing organization" or "Dispensing organization" means a facility operated by an organization or business that is registered by the Department of Financial and Professional Regulation to acquire medical cannabis from a registered cultivation center for the purpose of dispensing medical cannabis, paraphernalia, or related supplies and educational materials to registered qualifying patients, individuals with a provisional registration for qualifying patient cardholder status, or Opioid Alternative Pilot Program participant. (Section 10(o) of the Act)*

*"Medical cannabis-infused product" means food, oils, ointments, sodas or teas, capsules or other products containing usable cannabis that are not smoked. (Section 10(q) of the Act)*

*"Opioid" means a narcotic drug or substance that is a Schedule II controlled substance under Section 206 (b)(1), (2), (3), or (5) or (c) of the Illinois Controlled Substances Act. (Section 10 (r-5) of the Act)*

*"Opioid Alternative Pilot Program participant" means an individual who has received a valid written certification to participate in the Opioid Alternative Pilot*

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*Program for a medical condition for which an opioid has been or could be prescribed by a certifying health care professional~~physician~~ based on generally accepted standards of care. (Section 10(r-10) of the Act)*

"Petitioner" means an applicant who seeks to add debilitating medical conditions to those listed in Section 10(h) of the Act as allowed under Section 946.30.

*"Physician" means a doctor of medicine or doctor of osteopathy licensed under the Medical Practice Act of 1987 to practice medicine and who has a controlled substances license under Article III of the Illinois Controlled Substances Act. It does not include a licensed practitioner under any other Act including but not limited to the Illinois Dental Practice Act. (Section 10(s) of the Act)*

*"Physician assistant" means a physician assistant licensed under the Physician Assistant Practice Act of 1987 and who has a controlled substances license under Article III of the Illinois Controlled Substances Act. (Section 10(s-1) of the Act)*

"Private residence" means the part of a structure used as a dwelling, including, without limitation: a private home, townhouse, condominium, apartment, mobile home, vacation home, cabin or cottage. For the purposes of this definition, a hotel, motel, inn, resort, lodge, bed and breakfast or other similar public accommodation, hospital, nursing home or assisted living facility shall not be considered a private residence.

"Promptly" means as soon as reasonably practicable, but not later than five days.

"Provisional patient" means a qualifying patient who has received a provisional registration from the Department of Public Health.

*"Provisional registration" means a document issued by the Department of Public Health to a qualifying patient or designated caregiver who has submitted:*

*a valid and complete online application and paid a fee to participate in the Compassionate Use of Medical Cannabis ~~Pilot~~ Program pending approval or denial of the patient's application; or*

*a completed application for terminal illness. (Section 10(s-5) of the Act)*

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"Public place" means any place where an individual could reasonably be expected to be observed by others, including all parts of buildings owned in whole or in part or leased by the State or a unit of local government. A "public place" does not include health care facilities, as defined in this Part, or private residences unless the private residence is used to provide child care, foster care or other similar social service care on the premises.

"Qualifying patient" means a person who has been diagnosed by a certifying health care professional~~physician~~ as having a debilitating medical condition. (Section 10(t) of the Act)

"Reasonable amount" means less than 2,000 grams of cannabis for any conviction that occurred in the past 10 years or any amount of cannabis if the felony in the jurisdiction where the conviction occurred has been reclassified as a misdemeanor or petty offense since the time of the conviction.

"Registered qualifying patient" means a qualifying patient who has been approved by the Department and has been issued a registry identification card.

"Registry identification card" or "medical cannabis patient registry card" means a document issued by the Department that identifies a person as a current registered qualifying patient or registered designated caregiver. (Section 10(v) of the Act)

"Resident" means a person who maintains a legal place of residence in the State of Illinois.

"Reviewing health care professional~~physician~~" means a health care professional~~physician currently licensed under the Medical Practice Act of 1987 or who possesses a current, active medical license issued by another state~~, who has conducted a review of the medical records from other health care professionals~~physicians~~ treating a qualifying patient who is under 18 years of age for the purpose of confirming the diagnosis of debilitating medical conditions as defined in the Act.

"Spinal cord injury" means damage to the nervous tissue of the spinal cord with objective neurological indication of intractable spasticity.



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"Terminal illness" means a debilitating condition or other illness for which the qualifying patient has received a diagnosis for a life expectancy of six months or less.

"Tincture" means cannabis flowered tops and leaves that are soaked in liquid, usually an alcohol solution, transferring the THC and other cannabinoids to the liquid. The tincture may be added to foods and liquids, applied to the skin, or consumed directly by drinking a small quantity or placing a few drops under the tongue.

"Tetrahydrocannabinol" or "THC" means the primary active ingredient in cannabis.

"VA" means federal Department of Veterans Affairs.

"Veteran" means person who served in one of the five active-duty Armed Services or their respective Guard or Reserve units, and who was discharged or released from service under conditions other than dishonorable.

"VA ~~health care facility~~hospital" means a health care facility operated by the federal Department of Veterans Affairs-Veterans Health Administration providing hospital and outpatient health care services to U.S. military service veterans.

"VA ~~official hospital~~ medical records" means records from the VA documenting medical conditions, medications, and dates of treatment in the VA healthcare system. Records shall include, but not be limited to, information from the patient's VA health record found at [www.myhealth.va.gov](http://www.myhealth.va.gov).

"Written certification" means a document, on a form specified by the Department, dated and signed by a certifying health care professional~~physician~~, stating:

*that the qualifying patient has a debilitating medical condition and specifying the debilitating medical condition the qualifying patient has; and*

*that:*

*the certifying health care professional~~physician~~ is treating or managing treatment of the patient's debilitating condition; or*



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*an Opioid Alternative Pilot Program Participant has a medical condition for which opioids have been or could be prescribed.*

*A written certification shall be made only in the course of a bona-fide health care professional~~physician~~-patient relationship, after the certifying health care professional~~physician~~ has completed an assessment of either a qualifying patient's medical history or Opioid Alternative Pilot Program participant, reviewed relevant records related to the patient's debilitating condition, and conducted a physical examination. (Section 10(y) of the Act)*

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.15 Referenced Materials**

- a) The following federal statutes are referenced in this Part:
  - 1) Federal Food, Drug, and Cosmetic Act (21 USC 301 et seq.)
  - 2) Federal Fair Packaging and Labeling Act (15 USC 1451 et seq.)
  - 3) Health Insurance Portability and Accountability Act of 1996 (HIPAA) (P.L. 104-191)
- b) The following Illinois statutes are referenced in this Part:
  - 1) Compassionate Use of Medical Cannabis ~~Pilot~~-Program Act [410 ILCS 130]
  - 2) Administrative Review Law (Article III of the Code of Civil Procedure) [735 ILCS 5/Art. III]
  - 3) Cannabis Control Act [720 ILCS 550]
  - 4) Methamphetamine Control and Community Protection Act [720 ILCS 646]
  - 5) Open Meetings Act [5 ILCS 120]

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- 6) Medical Practice Act of 1987 [225 ILCS 60]
  - 7) Illinois Controlled Substances Act [720 ILCS 570]
  - 8) Illinois Food, Drug and Cosmetic Act [410 ILCS 620]
  - 9) Food Handling Regulation Enforcement Act [410 ILCS 625]
  - 10) Illinois Vehicle Code [625 ILCS 5]
  - 11) Smoke Free Illinois Act [410 ILCS 82]
  - 12) Illinois Identification Card Act [15 ILCS 335]
  - 13) Freedom of Information Act (FOIA) [5 ILCS 140]
  - 14) Code of Civil Procedure [735 ILCS 5]
  - 15) State Records Act [5 ILCS 160]
  - 16) Illinois Vehicle Code [625 ILCS 5]
  - 17) [Nurse Practice Act \[225 ILCS 65/Art. 70\]](#)
  - 18) [Physician Assistant Practice Act of 1987 \[225 ILCS 95\]](#)
  - 19) [Cannabis Regulation and Tax Act \[410 ILCS 705\]](#)
- c) The following State administrative rules are referenced in this Part:
- 1) ~~The Illinois~~ Food, Drug and Cosmetic ~~Code Act~~ (77 Ill. Adm. Code 720)
  - 2) Manufacturing, Processing, Packing or Holding of Food Code (77 Ill. Adm. Code 730)
  - 3) Food ~~Service Sanitation~~ Code (77 Ill. Adm. Code 750)
  - 4) Practice and Procedure in Administrative Hearings (77 Ill. Adm. Code 100)

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5) Cannabis Regulation and Tax Act (8 Ill. Adm. Code 1300).

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.25 Terminal Illness**

*An individual who submits an application for a registry identification card as someone who is terminally ill as defined in Section 946.10 shall have all fees ~~and fingerprinting requirements~~ waived.* (Section 60(c-10) of the Act)

- a) A qualifying patient who has been diagnosed with a terminal illness shall register with the Department on forms and in a manner prescribed by the Department.
- b) To qualify for a registry identification card, a qualifying patient with a diagnosis of terminal illness shall:
  - 1) Be a resident of the State of Illinois at the time of application and remain a resident during participation in the program.
  - 2) Meet the definition of terminal illness in Section 946.10.
  - 3) Have a signed, written attestation specifying that the qualifying patient has a terminal illness, on a form provided by the Department, submitted by a certifying health care professional~~physician~~ who meets the requirements set forth in the Act, along with an application for a registry identification card.
  - 4) Complete an application on a form provided by the Department and submit a copy of his or her Illinois driver's license, Temporary Visitor's Driver's License or state identification card. If the individual does not have an Illinois driver's license or state identification card, a color copy of a current passport will be accepted.
  - 5) Provide a current digital passport-sized photograph meeting the criteria specified in Section 946.200(b)(6).
- c) A veteran or spouse of a veteran who is receiving care for a debilitating condition at a VA health care facility~~hospital~~, as specified in Section 946.240, shall sign a

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written attestation indicating they have been diagnosed with a terminal illness and shall submit one year of official VA ~~hospital~~ medical records from the VA ~~using VA Form 10-5345~~ and provide a copy of his or her DD214 indicating character and dates of service.

- d) A qualifying patient under the age of 18 diagnosed with a terminal illness will not be required to obtain a written certification from a reviewing health care professional~~physician~~.
- e) A patient with a terminal illness may specify a designated caregiver. A qualifying patient under age 18 may have up to threetwo designated caregivers as described in Section 946.201(c).
- f) A qualifying patient shall not possess a school bus permit or a Commercial Driver's License. (See Section 30(a)(10) of the Act); Applications submitted by persons~~Persons~~ who possess thesesuch licenses will not be processed while the permit or license is valid in accordance with records kept by the Secretary of State. Applicants must forfeit or surrender the permits or licenses~~should revoke them~~ prior to submitting an application for a medical cannabis registry identification card or their application will not be processed.
- g) Applications submitted by an applicant diagnosed with a terminal illness *shall be approved or denied within 14 business days, not including State holidays, of the submission of their complete application.* (Section 60(c-10) of the Act) The time period for approval or denial will not include the time necessary for the Secretary of State verification process to be completed or the printing, mailing and receipt of the registry identification card by the patient.
- h) Persons whose diagnosis is no longer terminal after a period of six months and their designated caregiver, may submit an application for a registry identification card in accordance with Section 946.200 or Section 946.201 and pay all applicable fees specified in Section 946.210.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.30 Addition of Debilitating Medical Conditions**

Residents may petition the Department to add debilitating medical conditions to those listed in Section 10(h) of the Act and Section 946.20. The Department will accept petitions annually. The

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annual petition period for accepting petitions will be for a one-month period from January 1 through January 31 each year. Petitions received outside of the open periods specified in this Section will not be reviewed and will be returned to the resident submitting the petition.

- a) *During the open period, the Department will accept petitions from any resident requesting the addition of a new debilitating medical condition or disease to the list of approved debilitating medical conditions for which the use of cannabis has been shown to have a therapeutic or palliative effect. The Department shall provide public notice 30 days before the open period for accepting petitions, which shall describe the time period for submission, the required format of the submission, and the submission address, which is set forth in Section 946.205. (Section 45(b) of the Act)*
- b) *Each petition shall be limited to one proposed debilitating medical condition or disease. (Section 45(c) of the Act)*
- c) *A petitioner shall file one original petition in the format provided by the Department and in the manner specified by the Department. For a petition to be processed and reviewed, the following information shall be included: (Section 45(d) of the Act)*
  - 1) *A specific description of the medical condition or disease that is the subject of the petition. The petitioner shall not submit broad categories, e.g., all mental illnesses. Each petition shall be limited to a single condition or disease. Information about the proposed condition or disease shall include:*
    - A) *The extent to which the condition or disease itself and/or the treatments cause severe suffering, such as severe and/or chronic pain, severe nausea and/or vomiting, or otherwise severely impair a person's ability to carry on with activities of daily living;*
    - B) *Information about why conventional medical therapies are not sufficient to alleviate the suffering caused by the disease or condition and its treatment;*
    - C) *The proposed benefits from the medical use of cannabis specific to the medical condition or disease;*

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- D) *Evidence from the medical community and other experts supporting the use of medical cannabis to alleviate suffering caused by the condition or disease and/or treatment;*
  - E) *Letters of support from physicians or other licensed health care providers knowledgeable about the condition or disease, including, if feasible, a letter from a health care professional~~physician~~ with whom the petitioner has a bona-fide health care professional~~physician~~-patient relationship;*
  - F) *Any additional medical, testimonial or scientific documentation; and*
  - G) *An electronic copy of all materials submitted.*
- 2) *Upon receipt of a petition, the Department shall determine whether the petition meets the standards for submission and, if so, will accept the petition for further review; or whether the petition does not meet the standards for submission and, if so, shall deny the petition without further review.*
  - 3) *If the petition does not fulfill the standards for submission, the petition shall be considered deficient. The Department shall notify the petitioner, who may correct any deficiencies and resubmit the petition during the next open period.*
- d) The petitioner may withdraw their~~his or her~~ petition by submitting a written statement to the Department indicating withdrawal.
  - e) *Upon review of accepted petitions, the Director will consult with Department staff to analyze the clinical and scientific merit of the petitions. This consultation will occur before the Director renders a final decision regarding the acceptance or denial of the proposed debilitating medical conditions or diseases. (Section 45(f) of the Act) The Department's analysis will be recorded in a format prescribed by the Department.*
  - f) *The Department will approve or deny a petition within 180 days after its submission. (Section 45(a) of the Act)*

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- g) All petitions to add debilitating medical conditions submitted to the Department in January 2016 will be reviewed in accordance with the rules for the addition of debilitating medical conditions in effect at the time of the submission.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.35 Medical Cannabis Advisory Board (Repealed)**

- a) ~~The Department shall convene a Medical Cannabis Advisory Board (Advisory Board) composed of 16 members, including (Section 45(q) of the Act):~~
- ~~1) One medical cannabis patient advocate or designated caregiver;~~
  - ~~2) One parent or designated caregiver of a person under age 18 who is a qualified medical cannabis patient;~~
  - ~~3) Two registered nurses or nurse practitioners;~~
  - ~~4) Three registered qualifying patients, including one veteran; and~~
  - ~~5) Nine health care practitioners with current professional licensure in their field. The Advisory Board shall be composed of health care practitioners representing the following areas:~~
    - ~~A) Neurology;~~
    - ~~B) Pain management;~~
    - ~~C) Medical oncology;~~
    - ~~D) Psychiatry or mental health;~~
    - ~~E) Infectious disease;~~
    - ~~F) Family medicine;~~
    - ~~G) General primary care;~~
    - ~~H) Medical ethics;~~

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~~I) Pharmacy;~~

~~J) Pediatrics; or~~

~~K) Psychiatry or mental health for children or adolescents.~~

~~At least one appointed health care practitioner shall have direct experience related to the health care needs of veterans and at least one individual shall have pediatric experience.~~

~~b) Members of the Advisory Board shall be appointed by the Governor.~~

~~1) Members shall serve a term of four years or until a successor is appointed and qualified. If a vacancy occurs, the Governor shall appoint a replacement to complete the original term created by the vacancy.~~

~~2) The Governor shall select a chairperson.~~

~~3) Members may serve multiple terms.~~

~~4) Members shall not have an affiliation with, serve on the board of, or have a business relationship with a registered cultivation center or a registered medical cannabis dispensary.~~

~~5) Members shall disclose any real or apparent conflicts of interest that may have a direct bearing of the subject matter, such as relationships with pharmaceutical companies, biomedical device manufacturers, or corporations whose products or services are related to the medical condition or disease to be reviewed.~~

~~6) Members shall not be paid but will be reimbursed for travel expenses incurred while fulfilling the responsibilities of the Advisory Board.~~

~~c) The Advisory Board shall convene at the call of the Chair to:~~

~~1) Examine debilitating conditions or diseases that would benefit from the medical use of cannabis, and;~~



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- 2) ~~*Review any new medical and scientific evidence pertaining to currently approved debilitating conditions.*~~
- 3) ~~*The Advisory Board shall issue an annual report of its activities each year.*~~

(Source: Repealed at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.40 Limitations and Penalties**

- a) Any person engaging in the following conduct may be charged with civil, criminal or other penalties for:
  - 1) *Undertaking any task under the influence of cannabis, when doing so would constitute negligence, professional malpractice, or professional misconduct;*
  - 2) *Possessing cannabis:*
    - A) *except as provided under Section 22-33 of the School Code, in a school bus;*
    - B) *except as provided under Section 22-33 of the School Code, on the grounds of any preschool or primary or secondary school;*
    - C) *in any correctional facility;*
    - D) *in a vehicle under Section 11-502.1 of the Illinois Vehicle Code;*
    - E) *in a vehicle not open to the public unless the medical cannabis is in a reasonably secured, sealed, tamper-evident, tamper resistant container and reasonably inaccessible while the vehicle is moving; or*
    - F) *in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;*
  - 3) *Using cannabis:*

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- A) *except as provided under Section 22-33 of the School Code, in a school bus;*
  - B) *except as provided under Section 22-33 of the School Code, on the grounds of any preschool or primary or secondary school;*
  - C) *in any correctional facility;*
  - D) *in any motor vehicle;*
  - E) *in a private residence that is used at any time to provide licensed child care or other similar social service care on the premises;*
  - F) *except as provided under Section 22-33 of the School Code, in any public place. "Public place" as used in this subsection (a)(3)(F) means any place where an individual could reasonably be expected to be observed by others. A "public place" includes all parts of buildings owned in whole or in part, or leased, by the State or a local unit of government. A "public place" does not include a private residence unless the private residence is used to provide licensed child care, foster care, or other similar social service care on the premises. For purposes of this subsection (a)(3)(F), a "public place" does not include a health care facility. For purposes of this Section, a "health care facility" includes, but is not limited to, hospitals, nursing homes, hospice care centers, and long-term care facilities;*
  - G) *except as provided under Section 22-33 of the School Code, knowingly in close physical proximity to anyone under the age of 18 years of age;*
- 4) *Smoking medical cannabis in any public place where an individual could reasonably be expected to be observed by others, in a health care facility, or any other place where smoking is prohibited under the Smoke Free Illinois Act;*
  - 5) *Operating, navigating, or being in actual physical control of any motor vehicle, aircraft, or motorboat while using or under the influence of*

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*cannabis in violation of Sections 11-501 and 11-502.1 of the Illinois Vehicle Code;*

- 6) *Using or possessing cannabis if that person does not have a debilitating medical condition and is not a registered qualifying patient, provisional patient, or caregiver or Opioid Alternative Pilot Program participant;*
  - 7) *Allowing any person who is not allowed to use cannabis under the Act to use cannabis that a cardholder, provisional patient, or Opioid Alternative Pilot Program participant is allowed to possess under the Act;*
  - 8) *Transferring cannabis to any person contrary to the provisions of the Act;*
  - 9) *The use of medical cannabis by an active duty law enforcement officer, correctional officer, correctional probation officer, or firefighter; or*
  - 10) *The use of medical cannabis by a person who has a school bus permit or a Commercial Driver's License.*
- 
- b) *Nothing in the Act shall be construed to prevent the arrest or prosecution of a registered qualifying patient, provisional patient, or Opioid Alternative Pilot Program participant for reckless driving or driving under the influence of cannabis where probable cause exists.*
  - c) *Notwithstanding any other criminal penalties related to the unlawful possession of cannabis, knowingly making a misrepresentation to a law enforcement official of any fact or circumstance relating to the medical use of cannabis to avoid arrest or prosecution is a petty offense punishable by a fine of up to \$1,000, which shall be in addition to any other penalties that may apply for making a false statement or for the use of cannabis other than use undertaken under the Act.*
  - d) *Notwithstanding any other criminal penalties related to the unlawful possession of cannabis, any person who makes a misrepresentation of a medical condition to a certifying health care professional~~physician~~ or fraudulently provides material misinformation to a certifying health care professional~~physician~~ in order to obtain a written certification is guilty of a petty offense punishable by a fine of up to \$1,000.*

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- e) *Any cardholder or registered caregiver, provisional patient, or Opioid Alternative Pilot Program participant who sells cannabis shall have his or her registry identification card revoked and is subject to other penalties for the unauthorized sale of cannabis.*
- f) *Any registered qualifying patient, provisional patient, or Opioid Alternative Pilot Program participant who commits a violation of Section 11-502.1 of the Illinois Vehicle Code or refuses a properly requested test related to operating a motor vehicle while under the influence of cannabis shall have his or her registry identification card revoked.*
- g) *No registered qualifying patient or designated caregiver, provisional patient, or Opioid Alternative Pilot Program participant shall knowingly obtain, seek to obtain, or possess, individually or collectively, an amount of usable cannabis from a registered medical cannabis dispensing organization that would cause him or her to exceed the authorized adequate supply under Section 10(a) of the Act.*
- h) *Nothing in the Act shall prevent a private business from restricting or prohibiting the medical use of cannabis on its property.*
- i) *Nothing in the Act shall prevent a university, college, or other institution of post-secondary education from restricting or prohibiting the use of medical cannabis on its property. (Section 30 of the Act)*
- j) Individuals who fail to comply with any of the following notification requirements (see Section 75(a) of the Act) shall be subject to a civil monetary penalty, pursuant to Section 75(d) of the Act. The civil monetary penalty, which may be assessed for each instance of non-compliance, is not to exceed \$150 per instance.
  - 1) *A registered qualifying patient, provisional patient, or Opioid Alternative Pilot Program participant shall notify the Department of Public Health of any change in his or her name or address, or if the registered qualifying patient ceases to have his or her debilitating medical condition, within 10 days after the change or death.*
  - 2) *A registered designated caregiver shall notify the Department of Public Health of any change in his or her name or address, or if the designated*

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*caregiver becomes aware the registered qualifying patient passed away, within 10 days after the change.*

- 3) *Before a registered qualifying patient changes his or her designated caregiver, the qualifying patient must notify the Department of Public Health.*
- 4) *If a cardholder loses his or her registry identification card, the patient or the patient's designated caregiver~~he or she~~ shall notify the Department within 10 days after becoming aware the card has been lost. (Section 75(a) of the Act)*
- k) *Any person, including an employee or official of the Department of Public Health, Department of Financial and Professional Regulation, or Department of Agriculture or another State agency or local government, is guilty of a Class B misdemeanor with a \$1,000 fine for breaching the confidentiality of information obtained under the Act (Section 145(c) of the Act) and Sections 946.270 and 946.275 of this Part.*
- l) *Any cardholder, including a provisional patient or an Opioid Alternative Pilot Program participant, found to be in violation of the Act or this Part may have his or her registration suspended or revoked, pursuant to Section 185(a) of the Act and Sections 946.270 and 946.275 of this Part.*
- m) *The Department of Public Health may, with reasonable cause, refer a certifying health care professional~~physician~~, who has certified a debilitating medical condition of a patient, to the Illinois Department of Financial and Professional Regulation for potential violations of Section 35 of the Act. (Section 35(c) of the Act)*

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.50 Notifications to the Department**

- a) *The registered qualifying patient, provisional patient and designated caregiver shall notify the Department of any changes in application information within 10 days after the change occurs. After a registry identification card is issued, information changes shall be made by notifying the Department. Forms for this purpose will also be available on the Department's website at <http://dph>.*

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[illinois.gov/topics-services/prevention-wellness/medical-cannabis](http://www.idph.state.il.us/HealthWellness/MedicalCannabis/index.htm)  
<http://www.idph.state.il.us/HealthWellness/MedicalCannabis/index.htm>.

- b) Registered qualifying patients and provisional patients shall notify the Department:
  - 1) Of changes in the patient's name or address;
  - 2) If the registered qualifying patient or provisional patient ceases to have the debilitating medical condition;
  - 3) Of a change in the designated caregiver; and
  - 4) Of a change in the selected dispensary organization; and
  - 5) If the registry identification card is lost or stolen.
- c) *If a registered qualifying patient ceases to be a registered qualifying patient or changes his or her registered designated caregiver, the registered qualifying patient shall immediately notify the Department via telephone and the Department of Public Health shall promptly notify the designated caregiver. The registered designated caregiver's registry identification card shall immediately become void and all protections under the Act as to that qualifying patient shall expire 15 days after notification by the Department. (Section 75(c) of the Act)*
- d) If the qualifying patient is deceased, the designated caregiver, if any, or a legal representative of the patient shall notify the Department.
- e) *A cardholder, including an Opioid Alternative Pilot Program participant, who fails to make a notification to the Department of Public Health that is required by this Part is subject to a civil infraction, punishable by a penalty of no more than \$150. (Section 75(d) of the Act)*

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.60 Confidentiality**

- a) The following information received and records kept by the Department for purposes of administering this Part are subject to all applicable federal privacy

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laws, are confidential, are exempt from the Illinois Freedom of Information Act, and are not subject to disclosure to any individual or public or private entity, except as necessary for authorized employees of the Department to perform official duties of the Department pursuant to this Part:

- 1) Applications or renewals, their contents and supporting information submitted by qualifying patients and designated caregivers, including information regarding designated caregivers and [certifying health care professionals](#)~~physicians~~;
  - 2) The individual names and other information identifying persons to whom the Department has issued registry identification cards; and
  - 3) All medical records provided to the Department in connection with an application for a registry identification card.
- b) Department hard drives or other data recording media that are no longer in use and that contain cardholder information will be destroyed.
  - c) Data subject to this Section shall not be *combined or linked in any manner with any other list or database and shall not be used for any purpose not provided by this Part or the Act.* (Section 150(a) of the Act)
  - d) Any dispensing information required to be kept under Section 135 or 150 of the Act or under this Part will identify cardholders, including an Opioid Alternative Pilot Program participant, by their registry identification numbers and not contain names or other personally identifying information.
  - e) The Department of Agriculture, the Department of Financial and Professional Regulation and the Illinois State Police may verify registry identification cards. Law enforcement personnel shall have access to the Department's [online](#)~~on-line~~ verification system to verify the period for which the registration is valid and the status of qualifying patients who have submitted an application for a registry identification card and Opioid Alternative Pilot Program participant registration information.
  - f) This Section does not preclude the following notifications:

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- 1) Department employees may notify law enforcement if information submitted to the Department is suspected to be falsified or fraudulent.
- 2) The Department may notify State or local law enforcement about alleged criminal violations of this Part.
- 3) The Department will notify the Department of Financial and Professional Regulation if there is reasonable cause to believe that a certifying health care professional~~physician~~ has:
  - A) Issued a written certification without a bona-fide health care professional~~physician~~-patient relationship; or
  - B) Issued a written certification to a person who was not under the certifying health care professional~~physician's~~ care for the debilitating medical condition; or
  - C) Failed to abide by the acceptable and prevailing standard of care when evaluating a patient's medical condition.
- g) The Department will share, disclose, and forward patient information as required by Section 60(e) of the Act.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

## SUBPART B: QUALIFYING PATIENTS AND DESIGNATED CAREGIVERS

**Section 946.200 Application for Registry Identification Card for Qualifying Patients and Designated Caregivers**

- a) A qualifying patient who has been issued a written certification who seeks to use medical cannabis for palliative or therapeutic benefit to treat or alleviate the symptoms associated with the patient's debilitating medical condition, and the qualifying patient's designated caregiver, when applicable, shall register with the Department on forms and in a manner prescribed by the Department.
- b) To qualify for a registry identification card, a qualifying patient shall:



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- 1) Be a resident of the State of Illinois, as defined in subsection (c), at the time of application and remain a resident during participation in the program;
  - 2) Have a qualifying medical condition for which the use of medical cannabis will provide help with treating or alleviating the pain, nausea and other symptoms associated with the condition or be diagnosed with a terminal illness;
  - 3) Have a signed, written certification meeting the requirements of this Part.
- c) Residency. For purposes of this Part, the qualifying patient and designated caregiver, if any, shall be a resident of the State of Illinois if the individual:
- 1) Physically resides in the State of Illinois, or has taken verifiable actions to make Illinois his or her home indefinitely with no present intent to reside in another state.
  - 2) Provides proof of Illinois residency by submitting a valid unexpired Illinois Driver's License, Illinois Temporary Visitor Driver's License or State Identification Card issued by the Illinois Secretary of State ~~and at least one of the following items with the application for a registry identification card~~. The address on the documentation provided shall match the address on the application. Persons who are homeless shall only be required to submit a Notarized Homeless Status Certification (available at [https://www.cyberdriveillinois.com/publications/pdf\\_publications/dsd\\_a230.pdf](https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf)).
  - 3) A qualifying patient or designated caregiver submitting a current, valid Illinois Driver's License, Illinois Temporary Visitor Driver's License, or State Identification Card issued by the Illinois Secretary of State shall not be required to provide additional proof of residency. The following documents will be accepted by the Department if the qualifying patient or designated caregiver does not submit a current, valid Illinois Driver's License, Illinois Temporary Visitor Driver's License, or State Identification Card issued by the Illinois Secretary of State:

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- A) Pay stub or electronic deposit receipt, issued less than 60 days prior to the application date, that shows evidence of the applicant's withholding for State income tax;
- B) Valid voter registration card with an address in Illinois;
- C) Valid, unexpired military identification card;
- D) Bank statement (dated less than 90 days prior to application) or credit card statement (dated less than 60 days prior to application);
- E) Deed/title, mortgage or rental/lease agreement; property tax bill;
- F) Insurance policy (current coverage for automobile, homeowner's, health or medical, or renter's);
- G) Medical claim or statement of benefits (from a hospital or health clinic or private insurance company or public (government) agency, dated less than 12 months prior to application);
- H) Persons enrolled in the federal Social Security Disability Income (SSDI) or Supplemental Security Income (SSI) disability program may submit a "Benefit Verification Letter" from the Social Security Administration; showing the individual's name and address and the type of benefits received. The letter must be dated within the last year. A copy of the letter may be obtained ~~online~~on-line at <https://www.ssa.gov/myaccount/> or by contacting the Social Security Administration. The annual cost of living increase letter mailed to recipients of social security benefits will not be accepted.
- I) Tuition invoice/official mail from college or university, dated less than the 12 months prior to application;
- J) Utility bill, including, but not limited to, those for electric, water, refuse, telephone land-line, cellular phone, cable or gas, issued less than 60 days prior to application;~~or~~
- K) W-2 form from the most recent tax year; or

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L) another document deemed by the Department to meet the requirements of this subsection (c).

- d) To apply for a registry identification card, a qualifying patient shall submit a completed application to the Department on the required forms, which shall include, at a minimum, the following items:
- 1) Written certification for the use of medical cannabis meeting the requirements of this Part issued by a certifying health care professional~~physician~~ who meets the requirements set forth in the Act. The certification shall be and the Medical Practice Act of 1987 and dated less than 90 days prior to the application;
  - 2) Proof of Illinois residency of the qualifying patient, as specified in subsection (c);
  - 3) Proof of identity of the qualifying patient;
  - 4) Proof of the qualifying patient's age;
  - 5) Photograph of the qualifying patient and designated caregiver, if applicable, as follows:
    - A) Current digital passport-size photograph, taken no more than 30 calendar days before the submission of the application;
    - B) Taken against a plain background or backdrop;
    - C) At least 2 inches by 2 inches in size;
    - D) In natural color; and
    - E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed. Head

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coverings for persons diagnosed and undergoing treatment for cancer will be allowed.

- i) A qualifying patient or designated caregiver will not be required to submit to a photograph if sufficient justification is provided by the qualifying patient or caregiver to establish that a photograph would be in violation of or contradictory to the qualifying patient's or designated caregiver's religious convictions. If a qualifying patient or designated caregiver declares that the use of a photograph is against his/her religious convictions, the qualifying patient or designated caregiver will be given an affidavit to be completed. This affidavit contains designated areas for a detailed written explanation of the reasons why a photograph is against the qualifying patient's or designated caregiver's religious convictions, a place for the qualifying patient's or designated caregiver's signature and date, the designation of the religious sect or denomination involved, space for a minister or other religious leader to apply his/her signature attesting to the explanation the qualifying patient or designated caregiver has offered, along with the date and official title of the minister or religious leader.
- ii) The affidavit shall be submitted to the Department. The Director will appoint a committee of three Department employees to review each affidavit. The committee shall submit a recommendation to the Director for his or her final decision.
- iii) If the qualifying patient or designated caregiver meets all other application requirements of this Part, the Department will issue a non-photo temporary registry identification card, not to exceed 90 days in duration, to allow for medical cannabis use privileges during the determination.
- iv) Upon approval by the Department, a valid registry identification card without a photograph will be issued and can be renewed. The card will be mailed to the qualifying patient's home address.

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- 6) Designation of the medical cannabis dispensing organization where the qualifying patient will receive his or her medical cannabis. Only one medical cannabis dispensing organization may be selected at any time, however, the patient is able to submit a request to change the selected dispensary by notifying the Department.
- 7) Completion of the designated caregiver application if applicable. A qualifying registered patient 18 years of age or older may have up to three designated caregivers. A designated caregiver may only serve one qualifying registered patient.
- 8) Payment of the applicable application fee (see Section 946.210) by check or money order. If the qualifying patient or caregiver is applying online~~on-line~~, the Department will accept credit card payments.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.201 Application for Registry Identification Card for Qualifying Patients under 18 Years of Age**

- a) A qualifying patient under 18 years of age shall register with the Department on forms and in a manner prescribed by the Department. The designated caregiver shall complete the application for registry identification card for a qualifying patient under 18 years of age. Once the qualifying patient becomes 18 years of age, the patient~~he or she~~ must submit a full application for a registry identification card as specified in Section 946.200. Qualifying patients who become 18 years of age during the time period in which their registry identification card is valid may apply for a registry identification card either immediately or during the normal renewal period. Until that time, the registry identification card shall be subject to the conditions applicable to the registered qualifying patient under age 18.
- b) To qualify for a registry identification card, a qualifying patient under 18 years of age shall:
  - 1) Be a resident of the State of Illinois, as defined in subsection (d), at the time of application and remain a resident during participation in the program;

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- 2) Be diagnosed with any debilitating medical condition listed in Section 946.310 for which medical cannabis may be used to treat or alleviate the pain, nausea or other symptoms associated with the condition or have a diagnosis of terminal illness.
- c) The application for a registry identification card for a qualifying patient under 18 years of age shall include the following:
  - 1) Two signed written certifications for the use of medical cannabis:
    - A) A signed written certification as specified in Section 946.310; and
    - B) A signed written certification from a reviewing health care professional indicating that a comprehensive review of the qualifying patient's medical records from other certifying health care professionals treating the qualifying patient has been conducted;
  - 2) Identify a designated caregiver (custodial parent or legal guardian) who shall complete an application for a caregiver registry identification card as specified in Section 946.200;
    - A) A qualifying patient under 18 years of age may identify up to threetwo designated caregivers, at least one of whom shall be the biological parent or legal guardian. A designated caregiver shall only serve one qualifying registered patient. if both biological parents or two legal guardians have significant decision-making responsibilities over the qualifying patient; or
    - B) If a designated caregiver is not the only one biological parent or legal guardian, the biological parent or legal guardian shall provide information about why the individual shall be a designated caregiver on a form provided by the Department. has significant decision-making responsibilities for the qualifying patient under 18 years of age, then a second designated caregiver may be identified.
  - 3) A completed, signed Medical Cannabis Custodial Parent and Legal Guardian Attestation form. This form can be requested from the Illinois

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~~Department of Public Health via email at  
dph.medicalcannabis@illinois.gov; and~~

- 34) Persons who are the legal guardian for a qualifying patient under 18 years of age shall~~If applicable,~~ provide proof of guardianship documentation.
- d) Residency. For purposes of this Part, the qualifying patient under 18 years of age and each of the designated caregiver~~custodial parent or legal guardian~~ shall be residents of the State of Illinois.
- e) ~~Each~~The designated caregiver shall provide proof of Illinois residency by submitting the following items with the application for a registry identification card. ~~Persons who are homeless shall be required to submit only a Notarized Homeless Status Certification (available at~~  
[https://www.cyberdriveillinois.com/publications/pdf\\_publications/dsd\\_a230.pdf](https://www.cyberdriveillinois.com/publications/pdf_publications/dsd_a230.pdf)):
- 1) A copy of the caregiver's unexpired Illinois Driver's License, State Identification Card issued by the Illinois Secretary of State, or Illinois Temporary Visitor Driver's License; or
  - 2) The documentation specified in Section 946.200(c)~~A copy of the caregiver's unexpired U.S. passport.~~
- f) To apply for a registry identification card for a qualifying patient under 18 years old, the designated caregiver shall submit a completed application to the Department on the required forms, which shall include, at a minimum, the following items:
- 1) A written certification for the use of medical cannabis meeting the requirements of this Part, issued by a certifying health care professional~~physician~~ who meets the requirements set forth in the Act~~and the Medical Practice Act of 1987~~, and dated less than 90 days prior to the application;
  - 2) A signed written certification from a reviewing health care professional~~physician~~ indicating that a comprehensive review of the qualifying patient's medical records from other certifying health care professionals~~physicians~~ treating the qualifying patient has been conducted. ~~This physician shall meet the requirements set forth in the Medical~~

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~~Practice Act of 1987 or shall provide proof of a current, active medical license issued by another state.~~

- 3) Proof of Illinois residency of the qualifying patient, as specified in subsection (de);
- 4) Proof of identity of the qualifying patient (copy of the qualifying patient's birth certificate);
- 5) Proof of the qualifying patient's age. A copy of the qualifying patient's birth certificate shall fulfill this requirement;
- 6) Current digital passport-size photograph of ~~each~~the designated caregiver, as follows:
  - A) Taken no more than 30 calendar days before the submission of the application;
  - B) Taken against a plain background or backdrop;
  - C) At least 2 inches by 2 inches in size;
  - D) In natural color; and
  - E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed. Head coverings are allowed for persons diagnosed and undergoing treatment for cancer.
    - i) A designated caregiver for a qualifying patient under 18 years old will not be required to submit a photograph if sufficient justification is provided by the caregiver to establish that a photograph would be in violation of or contradictory to the designated caregiver's religious convictions. If a designated caregiver declares that the use of a photograph is against his/her religious convictions, the



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designated caregiver will complete an affidavit on a form provided by the Department. The affidavit contains designated areas for a detailed written explanation of the reasons why a photograph is against the designated caregiver's religious convictions; a place for the designated caregiver's signature and date, the designation of the religious sect or denomination involved; space for a minister or other religious leader to apply his/her signature attesting to the explanation the designated caregiver has offered; and the date and official title of the minister or religious leader.

- ii) The affidavit shall be submitted to the Department. The Director will appoint a committee of three Department employees to review each affidavit. The committee shall submit a recommendation to the Director for his or her final decision.
  - iii) If the designated caregiver meets all other application requirements of this Part, the Department will issue a non-photo temporary registry identification card, not to exceed 90 days in duration, to allow for medical cannabis use privileges during the determination.
  - iv) Upon approval by the Department, a valid registry identification card without a photograph will be issued and can be renewed. The card will be mailed to the designated caregiver's home address.
- 7) Designation of the medical cannabis dispensing organization where the designated caregiver will obtain medical cannabis on behalf of the qualifying patient under 18 years of age.
  - 8) Completion of the Medical Cannabis Parent and Legal Guardian Attestation form.
  - 9) If applicable, submission of proof of guardianship documentation.

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- 10) Payment of the applicable application fee (see Section 946.210) by check or money order. If the patient or caregiver is applying online~~on-line~~, the Department will accept credit card payments.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.205 Deadlines for Submission of Application for Registry Identification Card**

A qualifying patient who seeks to use medical cannabis for palliative or therapeutic benefit for the patient's debilitating medical condition, and the qualifying patient's designated caregiver when applicable, shall register with the Department on forms and in a manner prescribed in this Part.

- a) Applications for registry identification cards will be accepted year round.
- b) Application Submission
- 1) Applications for registry identification cards shall be submitted electronically through the Department's website (<http://dph.illinois.gov> [www.idph.state.il.us](http://www.idph.state.il.us)) or shall be sent via U.S. mail to the following address:
- Division of Medical Cannabis  
Illinois Department of Public Health  
535 West Jefferson Street  
Springfield, IL 62761-0001
- 2) Applications for registry identification cards not submitted electronically or to the above address shall be considered deficient.
- c) *The Department of Public Health shall send a notification to a registered qualifying patient or designated caregiver at least 90 days prior to the expiration date on the registry identification card. Notification may be sent electronically to the patient's email address on file with the Department or by regular U.S. mail.* (Section 70 of the Act)
- d) *To maintain a valid registry identification card, a registered qualifying patient and designated caregiver must annually resubmit, at least 45 days prior to the expiration date stated on the registry identification card, a completed renewal*

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*application* (see Section 946.200), *renewal fee* (see Section 946.210) and *accompanying documentation* (see Section 946.200). (Section 70 of the Act)

- e) The Department may allow patients 30 days to correct any deficiencies in the application.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.210 Fees**

- a) Except as set forth in subsection (b), the registration, renewal and replacement card fees are as specified in this subsection (a). All fees submitted to the Department shall be non-refundable. Annually, the Department may revise these fees:
- 1) Qualifying patient application fee ~~valid~~ for:

A) One year	\$ <del>50</del> <u>100</u>
B) Two years	\$ <del>100</del> <u>200</u>
C) Three years	\$ <del>125</del> <u>250</u>
  - 2) Qualifying patient under 18 years of age application fee (includes one caregiver at no additional charge~~application fee~~) valid for:

A) One year	\$ <del>50</del> <u>100</u>
B) Two years	\$ <del>100</del> <u>200</u>
C) Three years	\$ <del>125</del> <u>250</u>
  - 3) Caregiver for a qualifying patient or second caregiver for a patient under 18 years of age application fee ~~valid~~ for:

A) One year	\$25
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- |    |                      |      |
|----|----------------------|------|
| B) | Two years            | \$50 |
| C) | Three years          | \$75 |
| 4) | Replacement card fee | \$25 |
| 5) | Returned check fee   | \$35 |
- b) The Department may reduce registration and renewal card fees for a qualifying patient:
- 1) enrolled in the federal Social Security Disability Income (SSDI) or the Supplemental Security Income (SSI) disability program, with submission of proof as described in subsection (e)(1)(b)(7);
  - 2) who is a veteran with proof of service as described in subsection (e)(4)(b)(3); ~~or~~
  - 3) receiving U.S. Railroad Retirement Board Disability benefits; ~~or~~
  - 4) receiving Teacher's Retirement System disability benefits; ~~or~~
  - 5) receiving Illinois State Universities Retirement System disability benefits; ~~or~~
  - 6) age 65 years or older at the time of application as indicated by identifying documents required by this Section.
- c6) Reduced qualifying patient application fee is valid for:
- |            |             |                            |
|------------|-------------|----------------------------|
| <u>1A)</u> | One year    | <u>\$25</u> <del>50</del>  |
| <u>2B)</u> | Two years   | <u>\$50</u> <del>100</del> |
| <u>3C)</u> | Three years | <u>\$75</u> <del>124</del> |
- d) Applicants with life-long debilitating medical conditions shall have their cards renewed every three years for \$50.

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- ~~e7)~~ Proof for Reduced Fee Applications
- 1A) The applicant enrolled in SSDI or SSI shall submit a "Benefit Verification Letter" from the Social Security Administration showing the individual's name and address and the type of benefits received. The letter must be dated within the last year. A copy of the letter may be obtained ~~online~~  
~~line~~ at <https://www.ssa.gov/myaccount/> or by contacting the Social Security Administration. The annual cost of living increase letter mailed to recipients of social security benefits will not be accepted.
- 2B) Applicants receiving U.S. Railroad Retirement Board Disability benefits shall submit verification of monthly disability benefits.
- 3C) Applicants receiving Teacher's Retirement System disability benefits or disability retirement annuity or Illinois State Universities Retirement System disability benefits shall submit a copy of the Notification of First Payment or another verification of monthly disability benefits from the applicable Illinois retirement system.
- 48) Veterans shall provide a copy of their DD214.
- fe) Registered qualifying patients seeking to add a designated caregiver after a registry identification card has been issued shall submit a designated caregiver application as specified in Section 946.200 and ~~the applicable fee in Section 946.210(a) a fee of \$75.~~ The designated caregiver registry card shall expire on the same day as the registered qualifying patient registry card expiration date.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.230 General Provisions**

- a) A registry identification card shall not be transferable.
- b) A registry identification card issued under this Section is the property of the State of Illinois and shall be surrendered upon demand of the Director or the Director's designee.
- c) The qualifying patient and the designated caregiver, if applicable, shall sign and date the application for a registry identification card. If the qualifying patient is

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under ~~16~~18 years of age at the time of application, only the designated caregiver shall be required to sign and date the application for a registry identification card.

- d) The Department will require each applicant for a registry identification card to include a signed statement that specifies that the applicant attests that all information submitted as part of the application is true and accurate to the best of the applicant's knowledge and, at minimum, certifies that the applicant has actual notice that, notwithstanding any State law:
- 1) Cannabis is a prohibited Schedule I controlled substance under federal law;
  - 2) Participation in the program is permitted only to the extent provided by the strict requirements of the Act and this Part;
  - 3) Any activity not sanctioned by the Act or this Part may be in violation of State law;
  - 4) Growing, distributing or possessing cannabis in any capacity, except through a federally approved research program, is a violation of federal law;
  - 5) Use of medical cannabis may affect an individual's ability to receive federal or state licensure in other areas;
  - 6) Use of medical cannabis, in tandem with other conduct, may be in violation of State or federal law;
  - 7) Participation in the program does not authorize any person to violate federal or State law and, other than as specified in Section 25 of the Act, does not provide any immunity from or affirmative defense to arrest or prosecution under federal or State law; ~~and~~
  - 8) Applicants shall indemnify, hold harmless, and defend the State of Illinois for any and all civil or criminal penalties resulting from participation in the program; ~~and-~~
  - 9) Registered qualifying patients under 18 years of age shall be prohibited from consuming forms of cannabis, other than medical cannabis infused

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products, and from purchasing any usable cannabis. (Section 60(b) of the Act)

- e) ~~A~~Once the qualifying patient who reaches 18 years of age, ~~he or she~~ must submit a full application for a registry identification card as specified in Section 946.200. Qualifying patients who become 18 years of age during the time period in which their registry identification card is valid may apply for a registry identification card either immediately or during the normal renewal period. Until a full application is submitted and approved, the registry identification card shall be subject to the conditions applicable to the registered qualifying patient under age 18.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.235 Provisional Access to Licensed Dispensing Organizations**

- a) *A person provided a written certification for a debilitating medical condition who has submitted a valid completed online application to the Department and his or her designated caregiver shall receive a provisional registration and shall be entitled to purchase medical cannabis from a specified licensed dispensing organization for a period of 90 days or until his or her application has been denied or the patient or the patient's designated caregiver~~he or she~~ receives a registry identification card, whichever is earlier. (Section 55(b) of the Act)*
- b) *A person and his or her designated caregiver may obtain an additional provisional registration after the expiration of 90 days if the Department does not provide the individual with a registry identification card or deny the individual's application within those 90 days. The provisional registration may not be extended if the individual does not respond to the Department's request for additional information or corrections to required application documents. (Section 55(b) of the Act)*
- c) *In order for a person or his or her designated caregiver to receive medical cannabis under the provisional registration, a qualifying patient must present his or her provisional registration along with a valid Illinois driver's license or State identification card issued by the Illinois Secretary of State to the licensed dispensing organization specified in his or her application. (Section 55(b) of the Act)*

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- d) After verifying the patient's or his or her designated caregiver's provisional registration, the licensed dispensing organization shall dispense no more than 2.5 ounces of medical cannabis during a 14-day period for a period of 90 days, until the patient's application has been denied, or the patient receives a registry identification card from the Department, whichever comes first.
- e) A patient with a provisional registration must keep his or her provisional registration in his or her possession at all times when transporting or engaging in the use of medical cannabis. A designated caregiver must keep his or her provisional registration in his or her possession at all times when transporting medical cannabis on behalf of the registered qualifying patient.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.240 Persons Receiving Medical Care at U.S. Department of Veterans Affairs Facilities**

- a) A qualifying patient who is *a veteran* or spouse of a veteran *who has received treatment at a VA hospital is deemed to have a bona-fide* health care professional~~physician~~*-patient relationship with a VA* certifying health care professional~~physician~~ *if the patient has been seen for* their~~his or her~~ *debilitating condition at the* VA health care facility or *VA hospital in accordance with VA hospital protocols.* (Section 60 of the Act)
- b) A veteran or spouse of a veteran receiving care for a debilitating condition at a VA health care facility~~hospital~~ shall not be required to submit a written certification from a certifying health care professional~~physician~~.
- c) A veteran or spouse of a veteran receiving care for a debilitating condition at a VA health care facility~~hospital~~ shall register with the Department on the Registry Identification Card application (see Section 946.200) and shall comply with all other requirements specified in this Part.
- d) To qualify for a patient registry identification card, a qualifying patient who is a veteran or spouse of a veteran and receiving medical care and treatment at a VA health care facility~~hospital~~ shall:



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- 1) Be a resident of the State of Illinois, as defined in Section 946.200(c), at the time of application and remain a resident during participation in the program;
- 2) Have a qualifying medical condition or be diagnosed with a terminal illness;
- 3) Provide a copy of one year of their~~his or her~~ official ~~hospital~~ medical records requested from the VA ~~using VA Form 10-5345~~. The official hospital medical records shall indicate the diagnosis of a qualifying medical condition by a licensed health care professional. Records shall include, but not be limited to, information from the patient's VA health record found at [www.myhealth.va.gov](http://www.myhealth.va.gov)~~physician~~;
- 4) Provide a copy of his or her DD214 or equivalent certified document indicating character and dates of service, or if the spouse of a veteran, a copy of the veteran's documents as described; and
- 5) Be at least 18 years of age.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.250 Disposal of Medical Cannabis by Qualifying Patients (Repealed)**

- a) ~~A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant who is no longer registered with the Department or eligible for a registry identification card shall, within 10 calendar days after he or she ceases to be registered or eligible, return any unused medical cannabis in his or her possession to the law enforcement agency having local jurisdiction for destruction.~~
- b) ~~A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant whose registration has been revoked by the Department shall, within 10 days after receiving notice of the revocation, return any unused medical cannabis in his or her possession to the law enforcement agency having local jurisdiction for destruction.~~
- e) ~~A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant who is no longer registered with the Department shall not transfer,~~

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~~share, give, sell or deliver any unused medical cannabis in his or her possession to any other person, regardless of whether the person is participating in the Compassionate Use of Medical Cannabis Pilot Program.~~

- ~~d) A qualifying patient or designated caregiver or Opioid Alternative Pilot Program participant shall not dispose of medical cannabis in any manner other than permitted under this Section.~~
- ~~e) Disposal of medical cannabis pursuant to this Section or in compliance with this Section shall not constitute a violation of the Criminal Code of 2012.~~

(Source: Repealed at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.260 Responsibilities of Designated Caregivers**

- a) A designated caregiver shall not receive payment or other compensation for services provided as a designated caregiver other than reimbursement for reasonable expenses incurred in the provision of services as a designated caregiver. In the case of an employee of a hospice provider, nursing facility or medical facility, or a visiting nurse, personal care attendant, or home health aide serving as a designated caregiver, the individual shall not receive payment or compensation above or beyond ~~his or her~~ regular wages.
- b) A designated caregiver is responsible for notifying the Department within 10 business days after any change to the information that his or her registered qualifying patient was previously required to submit to the Department, or after the designated caregiver discovers that his or her registry identification card has been lost or stolen.
- c) A designated caregiver shall carry his or her registry identification card at all times while in possession of medical cannabis.
- d) A designated caregiver may:
  - 1) Transport a registered qualifying patient to and from a licensed medical cannabis dispensary;

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- 2) Obtain and transport an adequate supply of medical cannabis from a licensed medical cannabis dispensary on behalf of a registered qualifying patient;
  - 3) Prepare medical cannabis for consumption by a registered qualifying patient;
  - 4) Administer medical cannabis to a registered qualifying patient; and
  - 5) Registered qualifying patients under 18 years of age shall be prohibited from consuming forms of cannabis other than medical cannabis infused products and are prohibited from purchasing any usable cannabis or paraphernalia used for smoking or vaping medical cannabis. (Section 60(b) of the Act)~~Purchase only medical cannabis infused products for use by registered qualifying patients under age 18.~~
- e) A designated caregiver shall not:
- 1) Consume, by any means, medical cannabis that has been dispensed on behalf of a registered qualifying patient;
  - 2) Sell, provide or otherwise divert medical cannabis that has been dispensed to a registered qualifying patient; or
  - 3) Grow or cultivate medical cannabis on behalf of a registered qualifying patient.
- f) The designated caregiver shall notify the Department promptly by phone and in writing within 10 calendar days following the death of the designated caregiver's registered qualifying patient.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.275 Suspension of a Registry Identification Card**

- a) The Department will, based on the totality of the circumstances, suspend a registered qualifying patient's registry identification card for:

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- 1) Failing to inform the Department of a change of address within 10 days after the change of address occurred;
  - 2) Having a medical cannabis registration disciplined by another U.S. jurisdiction;
  - 3) Failing to pay a fee or fine associated with the registry identification card, including, but not limited to, an application or renewal fee;
  - 4) Failing, within ~~3060~~ days, to provide information in response to a written request made by the Department;
  - 5) Committing unethical or dishonorable conduct, including, but not limited to, engaging in conduct likely to deceive, defraud or harm the public;
  - 6) Being convicted by plea of guilty or nolo contendere, finding of guilt, jury verdict, or entry of judgment or by sentencing of any crime, including, but not limited to, convictions, preceding sentences of supervision, conditional discharge, or first offender probation, under the laws of any jurisdiction of the United States of either a felony or a misdemeanor or a crime of moral turpitude;
  - 7) Failing to submit to a field sobriety test as required by Section 11-501.1 of the Illinois Vehicle Code, or any discipline on a registered qualifying patient's driver's license as a failure to submit to a field sobriety test as required by the Illinois Vehicle Code.
- b) In cases in which the Department seeks to permanently suspend a registered qualifying patient's registration identification card, the Department will comply with the Department's Practice and Procedure in Administrative Hearings.
- c) Following a period of suspension, a qualifying patient may seek reinstatement of his or her registration identification card.
- 1) The qualifying patient shall have successfully completed the period of suspension, to be determined based on the totality of the circumstances, with no violation of the Act or this Part.

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- 2) The qualifying patient shall complete a reapplication for a registration identification card.
- 3) The qualifying patient shall submit payment of all fees and fines associated with the registration identification card and suspension.
- 4) The qualifying patient shall submit a Petition for Hearing for reinstatement. The burden of proof in all cases instituted by the filing of a Petition for Hearing rests with the petitioner. The petitioner must prove by a preponderance of the evidence that the card should be restored.
- d) The Department may use any grounds for suspension of a registration identification card as the basis for revocation of a registration identification card.
- e) *The suspension or revocation of a registration is a final Agency action, subject to judicial review. Jurisdiction and venue for judicial review are vested in the Circuit Court.* [410 ILCS 130/15]

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.280 Medical Cannabis Obtained from a Medical Cannabis Dispensing Organization**

- a) A registered qualifying patient or designated caregiver shall obtain medical cannabis only from the medical cannabis dispensing organization designated on his or her registry identification application and shall not:
  - 1) Grow or cultivate medical cannabis, except as specified by Section 10-5(a-1) of the Cannabis Regulation and Tax Act;
  - 2) Purchase medical cannabis from non-authorized sources; or
  - 3) Obtain medical cannabis from other registered qualifying patients or designated caregivers.
- b) Registered qualifying patients under 18 years of age shall be prohibited from consuming forms of cannabis, other than medical cannabis infused products, and purchasing any usable cannabis. (Section 60(b) of the Act) ~~Designated caregivers~~

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~~of registered qualifying patients under 18 years of age may purchase only medical cannabis infused products from medical cannabis dispensing organizations.~~

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.290 Extension or Renewal of Registry Identification Cards**

- a) Medical cannabis registry identification cards may be valid for up to three years.
- b) Extension. If the qualifying patient or designated caregiver who applied for and received a registry identification card ~~that was~~ approved for ~~less than three years~~ ~~a 12-month period before September 12, 2016~~ seeks to extend ~~the his or her~~ registry identification card ~~for up to three years from the original effective date~~, the patient or caregiver shall complete online an extension form no more than 45 days prior to the expiration date of the card. For the purpose of extending the registry identification card, it is not necessary to provide proof of Illinois residency or obtain a ~~written physician~~ certification. A fee is required in accordance with Section 946.210. The qualifying patient or designated caregiver may seek extension of the registry identification card for a period of one year or two years by paying the fee required by Section 946.210.
- c) Renewal. At the end of every three-year period, no less than 45 days prior to the expiration of a registry identification card, the qualifying patient and designated caregiver, if one is indicated, may apply for a new registry identification card as follows:
  - 1) Renew the registration identification card online or submit by completing the ~~Submit a completed~~ renewal application for the qualifying patient and designated caregiver, if one is indicated. The application includes, ~~to the Department on the required forms and include:~~
    - A) One clear photocopy of a U.S. or State government-issued photo ID, such as a driver's license, as proof of identity;
    - B) Proof of Illinois residency by meeting the requirements specified in Section 946.200(c). If the address on the Illinois driver's license matches the patient's and caregiver's address, no additional documentation is needed for proof of residency;

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- C) A signed and dated written certifying health care professional's~~physician's~~ certification meeting the requirements of this Part and dated not more than six months prior to the application renewal date. A qualifying patient who is a veteran or spouse of a veteran and receiving medical care for ~~his or her~~ qualifying medical condition at a VA hospital shall submit his or her official VA medical record, as required by Section 946.240, Medical Record instead of a written ~~physician's~~ certification;
- D) At the end of every three-year period, a renewal application may be submitted for a one-, two-, or three-year period from the expiration date of the registry identification card;
- E) If the registered qualifying patient does not have a caregiver, but would like to designate one, a caregiver application may be submitted at this time in accordance with the requirements of Section 946.200. The registered qualifying patient may designate up to three caregivers;
- 2) Designate the medical cannabis dispensing organization where the qualifying patient will receive ~~their~~~~his or her~~ medical cannabis;
- 3) Pay the required application fee (see Section 946.210);
- 4) The renewal application may be for a period of one, two, or three years. Those patients with the designation of a lifelong debilitating medical condition on the health care professional certification will be renewed for three years, with the submission of a \$50 fee and proof of Illinois residency (see Section 946.200(c)).

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

## SUBPART C: PHYSICIAN REQUIREMENTS

**Section 946.300 Qualifications of the Certifying Health Care Professional~~Physician~~**

- a) A certifying health care professional~~doctor of medicine or osteopathy~~ who is currently licensed and in good standing in the State of Illinois~~has a current, valid~~

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~~license under the Medical Practice Act of 1987~~ and has a current valid controlled substances license under Article III of the Illinois Controlled Substances Act may issue a written certification for a qualifying patient if the health care professional~~physician~~:

- 1) Has a bona-fide health care professional~~physician~~-patient relationship with the qualifying patient. The bona-fide health care professional~~physician~~-patient relationship may not be limited to issuing a written certification for the patient or a consultation simply for that purpose.
- 2) Complies with generally accepted standards of health care~~medical practice, the Medical Practice Act of 1987~~ and applicable State and federal rules specific to health care~~physician~~ practice (e.g., HIPAA rules).
- 3) Has responsibility for the ongoing care and treatment of the qualifying patient's debilitating condition, provided that the ongoing treatment and care shall not be limited to or for the primary purpose of certifying a debilitating medical condition or providing a consultation solely for that purpose.
- 4) Has completed an in-person full assessment of the patient's medical history and current medical condition, including a personal physical examination, not more than 90 days prior to making the certification for medical cannabis. The assessment of the qualifying patient's current medical condition shall include, but not be limited to, symptoms, signs and diagnostic testing related to the debilitating medical condition.
- 5) Certifies that the qualifying patient is under the certifying health care professional~~'s physician's~~ care, either for the qualifying patient's primary care or for ~~this or her~~ debilitating medical condition or symptoms of a debilitating medical condition.
- 6) Confirms that the certifying health care professional~~he or she~~ completed an assessment for the qualifying patient's medical history, including reviewing medical records from other treating health care professionals~~physicians~~ from the previous 12 months.
- 7) A reviewing health care professional certification is required for qualifying patients under age 18.



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- b) The certifying health care professional~~physician~~ shall not:
- 1) Except as provided in subsection (c), *accept, solicit, or offer any form of remuneration from or to a qualifying patient, primary caregiver, cultivation center, or dispensing organization, including each principal officer, board member, agent, and employee, except for the limited purpose of performing a medical cannabis-related research study*;
  - 2) *Accept, solicit, or offer any form of remuneration from or to a medical cannabis cultivation center or dispensary organization for the purposes of referring a patient to a specific dispensary organization*;
  - 3) *Engage in any activity that is prohibited under Section 22.2 of the Medical Practice Act of 1987, regardless of whether the certifying health care professional is a physician, advanced practice registered nurse, or physician assistant*;
  - 42) *Offer a discount or any other item of value to a qualifying patient who uses or agrees to use a particular primary caregiver or dispensing organization to obtain medical cannabis*;
  - 53) *Conduct a personal, in person, physical examination of a patient for purposes of diagnosing a debilitating medical condition at a location where medical cannabis is sold or distributed or at the address of a principal officer, agency, or employee or a medical cannabis organization*;
  - 64) *Hold a direct or indirect economic interest in a cultivation center or dispensing organization if he or she recommends the use of medical cannabis to qualified patients or is in a partnership with a certifying health care professional~~physician~~ who recommends medical cannabis*;
  - 75) *Serve on the board of directors or as an employee of a cultivation center or dispensing organization*;
  - 86) *Refer qualifying patients to a cultivation center, a dispensing organization, or an individual who seeks to become a designated caregiver*;

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- 97) *Advertise in a cultivation center or a dispensing organization. (Section 35 of the Act)*
- c) *The certifying health care professional~~physician~~ may accept payment from a qualifying patient for the fee associated with the personal physical examination required prior to issuing the written certification for the qualifying patient. (Section 35 of the Act)*
- d) Written~~Physician~~ Certification
- 1) *A certifying health care professional~~physician~~ who certifies a debilitating medical condition for a qualifying patient may notify the Department of Public Health in writing:*
- A) *if the certifying health care professional~~physician~~ has reason to believe that the registered qualifying patient has ceased to suffer from a debilitating medical condition;*
- B) *that the bona-fide health care professional~~physician~~-patient relationship has terminated; or*
- C) *that continued use of medical cannabis would result in contraindication with the patient's other medication.*
- 2) *The registered qualifying patient's registry identification card shall be revoked by the Department of Public Health after receiving the certifying health care professional~~'s physician's~~ notification. (Section 35 of the Act)*
- 3) *The certifying health care professional~~'s physician's~~ notification shall be in writing on the physician's letterhead and shall include the full name, date of birth, and reason for revoking the written certification.*
- 4) *The certifying health care professional~~Department~~ shall notify the registered qualifying patient, in writing or electronic notification, that the certifying health care professional~~physician~~ has revoked the written certification and the registry identification card has been revoked.*

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

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**Section 946.310 Health Care Professional~~Physician~~ Written Certification for the Medical Cannabis Pilot Program**

- a) A certification confirming the patient's debilitating medical condition shall be written on a form provided by the Department or shall be submitted in electronic format and shall include, at minimum, the following:
- 1) The qualifying patient's name, date of birth, home address and primary telephone number;
  - 2) The certifying health care professional's~~physician's~~ name, address, telephone number, e-mail address, medical license number, indication of specialty or primary area of clinical practice, if any, and active controlled substances license under the Illinois Controlled Substances Act;
  - 3) The length of time the qualifying patient has been under the care of the certifying health care professional~~physician~~;
  - 4) The qualifying patient's debilitating medical condition;
  - 5) A statement that the certifying health care professional~~physician~~ has confirmed a diagnosis of a debilitating medical condition; is treating or managing treatment of the patient's debilitating condition; has a bona-fide health care professional~~physician~~-patient relationship; has conducted an in-person physical examination has conducted a review of the patient's medical history, including reviewing medical records from other treating health care professionals~~physicians~~, if any, from the previous 12 months;
  - 6) The certifying health care professional's~~physician's~~ signature and date of certification; and
  - 7) *A statement that a participant in possession of a written certification indicating a debilitating medical condition shall not be considered an unlawful user or addicted to narcotics solely as a result of his or her pending application to or participation in the Compassionate Use of Medical Cannabis Program. (Section 36 of the Act)*

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- b) The certifying health care professional~~physician~~ written certification does not constitute a prescription for medical cannabis.
- c) Applications for qualifying patients under 18 years old shall require a written certification from a certifying health care professional~~physician~~ and a reviewing health care professional~~physician~~. A written certification ~~from~~for a reviewing health care professional~~physician~~ is not required for persons under 18 years old who have been diagnosed with a terminal illness.
- d) *It is unlawful for any person to knowingly submit a fraudulent certification to be a qualifying patient in the Compassionate Use of Medical Cannabis ~~Pilot~~ Program or a qualifying Opioid Alternative Pilot Program participant. A violation of this subsection shall result in the person who has knowingly submitted the fraudulent certification being permanently banned from participating in the Compassionate Use of Medical Cannabis ~~Pilot~~ Program or the Opioid Alternative Pilot Program.* (Section 36 of the Act)

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.315 Waiver for Increasing the Adequate Supply of Medical Cannabis**

A patient may apply for a waiver ~~when~~where a certifying health care professional~~physician~~ provides a substantial medical basis in a signed, written statement asserting that, based on the patient's medical history, in the certifying health care professional~~physician's~~ professional judgment, 2.5 ounces is an insufficient adequate supply for a 14-day period to properly alleviate the patient's debilitating medical condition or symptoms associated with the debilitating medical condition. (Section 10(a)(2) of the Act)

- a) The waiver recommendation shall be on a form provided by the Department. The waiver recommendation shall be completed by the certifying health care professional~~physician~~ who issued the written~~physician~~ certification for the registered qualifying patient. If the waiver recommendation is not completed by the certifying health care professional~~physician~~ who issued the original written certification for the registered qualifying patient, the new certifying health care professional~~physician~~ must complete a written certification that includes an in-person office visit not more than 90 days prior to the date of the waiver recommendation.

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- b) The waiver shall describe, in the certifying health care professional's professional opinion, why 2.5 ounces is an insufficient adequate supply for a 14-day period.
- c) The waiver shall describe how the qualifying patient will benefit from an increased supply.
- d) The waiver shall include a statement by the certifying health care professional indicating the amount of medical cannabis that would be a sufficient supply for the qualifying patient's debilitating medical condition.
- e) If the Department approves the waiver, the amount of medical cannabis recommended by the certifying health care professional shall be noted on the registry identification card.
- f) A qualifying patient who is a veteran receiving medical care at a VA health care facility may establish a bona-fide relationship with a non-VA health care professional for the purpose of seeking a waiver to increase the adequate supply of medical cannabis for a 14-day period. The certifying health care professional shall complete a written certification, including an in-person office visit within 90 days prior to the date of the waiver submission. Both the written certification and the waiver submission shall be submitted to the Department, along with the required fee.
- gf) The waiver recommendation does not constitute a prescription for medical cannabis.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.320 Records Maintained by the Health Care Professional and Department**

A health care professional certifying the use of medical cannabis by a qualifying patient shall establish a medical record for the qualifying patient with regard to the patient's ~~his or her~~ medical condition and ~~his or her~~ continued treatment for the condition or conditions under the health care professional's care. *The certifying health care professional shall maintain a record-keeping system for all patients for whom the certifying health care professional has recommended the use of medical cannabis. These records shall be accessible to and subject to review by the Departments of Public Health and Financial and*

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*Professional Regulation upon request.* (Section 35 of the Act) These records do not need to be maintained separately from the established records the certifying health care professional maintains on the patient during the course of the ongoing bona-fide health care professional-patient relationship.

- a) In addition to records required to be maintained pursuant to the applicable federal and State statutes~~Medical Practice Act of 1987~~ and all applicable rules, the records shall accurately reflect the evaluation and treatment of the qualifying patient, and shall include the following as applicable:
- 1) The patient's name and the date or dates of visits and treatment;
  - 2) The patient's medical history and updated health history;
  - 3) Documented results of a full assessment of the patient's medical history, including review of medical records from other treating health care professionals~~physicians~~ from the previous 12 months;
  - 4) A description of the patient's current medical condition;
  - 5) Documented results of the certifying health care professional's~~physician's~~ physical examination of the patient;
  - 6) A treatment plan;
  - 7) General consent for treatment;
  - 8) Diagnosis and treatment rendered;
  - 9) A list of the drugs prescribed, administered and dispensed, and the quantity of the drugs;
  - 10) Radiographs and diagnostic tests;
  - 11) Patient financial and billing records;
  - 12) The name of the certifying health care professional and any~~physician or~~ assistive personnel providing services; and

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- 13) Laboratory results.
- b) The records for each qualifying patient for whom the health care professional~~physician~~ has certified medical cannabis usage shall be kept for a minimum of three years after the certifying health care professional~~physician~~ last sees the patient.
- c) The Department will maintain a confidential record of each certifying health care professional~~physician~~ for the purpose of monitoring compliance with the Act. This confidential record will not be subject to requests under the Freedom of Information Act.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

## SUBPART D: CANNABIS-INFUSED PRODUCTS

**Section 946.400 Manufacture of Cannabis-Infused Products**

- a) The Department will conduct, no more than 30 days prior to the start of the manufacturing of cannabis-infused products, a pre-operational inspection at all registered cultivation centers to determine whether the facilities, methods, practices and controls used in the manufacture, processing or holding of cannabis-infused products conform to or are operated or administered in conformity with good manufacturing practices to ensure that products for human consumption are safe and have been prepared, packed and held under sanitary conditions.
- 1) Registered cultivation centers shall allow the Department to inspect the premises and all utensils, fixtures, furniture, machinery and devices used for preparing cannabis-infused products.
- 2) The Department will conduct pre-operational inspections of registered cultivation centers with regard to the manufacture and preparation of cannabis-infused products under the authority of the Illinois Food, Drug and Cosmetic Act and the Food Handling Regulation Enforcement Act and the Manufacturing, Processing, Packing or Holding of Food~~Service Sanitation~~ Code.
- 3) If a registered cultivation center ceases manufacturing cannabis-infused products for a period of 180 days or more, the Department shall be

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contacted to request a pre-operational inspection prior to restarting manufacturing operations.

- 4) A registered cultivation center shall not manufacture, process, or package cannabis-infused products designed for human consumption at same time and on the same surfaces as products not designated for human consumption.
- b) *A cultivation center that prepares cannabis-infused products for sale or distribution at a dispensing organization shall be under the operational supervision of a certified food protection manager as required in the Food Handling Regulation Enforcement Act ~~a certified food service sanitation manager~~. (Section 80(a)(6) of the Act) Management responsibilities and supervision shall be in accordance with 77 Ill. Adm. Code 730.8000 and 730.8040 ~~(Manufacturing, Processing, Packing or Holding of Food Code)~~.*
- c) *All items shall be individually wrapped or packaged at the original point of preparation. Smaller like items such as hard candies or cookies may be packaged into larger quantities in a single wrapped package.*
  - 1) *The packaging of the medical cannabis-infused product shall conform to the labeling requirements of the Illinois Food, Drug and Cosmetic Act and shall include the following information in English on each product offered for sale or distribution:*
    - A) *The name and address of the registered cultivation center where the item was manufactured;*
    - B) *The common or usual name of the item;*
    - C) *All ingredients of the item, including any colors, artificial flavors, and preservatives, listed in descending order by predominance of weight shown with common or usual names;*
    - D) *The following phrase: "This product was produced in a medical and adult use cannabis cultivation center, not subject to public health inspection, that may also process common food allergens.";*



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- E) *Allergen labeling as specified in the Federal Food, Drug and Cosmetic Act, Federal Fair Packaging and Labeling Act, and the Illinois Food, Drug and Cosmetic Act;*
  - F) *The pre-mixed total weight (in ounces or grams) of usable cannabis in the food product;*
  - G) *A warning that the item is a medical cannabis-infused product and not a food must be distinctly and clearly legible on the front of the package;*
  - H) *A clearly legible warning emphasizing that the product contains medical cannabis and is intended for consumption by registered qualifying patients only; and*
  - I) *Date of manufacture and "use by" date. (Section 80(a) of the Act)*
- 2) Signage may be translated into additional languages as needed.
- d) The Department may institute additional labeling requirements for cannabis-infused products, including, but not limited to, measures of potency ([see Department of Agriculture rules at 8 Ill. Adm. Code 1000.420\(e\)\(8\)\(B\) and \(f\)](#)).

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.410 Sale and Distribution of Cannabis-Infused Products**

*Neither the Department of Public Health nor the Department of Agriculture nor the health department of a unit of local government may regulate the service of medical cannabis-infused food products by a registered cultivation center or registered dispensing organizations provided all of the following conditions are met. (Section 80 of the Act)*

- a) *No cannabis infused products requiring refrigeration or hot-holding or considered "potentially hazardous food" or "time/temperature control for safety food" (TCS) ([see](#) Section 4 of the Food Handling Regulation Enforcement Act and [Section 750.100 of the Food Code](#)) shall be manufactured at a cultivation center for sale or distribution at a dispensing organization due to the potential for food-borne illness (Section 80(a) of the Act).*

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- b) *Baked products infused with medical cannabis (such as brownies, bars, cookies, cakes, breads, pastries), tinctures, and other non-refrigerated items are acceptable for sale at dispensing organizations* (Section 80(a) of the Act). The products are allowable for sale only at dispensing organizations registered with the Department of Financial and Professional Regulation.
- c) All cannabis-infused products offered for sale at registered dispensing organizations shall be labeled in accordance with Section 946.400.
- d) Designated caregivers of registered qualifying patients under 18 years of age may purchase only medical cannabis-infused products from registered dispensing organizations.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.420 Preparation of Cannabis-Infused Products**

*Cannabis-infused products for sale and distribution at a dispensing organization must be prepared by an approved staff member of a registered cultivation center. A cultivation center that prepares cannabis-infused products for sale or distribution at a dispensing organization shall be under the operational supervision of a certified food protection manager as required by the Food Handling Regulation Enforcement Act ~~a certified food service sanitation manager~~.* (Section 80(a) of the Act)

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

## SUBPART F: OPIOID ALTERNATIVE PILOT PROGRAM

**Section 946.600 Registration for the Opioid Alternative Pilot Program**

- a) The Opioid Alternative Pilot Program shall be limited to participation by Illinois residents age 21 and older.
- b) A patient who has been issued a written ~~physician~~ certification in accordance with Section 946.620 and who seeks to use medical cannabis under the Opioid Alternative Pilot Program shall register with the Department online.
- c) To qualify for the Opioid Alternative Pilot Program, a patient shall:

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- 1) Be a resident of the State of Illinois, as defined in [Section 946.200\(c\)subsection \(d\)](#), at the time of application and remain a resident during participation in the program;
  - 2) Have a signed, written certification meeting the requirements of Section 946.620; and
  - 3) Pay a co-payment of \$10 for the initial 90-day registration for the Opioid Alternative Pilot Program and a co-payment of \$10 for each subsequent registration period.
- d) Residency. For purposes of this Part, the patient shall be a resident of the State of Illinois if the individual:
- 1) Physically resides in the State of Illinois at the time of registration and throughout the enrollment period.
  - 2) [Proof of Illinois residency by meeting the requirements specified in Section 946.200\(c\).Provides proof of Illinois residency by submitting a color copy of a valid, unexpired Illinois Driver's License, Illinois Temporary Visitor Driver's License, or other State identification card issued by the Illinois Secretary of State in the name of the applicant in accordance with the Illinois Identification Card Act and one of the following items:](#)
    - A) [Pay stub or electronic deposit receipt, issued less than 60 days prior to the application date, that shows evidence of the applicant's withholding for State income tax;](#)
    - B) [Valid voter registration card with an address in Illinois;](#)
    - C) [Current military identification card;](#)
    - D) [Bank statement \(dated less than 90 days prior to application\) or cancelled bank check or deposit slip showing the patient's full name and address, or credit card statement \(dated less than 60 days prior to application\);](#)
    - E) [Deed/title, mortgage or rental/lease agreement, property tax bill;](#)

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- ~~F) Insurance policy (current coverage for automobile, homeowner's, health or medical, or renter's);~~
  - ~~G) Medical claim or statement of benefits (from a hospital or health clinic or private insurance company or public (government) agency, dated less than 12 months prior to application);~~
  - ~~H) Tuition invoice/official mail from college or university, dated less than the 12 months prior to application;~~
  - ~~I) Utility bill, including, but not limited to, those for electric, water, refuse, telephone land line, cellular phone, cable or gas, issued less than 60 days prior to application; or~~
  - ~~J) W-2 form from the most recent tax year.~~
  - ~~3) The address on the documentation provided shall match the address on the application.~~
- e) To register with the Opioid Alternative Pilot Program, a patient shall submit a completed electronic application to the Department, which shall include, at a minimum, the following items:
- 1) Written certification for the use of medical cannabis, meeting the requirements of this Part, issued by a certifying health care professional who meets the requirements set forth in the Act, ~~and the Medical Practice Act of 1987~~ and dated less than 30 days prior to the registration;
  - 2) Valid, unexpired Illinois Driver's License, Illinois Temporary Visitor Driver's License, or other State identification card issued by the Illinois Secretary of State in the name of the applicant in accordance with the Illinois Identification Card Act;
  - 3) Proof of Illinois residency of the qualifying patient, as specified in Section 946.200(c) ~~subsection (d)~~;
  - 4) Photograph of the patient as follows:

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- A) Current digital passport-size photograph, taken no more than 30 calendar days before the submission of the application;
  - B) Taken against a plain, light-colored background or backdrop;
  - C) At least 2 inches by 2 inches in size;
  - D) In natural color; and
  - E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed. Head coverings for persons diagnosed and undergoing treatment for cancer are allowed;
- 5) Designation of the medical cannabis dispensing organization where the patient will receive ~~his or her~~ medical cannabis. Only one medical cannabis dispensing organization may be selected during each 90-day registration for the Opioid Alternative Pilot Program; and
- 6) Payment of a registration co-payment of \$10 for the initial registration in the Opioid Alternative Pilot Program.
- f) *An Opioid Alternative Pilot Program participant shall not be registered as a medical cannabis cardholder. (Section 62 of the Act)*
- g) A patient enrolled in the Opioid Alternative Pilot Program who submits an application to the Department for a medical cannabis registry identification card shall cease to be registered with the Opioid Alternative Pilot Program immediately upon submission of the application and associated fee.
- h) Opioid Alternative Pilot Program participants shall notify the Department of changes in the participant's name or address.

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

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**Section 946.620 Health Care Professional~~Physician~~ Certification for Opioid Alternative Pilot Program**

- a) *A certification confirming the patient's eligibility to participate in the Opioid Alternative Pilot Program shall be written on a form provided by the Department ~~and/or~~ submitted electronically and shall include, at minimum, the following:*
- 1) *The qualifying patient's name, date of birth, home address and primary telephone number;*
  - 2) *The certifying health care professional~~physician's~~ name, address, telephone number, e-mail address, medical license number, and active controlled substances license under the Illinois Controlled Substances Act and an indication of specialty or primary area of clinical practice, if any;*
  - 3) *The length of time the patient has been under the care of the certifying health care professional~~physician~~;*
  - 4) *The patient's diagnosis and a statement identifying the patient has been diagnosed with, and is currently undergoing treatment for, a medical condition for which an opioid has been or could be prescribed (Section 36(d)(5) of the Act);*
  - 5) *A statement that the certifying health care professional~~physician~~ is treating or managing treatment of the patient's health care; has a bona-fide health care professional~~physician~~-patient relationship; has conducted an in-person physical examination; and has conducted a review of the patient's medical history, including reviewing medical records from other treating health care professionals~~physicians~~, if any, from the previous 12 months;*
  - 6) *The certifying health care professional~~physician's~~ signature and date of certification. (Section 36 of the Act)*
  - 7) *A statement that a participant in possession of a written certification indicating eligibility to participate in the Opioid Alternative Pilot Program shall not be considered an unlawful user or addicted to narcotics solely as a result of his or her pending application to, or participation in the Compassionate Use of Medical Cannabis Program. (Section 36 of the Act)*

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- b) The certification for confirming the patient's eligibility to participate in the Opioid Alternative Pilot Program does not constitute a prescription for medical cannabis.
- c) The health care professional~~physician~~ certification for the Opioid Alternative Pilot Program shall be valid for 90 days after the date of the certifying health care professional's~~physician's~~ signature.
- d) If the certifying health care professional~~physician~~ determines the patient would benefit from continued enrollment in the Opioid Alternative Pilot Program after the conclusion of 90 days, the certifying health care professional~~physician~~ may issue another written certification for the patient after conducting an in-person office visit. The new written certification shall be issued no sooner than 30 days prior to the expiration of the current written certification. The new 90-day period shall begin immediately after the expiration of the current written certification period.
- e) *It is unlawful for any person to knowingly submit a fraudulent certification to be a qualifying patient in the Compassionate Use of Medical Cannabis ~~Pilot~~ Program or a qualifying Opioid Alternative Pilot Program participant. A violation of this subsection shall result in the person who has knowingly submitted the fraudulent certification being permanently banned from participating in the Compassionate Use of Medical Cannabis ~~Pilot~~ Program or the Opioid Alternative Pilot Program.* (Section 36 of the Act)

(Source: Amended at 45 Ill. Reg. 6205, effective April 27, 2021)

**Section 946.625 Persons Receiving Care at U.S. Department of Veterans Affairs Facilities Seeking to Qualify for the Opioid Alternative Pilot Program**

- a) A veteran or spouse of a veteran receiving care at a VA health care facility, who has a current prescription for an opioid, may apply for the Opioid Alternative Pilot Program by submitting a completed electronic application to the Department.
- b) The applicant shall:

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- 1) Be a resident of the State of Illinois, as defined in Section 946.200(c), at the time of application and remain a resident during participation in the program;
  - 2) Submit a photograph of the patient as follows:
    - A) Current digital passport-size photograph, taken no more than 30 calendar days before the submission of the application;
    - B) Taken against a plain, light-colored background or backdrop;
    - C) At least 2 inches by 2 inches in size;
    - D) In natural color; and
    - E) That provides an unobstructed front view of the full face. A full-faced photograph must be taken without any obstruction of the applicant's facial features or any items covering any portion of the face. Prescription glasses and religious head coverings not covering any areas of the open face will be allowed. Head coverings for persons diagnosed and undergoing treatment for cancer are allowed;
  - 5) Pay the registration co-payment of \$10 for the initial registration in the Opioid Alternative Pilot Program;
  - 6) Provide a copy of medical records from the patient's VA health record found at [www.myhealth.va.gov](http://www.myhealth.va.gov). The medical records shall include, but not be limited to, the VA Problem List, VA Appointments, and VA Medication History for the most current 12-month period. The VA Medication History must show proof of a current, ongoing prescription for an opioid;
  - 7) Provide a copy of the patient's DD-214 or equivalent certified document indicating character and dates of service or, if the spouse of a veteran, a copy of the veteran's documents; and
- c) A veteran or the spouse of a veteran enrolled in the Opioid Alternative Pilot Program who submits an application to the Department for a medical cannabis



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registry identification card shall cease to be registered with the Opioid Alternative Pilot Program immediately upon submission of the application and associated fee.

- d) Opioid Alternative Pilot Program participants shall notify the Department of changes in the participant's name or address.

(Source: Added at 45 Ill. Reg. 6205, effective April 27, 2021)

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

- 1) Heading of the Part: Notary Public Records
- 2) Code Citation: 14 Ill. Adm. Code 176
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
176.10	Amendment
176.11	Amendment
- 4) Statutory Authority: Implementing and authorized by the Secretary of State Act [15 ILCS 305].
- 5) Effective Date of Rules: April 28, 2021
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules including any material incorporated is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 18862; December 4, 2020
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: We added "before a notary" to Subsection 176.11(b).
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: These proposed changes will update the administrative rule to reflect current technology and Agency practice in the distribution of Notary lists to qualified entities.

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

Secretary of State  
Pamela Wright  
298 Howlett Building  
Springfield IL 62756

217/785-3094  
pwright@ilsos.gov

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

## SECRETARY OF STATE

## NOTICE OF ADOPTED AMENDMENTS

TITLE 14: COMMERCE  
SUBTITLE A: REGULATION OF BUSINESS  
CHAPTER I: SECRETARY OF STATEPART 176  
NOTARY PUBLIC RECORDS

## Section

176.10 Definitions

176.11 Record Contents, Request Procedures, and Fees

AUTHORITY: Implementing and authorized by the Secretary of State Act [15 ILCS 305].

SOURCE: Adopted at 11 Ill. Reg. 19705, effective December 1, 1987; amended at 13 Ill. Reg. 5197, effective April 1, 1989; amended at 45 Ill. Reg. 6274, effective April 28, 2021.

**Section 176.10 Definitions**

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

"Notary" – a person who is authorized to perform notarial acts such as taking an acknowledgement, administering an oath or affirmation, taking a verification upon oath or affirmation, and witnessing or attesting a signature, as provided in Section 6-101 of the Illinois Notary Public Act [\[5 ILCS 312\]](#). ~~(Ill. Rev. Stat. 1987, ch. 102, par. 206-101).~~

"Secretary" – The Secretary of State of Illinois.

~~"Tape" – a nine track magnetic tape with the following characteristics:~~

~~Density: 1600 or 6250 Bytes per inch (BPI)~~

~~Labels: None~~

~~Blocked: 10~~

~~Format: Extended Binary Coded Decimal Interchange Code (EBCDIC)~~

~~Sequence: Random.~~

(Source: Amended at 45 Ill. Reg. 6274, effective April 28, 2021)

**Section 176.11 Record Contents, Request Procedures, and Fees**

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- a) The Secretary maintains Illinois Notary Public appointment records in its~~on~~ computer database~~tapes~~. The computer record~~tapes~~ contain the notary's name, address, city, state, zip code, county, commission number, and the date the commission took effect.
- b) All requests for ~~a tape of~~ this information shall be in writing, signed before a notary by the person requesting the information. The request shall include the person's address, the purpose of the request, the specific information requested, the name and address of any organization represented by the requestor, and the position of the requestor in the organization. Approved requests shall be formalized in a written agreement.
- c) All requests shall be accompanied by ~~a blank nine track magnetic tape (or two blank tapes if density of 1600 BPI is requested) and~~ the appropriate fee and sent to the following address: Office of the Secretary of State, Index Department, 111 E. Monroe Street, Springfield, Illinois 62756.
- d) A list~~tape~~ of all current notaries or all notaries in a particular county will be furnished for a fee of \$3,600. Weekly update list~~computer tapes~~ will be furnished for \$1,000 per year paid in advance. The fee for a list~~tape~~ of notaries commissioned during a specific calendar year is \$900 and the fee for a list~~tape~~ of notaries commissioned during a specific month of a specific year is \$75.
- e) State, federal, and local law enforcement agencies will~~shall~~ receive information at no charge ~~if the agency supplies the required tape,~~ if the information is needed for an official investigation. All other governmental agencies, including county clerks, will~~shall~~ receive a list~~tape~~ of all current notaries for a fee of \$500 if requested for governmental purposes; ~~and~~ weekly updates~~update tapes~~ will be furnished for \$1,000 per year paid in advance. A list~~computer tape~~ of all notaries in one particular county will be furnished for a fee of \$200 and weekly updates~~update tapes~~ will be furnished for \$500 per year paid in advance.
- f) The fees shall be paid by cashier's check, money order, certified check, or a check drawn on the account of the business or government agency making the request. ~~Once~~When the information is made available~~transferred~~ to the requestor~~requestor's computer tape~~, then no refunds will~~shall~~ be made.
- g) Record layouts and~~layouts~~, field definitions will~~,~~ ~~and a printout of the first ten~~

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~~records on the tape shall~~ be supplied by the Secretary ~~when the requestor's tape is returned~~ with the information.

(Source: Amended at 45 Ill. Reg. 6274, effective April 28, 2021)

## ILLINOIS STATE BOARD OF EDUCATION

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- 1) Heading of the Part: K-12 Recycling Grant Program
- 2) Code Citation: 23 Ill. Adm. Code 267
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
267.5	New Section
267.10	New Section
267.20	New Section
267.30	New Section
267.40	New Section
267.50	New Section
267.60	New Section
- 4) Statutory Authority: 105 ILCS 5/2-3.178
- 5) Effective Date of Rules: April 27, 2021
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A statement that a copy of the adopted rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 44 Ill. Reg. 18275; November 13, 2020
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: None
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? Yes
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No

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- 15) Summary and Purpose of Rulemaking: A new Part is being created in the rules to align with the enactment of PA 101-10, which requires the State Board of Education to adopt rules to create and administer a K-12 Recycling Grant Program to provide grants to school districts for the implementation or improvement of a school's recycling program. Specifically, "[s]ubject to appropriation, the State Board of Education must create and administer the K-12 Recycling Grant Program to provide grants to school districts for the implementation or improvement of a school's recycling program. A school district that applies for a grant under this Section may receive a maximum grant amount of \$5,000 per school in that district and may use the grant funds only to implement or improve a school's recycling program" [PA 101-10].
- 16) Information and questions regarding these adopted rules shall be directed to:

Azita Kakvand  
Agency Rules Coordinator  
Illinois State Board of Education  
100 North First Street  
Springfield IL 62777-0001

217/782-6510  
rules@isbe.net

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



## ILLINOIS STATE BOARD OF EDUCATION

## NOTICE OF ADOPTED RULES

## TITLE 23: EDUCATION AND CULTURAL RESOURCES

## SUBTITLE A: EDUCATION

## CHAPTER I: STATE BOARD OF EDUCATION

## SUBCHAPTER g: SPECIAL COURSES OF STUDY

## PART 267

## K-12 RECYCLING GRANT PROGRAM

## Section

267.5	Definitions
267.10	Purpose and Applicability
267.20	Eligible Applicants
267.30	Application Procedure
267.40	Allocation of Funds
267.50	Program Specifications
267.60	Criteria for the Review of Proposals

AUTHORITY: Implementing and authorized by Section 2-3.178 of the School Code [105 ILCS 5].

SOURCE: Adopted at 45 Ill. Reg. 6279, effective April 27, 2021.

**Section 267.5 Definitions**

"Program" means the K-12 Recycling Grant Program created by this Part.

"School Code" or "Code" means 105 ILCS 5.

"State Board" means the State Board of Education.

"State Superintendent" means the State Superintendent of Education.

**Section 267.10 Purpose and Applicability**

This Part establishes the application procedure and criteria for selection by the State Board of the entities that will receive funding under the Program to provide grants to school districts for the implementation or improvement of a school's recycling program.

**Section 267.20 Eligible Applicants**

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Entities that are eligible to apply for a grant under the Program are school districts, laboratory schools as defined under Section 18-8.15 of the Code, area career and technical education centers, special education cooperatives, State-authorized charter schools, and programs operated by regional offices of education or intermediate service centers.

**Section 267.30 Application Procedure**

For purposes of this Part, the terms "proposal" and "application" have the same meaning.

- a) When State funding is available for grants under this Part, the State Superintendent shall issue a Request for Proposals (RFP) to solicit applications from eligible entities.
- b) The RFP shall describe the format that applicants will be required to follow and the information they will be required to submit, including identification of the specific schools that will be served throughout the grant period.
- c) The RFP shall indicate the amount or expected amount of the appropriation for the program. The RFP shall identify any restrictions or areas of high priority that have been established for a particular Program year.
- d) The RFP shall include and require completion of a budget summary and payment schedule, as well as a narrative budget breakdown that includes a detailed explanation of each line item of expenditure.
- e) The RFP shall identify:
  - 1) the information recipients will be required to collect and to report regarding:
    - A) the activities conducted with grant funds; and
    - B) the results of those activities; and
  - 2) the timelines for reporting.
- f) The RFP shall include certifications and assurances that the State Superintendent will require.

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- g) The RFP shall specify the deadline for submission of proposals, which shall provide potential applicants with at least 45 days to respond.
- h) Incomplete proposals will not be considered.
- i) Subject to appropriations for the Program, applicants seeking continued funding under the Program beyond the initial grant period must submit an annual application under this Section.

**Section 267.40 Allocation of Funds**

Applications for funding shall be approved by the State Superintendent. Final determinations regarding the amounts to be provided will be made based upon the total funds appropriated for the Program. An eligible entity may receive a maximum grant amount of \$5,000 per participating school.

**Section 267.50 Program Specifications**

- a) Grant funds may only be used to implement or improve a school's recycling program.
- b) No more than five percent of grant funds may be used for general administrative expenses.
- c) Each grantee must prepare a written plan that identifies programmatic goals and objectives developed through analysis of the entity's needs and that describes the grantee's approach to allocating district resources and securing other external support to meet those needs in a program that can be sustained over time.

**Section 267.60 Criteria for the Review of Proposals**

- a) Applications for grants shall be evaluated in accordance with the following criteria:
  - 1) Need (30 points)  
The proposal demonstrates that the district is currently unable to fully implement a recycling program due to issues related to finance, staffing, or facilities.

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- 2) Quality of the Plan (40 points)
  - A) The proposal demonstrates that the program to be implemented is based on sound research and can be reasonably accomplished based on projected timelines, resources, staff, and facilities.
  - B) The proposal demonstrates quantifiable goals for the eligible entity.
  - C) The proposal acknowledges the central role of qualified staff who will oversee the program.
- 3) Capacity and Sustainability (30 points)
  - A) The proposal is sustainable as it identifies a plan for allocating district resources, as well as securing additional resources from local organizations, businesses, and governmental agencies that will be useful to the grantee in sustaining a recycling program.
  - B) The proposal is cost effective. The proposed budget is reasonable based on the scope of the planning work to be conducted and the number of individuals to be involved.
- b) Priority points may be given to proposals with specific areas of emphasis, as identified by the State Superintendent in the RFPs.

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- 1) Heading of the Part: Firearm Dealer License Certification Act
- 2) Code Citation: 20 Ill. Adm. Code 1232
- 3) 

<u>Section Numbers:</u>	<u>Adopted Actions:</u>
1232.50	Amendment
1232.60	Amendment
1232.80	Amendment
- 4) Statutory Authority: Implementing and authorized by the Firearm Dealer License Certification Act [430 ILCS 68] and authorized by Section 2605-15 of the Department of State Police Law [20 ILCS 2605].
- 5) Effective Date of Rules: April 29, 2021
- 6) Does this rulemaking contain an automatic repeal date? No
- 7) Does this rulemaking contain incorporations by reference? No
- 8) A copy of the adopted rules is on file in the Agency's principal office and is available for public inspection.
- 9) Notice of Proposal published in the *Illinois Register*: 45 Ill. Reg. 591; January 8, 2021
- 10) Has JCAR issued a Statement of Objection to this rulemaking? No
- 11) Differences between Proposal and Final Version: No changes.
- 12) Have all the changes agreed upon by the Agency and JCAR been made as indicated in the agreements issued by JCAR? No agreements were issued by JCAR.
- 13) Will this rulemaking replace an emergency rule currently in effect? No
- 14) Are there any rulemakings pending on this Part? No
- 15) Summary and Purpose of Rulemaking: The proposed regulations implement the Firearm Dealer License Certification Act by identifying licensee obligations relating to video security of retail establishments.

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

Ms. Yvette Loizon  
Chief Legal Counsel  
Illinois State Police  
801 South 7th Street, Suite 1000-S  
Springfield IL 62703

217/782-7658

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

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TITLE 20: CORRECTIONS, CRIMINAL JUSTICE, AND LAW ENFORCEMENT  
CHAPTER II: ILLINOIS STATE POLICEPART 1232  
FIREARM DEALER LICENSE CERTIFICATION ACT

## Section

1232.10	Definitions
1232.20	Application Procedures
1232.30	Measuring Distances
1232.40	Exemptions
1232.50	Inspection of Certified Licensees' Places of Business
1232.60	Security System
1232.70	Alarm Monitoring System
1232.80	Safe Storage By Certified Licensees
1232.90	Training; Statewide Compliance Standards
1232.100	Electronic-based Recordkeeping
1232.110	Fees and Fines
1232.120	Term of License
1232.130	Retention of Records
1232.140	Return of Suspended or Revoked Certificate of License
1232.150	Disciplinary Sanctions; Restoration
1232.160	Complaints; Investigations; Hearings
1232.170	Order of the Director
1232.180	Filing
1232.190	Form of Documents
1232.200	Motion and Answer
1232.210	Rehearings
1232.220	Administrative Review
1232.230	Mandatory Signage

## 1232.EXHIBIT A      Warning Signage

AUTHORITY: Implementing and authorized by the Firearm Dealer License Certification Act [430 ILCS 68] and authorized by Section 2605-15 of the Department of State Police Law [20 ILCS 2605].

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SOURCE: Emergency rules adopted at 44 Ill. Reg. 1681, effective January 3, 2020, for a maximum of 150 days; emergency expired May 31, 2020; adopted at 44 Ill. Reg. 12619, effective July 8, 2020; amended at 45 Ill. Reg. 6285, effective April 29, 2021.

**Section 1232.50 Inspection of Certified Licensees' Places of Business**

- a) Time for Inspection
  - 1) *Certified licensees shall have their places of business available for inspection by ISP, and by law enforcement agencies authorized by ISP to accompany ISP and provide assistance, during all hours of operation involving the sale, leasing or transfer of firearms. ISP, acting on its own or with an assisting, authorized law enforcement agency, may conduct no more than one unannounced inspection per year without good cause. For purposes of this Section, "good cause" includes such instances as the need for follow-up when a remediation plan has been entered or as part of an ISP investigation based on concerns that the Act or this Part is being violated. ~~(Section 5-35 of the Act)~~*
  - 2) Any CL that is not open to the public, does not keep regular business hours, or operates by appointment only shall advise ISP, in writing, of that fact and of a means for ISP to contact that CL to establish a reasonable time for inspection when needed.
  - 3) Nothing in this subsection (a) shall be construed to interfere with any federal agency or any federal agency inspection or investigation.
- b) *During an inspection, certified licensees shall make the following accessible for inspection, upon the request of ISP or an authorized assisting law enforcement agency accompanying ISP:*
  - 1) ~~All~~ records and documents related to the sale, lease, transfer, and/or destruction of firearms ~~(Section 5-35 of the Act)~~; and
  - 2) ~~All~~ firearms in inventory. ~~(Section 5-35 of the Act)~~
- c) Failure to fully cooperate with an inspection could result in the imposition of discipline and/or a fine in accordance with the Act.



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(Source: Amended at 45 Ill. Reg. 6285, effective April 29, 2021)

**Section 1232.60 Security System**

On or before January 2, 2021, a certified licensee operating a retail location shall be required to operate and maintain in good working order a 24 hour, seven days a week, video surveillance system.

- a) The system, at a minimum, shall record and monitor:
  - 1) Entrances and exits in a retail location open to the public, including exterior areas intended for ingress and egress, and including, but not limited to, walkways leading into the retail location and parking areas in the immediate vicinity of the retail location. When a retail location open to the public exists in a residence or other area of a residential property, a video surveillance system must cover the entrances and exits and exterior areas intended for ingress and egress, including, but not limited to, walkways leading into the retail location and parking areas in the immediate vicinity of the area of the residence where firearms are sold, leased or transferred and any other area where firearms are stored.
  - 2) The critical areas of the interior of a facility where firearms in inventory are displayed, handled, sold, leased, transferred or stored, including, but not limited to, all entrances, exits, exterior windows, roof hatches, skylights, window or wall mounted air conditioning units, and cash register or checkout areas, but does not include restrooms or any other area specifically prohibited by law. (Section 5-50(a) of the Act) When a retail location open to the public exists in a residence or other area of a residential property, a video surveillance system must cover operational entrances and exits, windows, roof hatches, skylights, and window or wall mounted air conditioning units, if any of those openings could be used as a means of ingress or egress to the retail location. Video surveillance is required in any area where firearms in inventory are displayed, handled, sold, leased, transferred or stored. The system must operate during the hours the retail location is open to the public and when the residential location is otherwise vacant. Cameras should be installed to provide consistent recording or motion activated recording of these areas.

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- b) The certified licensee shall ensure that surveillance cameras are installed in a manner that avoids backlighting and physical obstructions to maximize the quality of recorded images, to the extent that lighting and/or physical obstructions are in the control of the certified licensee.
- c) Cameras installed outdoors and in low-light interior areas shall be day/night cameras, or extra lighting sufficient to maximize the quality of recorded images shall be installed.
- d) The recording system shall be digital and shall:
  - 1) Display a date and time stamp on all recorded video. The date and time shall be set correctly and shall not significantly obstruct the picture;
  - 2) Have the ability to remain operational, during a power outage, with an uninterruptable power supply that meets minimum power industry standards;
  - 3) Allow for the exporting of still images in an industry standard image format, including, but not limited to, .jpg, .bmp and .gif. Exported video shall be able to be saved in an industry standard file format that can be played on a standard computer operating system. All recordings shall be erased or destroyed prior to disposal.
  - 4) Have a display capability that ensures recordings are viewable at any time.
- e) Electronic recording security systems shall be maintained in good working order at all times. Any malfunction or technical problem with the system shall be memorialized in a written report detailing the nature of the malfunction or technical problem and documenting the date and time period of the malfunction or technical problem. Documentation shall be made available to law enforcement during routine inspection or for purposes of investigation in the event of theft or other loss of any firearms in inventory due to criminal activity.
- f) Security Recording Retention
  - 1) Video recordings shall be retained by the certified licensee for a minimum of 90 days. Video recordings may be retained by storage mediums including, but not limited to, cloud storage, an external hard drive or

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server, flash drives, discs, or other storage devices that can adequately store video data.

- 2) The 90 day requirement for retaining security recordings will be extended if the CL is aware of the loss or theft of any firearms in inventory, or is aware of, or has been notified by the Department or any law enforcement agency with jurisdiction of, a pending criminal, civil or administrative investigation or a legal proceeding requiring relevant information captured on the recording. In those instances, recordings shall be maintained for a one-year period or until tendered to the investigating law enforcement agency, whichever is sooner. CLs are required to document in writing the date, time, and name of the law enforcement agency and officer who received and/or collected any recording containing evidence of loss or theft of firearms in inventory.
- g) Access to the recording system shall be limited to authorized personnel in an area that does not permit access to the public. A current roster of authorized personnel that have access to the recording system shall be available to ISP upon request. The roster shall, at a minimum, document the full name of the employee; contact information for the employee, including address and phone number; and the employee's FOID card number. This documentation requirement does not apply to individuals employed by an outside vendor who has access to the recording system, whether remotely or on site, for purposes of providing technical support.
- h) The system shall be:
  - 1) Tested on a regular basis, but in no event less than once quarterly, to ensure it is functioning properly; and
  - 2) Demonstrably operational and functioning upon inspection by ISP and any law enforcement agencies authorized by ISP to accompany ISP and provide assistance. On or before January 2, 2021, a certified licensee operating a retail location shall be required to operate and maintain in good working order a video security system with video surveillance of critical areas of the business premises, including, but not limited to, all places where inventory is stored, handled, sold or transferred, and each entrance and exit. The video security system must not include video surveillance of the bathroom of a retail location and may not monitor inside the bathroom. (Section 5-35 of the Act)

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(Source: Amended at 45 Ill. Reg. 6285, effective April 29, 2021)

**Section 1232.80 Safe Storage By Certified Licensees**

- a) *Certified licensees maintaining a retail location shall develop a written plan that addresses the safe storage of firearms* using secured gun storage or safety devices and the safe storage of firearms ammunition. Safe storage plans shall address the following areas:
  - 1) Storage of firearms and ammunition during retail hours and after closing;
  - 2) Access to firearms and ammunition during retail hours (business practices);
  - 3) Procedures for removing or replacing firearms to show to customers;
  - 4) Loss or theft reporting;
  - 5) Description of anti-theft measures and practices;
  - 6) Disaster plan;
  - 7) Structural Security;
  - 8) Employee Screening; and
  - 9) Employee training and education regarding certified licensee's policy and procedures and loss prevention measures.
- b) *Safe storage plans shall be submitted to ISP for approval* in an electronic format that will be provided by ISP. (Section 5-55 of the Act) Safe storage plans will require a written description of methods for complying with all areas listed in subsection (a). The safe storage plan shall also address the following practices:
  - 1) Use of safety devices reasonably designed to prevent diversion, theft or loss;
  - 2) Keep all locks and security equipment in good working order;

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- 3) Ensure that keys remain in a location that is not accessible to persons other than specifically authorized personnel;
- 4) Maintain a roster of personnel possessing and/or using keys for secure storage areas and/or safety devices. The roster should, at a minimum, document the date and time (duration) the keys were in the employee's possession and the specific secure storage areas or safety devices accessible to personnel in possession of those keys.
- 5) Prohibit other security measures, such as combination numbers, codes, passwords or electronic or biometric security systems, from being accessible to persons other than specifically authorized personnel;
- 6) Keep the retail location securely locked and protected from unauthorized entry at all times when closed for business or unoccupied by authorized personnel;
- 7) Keep firearm ammunition stored out of the reach of customers unless the ammunition is being displayed in sealed cases or a quantity that could not be concealed on the person of an individual. Storage that is out of the reach of customers may include, but is not limited to, shelving that is arranged behind an enclosed counter area, or a safe, case, lock box or other receptacle that is not immediately accessible to unauthorized personnel. Firearm ammunition in smaller quantities that could be concealed on the person of an individual may be stored within the reach of customers if the firearm ammunition is equipped with a safety device designed to prevent theft.
- 8) Ensure inventory records are protected by securing the records after business hours in a locked location. Only authorized or law enforcement personnel shall be permitted to view or handle the inventory records;
- 9) Complete an internal audit of inventory (as defined in Section 1232.10) on a regular basis, but in no event less frequently than twice per calendar year. Internal audits shall be memorialized in writing, and the person or persons who conducted the internal audit shall be identified in the memorialized document. The document shall be made available to ISP upon request;

## ILLINOIS STATE POLICE

## NOTICE OF ADOPTED AMENDMENTS

- 10) Keep current and accurate inventory acquisition and disposition records. These records shall be made available to ISP upon request;
  - 11) Maintain a plan that adequately ensures the timely securing of inventory and firearm ammunition in the event of a disaster. The plan shall be made available to ISP upon request; and
  - 12) Ensure employees with access to inventory and/or firearm ammunition, or who otherwise handle inventory and/or firearm ammunition, are not prohibited from possessing firearms under State or federal law.
- cd) If a loss, theft or diversion of inventory has occurred from a retail location, the certified licensee shall notify ATF and the local law enforcement agency having primary jurisdiction for the licensee's retail location within 48 hours after the loss or theft is discovered, pursuant to the notification requirements of 18 USC 923(g)(6). The certified licensee shall provide a copy of any such notification to ISP. If any firearms previously reported as lost or stolen are subsequently recovered by the CL, the CL shall notify ATF and the appropriate local law enforcement agency of the recovery.

(Source: Amended at 45 Ill. Reg. 6285, effective April 29, 2021)

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## NOTICE OF EMERGENCY AMENDMENT

- 1) Heading of the Part: Low Income Home Energy Assistance Program
- 2) Code Citation: 47 Ill. Adm. Code 100
- 3) Section Number: 100.260      Emergency Action: New Section
- 4) Statutory Authority: General rulemaking authority is authorized by the Energy Assistance Act, 305 ILCS 20/1 *et seq.* and Section 605-95 of the Civil Administrative Code of Illinois, 20 ILCS 605/605-95. Emergency rulemaking authority is authorized by the Illinois Administrative Procedure Act, 5 ILCS 100/5-45.
- 5) Effective Date of Rule: April 29, 2021
- 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: The Department has not specified an expiration date.
- 7) Date Filed with the Index Department: April 29, 2021
- 8) A copy of the adopted rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection: The Department maintains a copy of the adopted rule including any reference materials in its principal office in Springfield, Illinois and is available for public inspection.
- 9) Reason for Emergency: As set forth in Executive Order 2021-07, since early March 2020, Illinois has faced the COVID-19 pandemic that has caused extraordinary illness and loss of life, and making the challenges facing the State and its residents unprecedented in modern times. In addition to causing the tragic loss of so many Illinoisans and wreaking havoc on the physical health of tens of thousands more, COVID-19 has caused extensive economic loss and continues to threaten the financial welfare of a significant number of individuals, especially the low-income population, across the State.

The COVID-19's pandemic disruption has had a profound effect on households' abilities to pay for their utility bills due to widespread unemployment, illness, reduction in hours, or other related setbacks. Families have been forced to make difficult financial decisions, including non-payment of their gas and electric service charges, making the customers subject to disconnection of service for the arrearages. There was a moratorium on shut-offs for customers experiencing hardship for utilities regulated by the Illinois Commerce

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Commission and for other utilities that participate in the Low Income Home Energy Assistance Program ("LIHEAP"), which expired on March 31, 2021, and customers who continue to struggle with the economic realities of the pandemic are now subject to imminent disconnection for non-payment of utility charges, potentially leading to even worse economic and health outcomes. Disconnection of vital utility services for non-payment now and throughout the upcoming months poses an untenable burden on low-income households and will have a disproportionate impact on the State's most vulnerable citizens, which constitutes a threat to the public interest, safety, and welfare.

In response to the pandemic and public health emergency described above, emergency amendments to the LIHEAP rules are necessary to provide assistance to avoid imminent utility disconnections for a large population of the State (see program description details in number 10, below). Continued access to utility services will help slow the spread of the disease and protect the public.

- 10) A Complete Description of the Subjects and Issues Involved: The Utility Disconnection Avoidance Program ("UDAP"), authorized by Executive Order 2021-07 ("EO 2021-07") and created through these emergency rules, will be a temporary program to assist home energy customers in preventing imminent utility shut-offs. Eligible home energy providers will use the payments received through UDAP to apply credits to household accounts in imminent danger of disconnection, between April 1, 2021 and June 30, 2021, if their account arrearage amounts are not reduced. The UDAP program will be available to assist current and former LIHEAP and Percentage of Income Payment Plan ("PIPP") participants for the time period October 1, 2018 to May 31, 2021 who are customers of home energy providers and in danger of imminent disconnection of one or more of their services. The emergency rules allow the UDAP to expand to assist additional LIHEAP and PIPP customers for the period October 1, 2017 through June 30, 2018 if sufficient funds are available.

Funding for the UDAP is provided through two different sources: (1) LIHEAP funds received from the U.S. Department of Health and Human Services ("HHS funds"); and (2) the State's Supplemental Low-Income Energy Assistance Fund ("State LIHEAP Fund"). The total HHS funds used for UDAP will be based on need and is estimated to be \$30 million credited as direct client assistance to UDAP participants. The total amount of UDAP assistance from the State LIHEAP Fund may not exceed \$55 million. HHS funds will be used for LIHEAP and PIPP clients who most recently received or will receive benefits applied for during the current LIHEAP program year, between July 27, 2020 and May 31, 2021. UDAP assistance will be paid from the State LIHEAP Fund for customers of the six largest regulated utilities (ComEd, Ameren, Nicor Gas, Peoples Gas,



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North Shore Gas, and MidAmerican Energy) and who most recently received LIHEAP or PIPP benefits between October 1, 2018 and June 30, 2020. UDAP may expand to assist additional LIHEAP and PIPP customers who received benefits for the period October 1, 2017 through June 30, 2018 if sufficient State LIHEAP Funds are available. HHS funds are also available to current LIHEAP program year customers of the six largest regulated utilities.

EO 2021-07 temporarily suspends the following two provisions of the Energy Assistance Act, which permits the creation of the UDAP, specifically through the use of the State LIHEAP Funds:

1. The annual household income threshold required to apply for assistance under the Energy Assistance Act, 305 ILCS 20/6(a); and
2. The requirement that the amounts remitted by each utility into the Supplemental Low-Income Home Energy Assistance Fund shall be used to provide assistance only to that utility's customers, 305 ILCS 20/13(g).

UDAP is a one-time benefit for eligible households through which the utilities will be permitted to seek through May 31, 2021 (for HHS funds) and June 15, 2021 (for State LIHEAP Funds) payments on behalf of households to avoid utility disconnections. Local Administering Agencies will assist the Department in administering and disbursing the HHS funds to be applied to the accounts of current LIHEAP program year customers. The Department will pay the six largest regulated utilities directly using the State LIHEAP Fund for LIHEAP and PIPP customers who most recently received benefits between October 1, 2018 through June 30, 2020.

To participate in UDAP, utilities will be required to submit information on household accounts in imminent danger of disconnection and must sign a certification, stating that the utilities will adhere to all UDAP requirements. The utilities will use the payments received to apply credits to household accounts in imminent danger of disconnection. Any resident on the disconnect list of one of the participating utilities who has either received LIHEAP or participated in PIPP, pursuant to Sections 4 or 18 of the Energy Assistance Act, since October 1, 2018 is eligible to have their arrearage of at least \$250 and up to \$5,000 paid off as funds remain available.

The Department estimates that UDAP will keep over 80,000 accounts with approximately \$80 million in arrearages from being disconnected.

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate as defined in Section 3(b) of the State Mandates Act. [30 ILCS 805].
- 13) Information and questions regarding this emergency rule shall be directed in writing to:

Jolene Clarke  
Rules Administrator  
Department of Commerce and Economic Opportunity  
500 E. Monroe  
Springfield IL 62701

[jolene.clarke@illinois.gov](mailto:jolene.clarke@illinois.gov)

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

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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## TITLE 47: HOUSING AND COMMUNITY DEVELOPMENT

## CHAPTER I: DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

## PART 100

## LOW INCOME HOME ENERGY ASSISTANCE PROGRAM

## SUBPART A: GENERAL PROVISIONS

## Section

100.10	Legislative Base
100.20	Purpose and Scope
100.30	Definitions
100.40	Local Administering Agency Designation
100.50	Local Administering Agency Application for Funding
100.60	Local Administering Agency Designation Suspension, Termination and Revocation
100.70	Administrative Requirements
100.80	Nondiscrimination
100.90	Dispute Procedures
100.100	Complaint Process
100.110	Incorporation by Reference

## SUBPART B: ENERGY ASSISTANCE

## Section

100.200	Energy Assistance Program
100.210	Allocation of Block Grant Funds
100.220	Assistance Available
100.230	Applicant Assistance
100.240	Summer Energy Assistance
100.250	Determination of Household Eligibility
<a href="#">100.260</a>	<a href="#">Utility Disconnection Avoidance Program</a>

[EMERGENCY](#)

## SUBPART C: WEATHERIZATION

## Section

100.400	Allocation of Funds
100.410	Minimum Program Requirements

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100.420	Allowable Costs
100.430	Cost Restrictions
100.440	Standards and Techniques for Weatherization
100.450	Eligible Dwelling Units

100.APPENDIX A	LIHEAP Payment Matrix
100.APPENDIX B	Medical Certification
100.APPENDIX C	Assistance Level Chart Map

**AUTHORITY:** Implementing and authorized by the Energy Assistance Act [305 ILCS 20], Section 605-95 of the Civil Administrative Code of Illinois [20 ILCS 605/605-95], the Low-Income Home Energy Assistance Act of 1981 (42 USC 8621) and Executive Order 2009-2.

**SOURCE:** Adopted and codified at 7 Ill. Reg. 2956, effective March 9, 1983; amended at 8 Ill. Reg. 8184, effective May 31, 1984; amended at 8 Ill. Reg. 16004, effective August 27, 1984; amended at 8 Ill. Reg. 20669, effective October 6, 1984; amended at 9 Ill. Reg. 10710, effective July 1, 1985; amended at 9 Ill. Reg. 18134, effective November 12, 1985; amended at 10 Ill. Reg. 8684, effective May 12, 1986; amended at 10 Ill. Reg. 21064, effective December 9, 1986; amended at 11 Ill. Reg. 682, effective December 18, 1986; recodified at 11 Ill. Reg. 4631; amended at 12 Ill. Reg. 757, effective December 23, 1987; amended at 12 Ill. Reg. 14639, effective September 6, 1988; amended at 12 Ill. Reg. 15530, effective September 19, 1988; amended at 13 Ill. Reg. 10827, effective June 27, 1989; amended at 13 Ill. Reg. 13568, effective August 11, 1989; emergency amendment at 13 Ill. Reg. 17870, effective November 1, 1989, for a maximum of 150 days; emergency expired March 31, 1990; amended at 14 Ill. Reg. 13440, effective August 8, 1990; amended at 15 Ill. Reg. 3437, effective February 25, 1991; emergency amendment at 15 Ill. Reg. 14604, effective September 30, 1991, for a maximum of 150 days; amended at 16 Ill. Reg. 3940, effective February 26, 1992; emergency amendment at 16 Ill. Reg. 17136, effective October 26, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 3836, effective March 5, 1993; amended at 27 Ill. Reg. 2123, effective January 24, 2003; emergency amendment at 27 Ill. Reg. 14838, effective September 2, 2003, for a maximum of 150 days; emergency expired January 29, 2004; recodified from the Department of Commerce and Economic Opportunity (47 Ill. Adm. Code 100) to the Department of Public Aid (89 Ill. Adm. Code 109) at 29 Ill. Reg. 2791; recodified from the Department of Healthcare and Family Services (89 Ill. Adm. Code 109) to the Department of Commerce and Economic Opportunity (47 Ill. Adm. Code 100) at 33 Ill. Reg. 9466; emergency amendment at 41 Ill. Reg. 14119, effective November 6, 2017, for a maximum of 150 days; amended at 42 Ill. Reg. 6350, effective March 20, 2018; emergency amendment at 45 Ill. Reg. 6295, effective April 29, 2021, for a maximum of 150 days.

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## SUBPART B: ENERGY ASSISTANCE

**Section 100.260 Utility Disconnection Avoidance Program  
EMERGENCY**

The Utility Disconnection Avoidance Program (UDAP) is created to prevent low-income households from being disconnected from their home energy supplies by one or more Eligible Home Energy Providers or SLIEAF Home Energy Providers. The UDAP is a direct response to Executive Order 2021-07 signed by the Governor on April 22, 2021 (EO 2021-07).

- a) Purpose and Scope  
Executive Order 2021-07 recognizes that the COVID-19 public health emergency has had a profound effect on households' ability to pay for their home energy needs, particularly for those who are unable to work due to the pandemic or who lack the means to obtain adequate home energy assistance. This has resulted in a large number of households accruing large home energy arrearages amounts due to their home energy suppliers. Many of these arrearages have grown to a level for which the households are now facing an imminent threat of disconnection from one or more of their home energy suppliers. The purpose of the UDAP is to provide emergency relief by assisting home energy customers in avoiding disconnection. Eligible Home Energy Providers and SLIEAF Home Energy Providers shall use the payments received through UDAP to apply credits to household accounts in imminent danger of disconnection.
- b) Definitions  
The following definitions are applicable to this Section only. The other terms used in this Section and defined in Section 100.30 have the meanings ascribed to them in Section 100.30.
- "COVID-19" means the novel coronavirus disease deemed COVID-19 by the World Health Organization on February 11, 2020.
- "Current LIHEAP Program Year" means the period of time starting July 27, 2020 and ending May 31, 2021.
- "Eligible Home Energy Provider" means a Home Energy Provider that has or will receive any LIHEAP direct vendor payments from HHS funds processed during the Current LIHEAP Program Year.

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"Eligible Participants" means households that are qualified to participate in UDAP as set forth in subsection (d).

"HHS funds" means LIHEAP funds received from HHS.

"SLIEAF Home Energy Provider" means a Home Energy Provider that participates in and contributes to the Supplemental Low-Income Energy Assistance Fund and collects at least \$1 million per program year into the Supplemental Low-Income Energy Assistance Fund from the Energy Assistance Charge assessed to customer accounts set forth in Section 13 of the Act.

"Supplemental Low-Income Energy Assistance Fund" means the special fund created in the State Treasury as set forth in Section 13 of the Act from which the Department is required to use moneys for payments to Home Energy Providers on behalf of their customers participating in the programs authorized by Sections 4 and 18 of the Act.

"UDAP Participant" means a household that receives a credit for an arrearage amount with one or more Eligible Home Energy Providers or SLIEAF Home Energy Providers through the UDAP.

c) Sources of Funds

Funding for the UDAP is provided through two different sources: HHS funds; and the Supplemental Low-Income Energy Assistance Fund. The total HHS funds used for UDAP will be based on need and is estimated to be \$30 million credited as direct client assistance to UDAP participants. The total amount of UDAP assistance from the Supplemental Low-Income Energy Assistance Fund may not exceed \$55 million. Pursuant to EO 2021-07, the Department may remit more funds to a SLIEAF Home Energy Provider than the amount collected into the Supplemental Low-Income Energy Assistance Fund by that SLIEAF Home Energy Provider if necessary to avoid disconnection of its customers.

d) Assistance Available

1) Eligible Home Energy Providers and SLIEAF Home Energy Providers will seek assistance for the benefit of Eligible Participants. The Department or the LAAs will notify all Eligible Home Energy Providers and SLIEAF Home Energy Providers about the UDAP. The Department

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shall provide assistance through UDAP to all Eligible Participants with the available funds outlined in subsection (c), and as set forth in this Section.

- 2) UDAP is available to any household that has:
  - A) received or will receive LIHEAP benefits or participated in the Percentage of Income Payment Plan ("PIPP"), pursuant to Sections 4 or 18 of the Act, between October 1, 2018 and June 30, 2021 as allowed under EO 2021-07; and
  - B) an active account with an arrearage amount with one or more Eligible Home Energy Providers or SLIEAF Home Energy Providers that places that household within an imminent threat of having its home energy supply disconnected between April 1, 2021 and June 30, 2021 if the arrearage amount is not reduced.
- 3) A UDAP participant may receive a one-time credit of at least \$250 up to a maximum of \$5,000 for each Eligible Home Energy Provider or SLIEAF Home Energy Provider account for which it qualifies under this subsection (d).
- 4) The specific source of funds used for UDAP will depend upon the last date each Eligible Participant received or will receive a LIHEAP benefit or participated in the PIPP. HHS funds will be used for UDAP assistance to Eligible Participants who most recently received benefits applied for through LIHEAP during the Current LIHEAP Program Year. UDAP assistance will be paid from the Supplemental Low-Income Energy Assistance Fund for all Eligible Participants who most recently received LIHEAP or PIPP benefits between October 1, 2018 and June 30, 2020.
- 5) If there are sufficient funds available from the Supplemental Low-Income Energy Assistance Fund after receiving information from the SLIEAF Home Energy Providers regarding the Eligible Participants who received LIHEAP or PIPP benefits between October 1, 2018 and June 30, 2020, UDAP assistance will be made available to Eligible Participants who most recently received LIHEAP or PIPP benefits between October 1, 2017 through June 30, 2018 and will be paid from the Supplemental Low-Income Energy Assistance Fund using the payment processing procedures set forth in subsection (f).

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e) Payment Process for HHS Funds

The payment process in this subsection (e) applies to accounts for Eligible Participants who last received or will receive LIHEAP benefits applied for during the Current LIHEAP Program Year. The specific payment process for HHS funds will depend on whether the request is from an Eligible Home Energy Provider or a SLIEAF Home Energy Provider.

- 1) LAAs will disburse HHS funds to Eligible Home Energy Providers and SLIEAF Home Energy Providers pursuant to the procedures set forth in this subsection. The Department will provide an amount of funds to each LAA for UDAP based on the estimated need for the Service Area. An LAA may request additional funds from the Department if necessary to meet the actual UDAP needs of the LAA's Service Area. To participate and receive payments under the UDAP, an Eligible Home Energy Provider shall submit to the applicable LAAs, and the SLIEAF Home Energy Providers shall submit to the Department, no more than three times through May 31, 2021 (not including resubmissions with additional or corrected information), the following information for Eligible Participants in a format provided by the Department:

- A) Account number;
- B) Customer name;
- C) Street address with city and zip code;
- D) Customer's county or applicable LAA;
- E) Date of most recent LIHEAP benefit; and
- F) Account balance.

- 2) At the time of the initial submissions of Eligible Participant information, the Eligible Home Energy Providers shall submit to the applicable LAAs, and the SLIEAF Home Energy Providers shall submit to the Department, a certification in a form provided by the Department, and signed by an individual that is authorized to execute agreements on behalf of the Eligible Home Energy Provider or SLIEAF Home Energy Provider. The



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Eligible Home Energy Providers and SLIEAF Home Energy Providers will be required to certify, among other things, that, as a participant in the UDAP, the Eligible Home Energy Provider or SLIEAF Home Energy Provider will:

- A) use the funds in accordance with the requirements of the UDAP;
  - B) only request funds for Eligible Participants;
  - C) retain and provide access to records related to UDAP in accordance with the UDAP record retention requirements set forth in this Section; and
  - D) repay to the Department any funds received by the Eligible Home Energy Provider or SLIEAF Home Energy Provider but not used for the purposes of the UDAP.
- 3) An Eligible Home Energy Provider or SLIEAF Home Energy Provider may only submit one request per Eligible Participant account.
- 4) The LAA will review the information received from each Eligible Home Energy Provider for Eligible Participants in the LAA's Service Area and review the eligibility of a sample of household accounts submitted. The LAA will promptly notify the Eligible Home Energy Provider of any households which are not eligible for UDAP and the basis for that determination. An Eligible Home Energy Provider may resubmit additional or corrected information, if applicable, by May 31, 2021 regarding households that the LAA rejected.
- 5) The Department will review the information received from each SLIEAF Home Energy Provider and review the eligibility of a sample of household accounts submitted. The Department will promptly notify the SLIEAF Home Energy Provider of any households which are not eligible for UDAP and the basis for that determination. A SLIEAF Home Energy Provider may resubmit additional or corrected information, if applicable, by May 31, 2021 regarding households that the Department rejected. The Department will send to the applicable LAA the information for the Eligible Participants approved by the Department in the LAA's Service Area for the LAA to disburse funds to SLIEAF Home Energy Providers.

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- 6) After the LAA or the Department, as applicable, reviews the eligible household information and arrearage amounts submitted by an Eligible Home Energy Provider or SLIEAF Home Energy Provider, the LAA will notify the Eligible Home Energy Provider or SLIEAF Home Energy Provider of the total amount of funds to be approved and will process a single payment to the Eligible Home Energy Provider or SLIEAF Home Energy Provider in the amount approved by the LAA or Department of at least \$250 up to \$5,000 for each UDAP participant account.
- 7) LAAs may receive reimbursements from the Department for costs associated with administering UDAP in the amounts permitted by the LAAs' current HHS LIHEAP grant agreements and may modify their grant budgets to include these additional costs.
- 8) After receiving a notification of the total amount of HHS funds to be processed from the LAA, the Eligible Home Energy Provider or SLIEAF Home Energy Provider shall credit each UDAP participant's account with the applicable amount promptly to prevent shut-off, notify the UDAP participant of the credit received from the UDAP, and notify the UDAP participant that there is no longer a threat of imminent disconnection of their home energy service.
- 9) The Eligible Home Energy Provider or SLIEAF Home Energy Provider shall confirm in writing to the LAAs with support documentation that all the UDAP participant accounts have been properly credited with the amounts the Eligible Home Energy Provider or SLIEAF Home Energy Provider submitted to and were approved by the LAA or the Department, as applicable.
- f) Payment Process for the Supplemental Low-Income Energy Assistance Fund
  - 1) The payment process in this subsection (f) applies to accounts for Eligible Participants who last received LIHEAP benefits or participated in the PIPP between October 1, 2018 and June 30, 2020 and is only available to SLIEAF Home Energy Providers. The Department will make direct payments to SLIEAF Home Energy Providers pursuant to the procedures set forth in this subsection. To participate and receive payments from the Department under the UDAP, a SLIEAF Home Energy Provider shall

## DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

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submit to the Department no more than three invoices by June 15, 2021 (not including resubmissions with additional or corrected information). Each invoice must include, in a format provided by the Department, the Eligible Participants' information that includes:

- A) Account number;
- B) Customer name;
- C) Street address with city and zip code;
- D) Customer's county or applicable LAA;
- E) Date of most recent LIHEAP or PIPP benefit; and
- F) Account balance.

- 2) At the time of the initial submissions of Eligible Participant information, the SLIEAF Home Energy Providers also shall submit to the Department a certification in a form provided by the Department, and signed by an individual that is authorized to execute agreements on behalf of the SLIEAF Home Energy Provider. However, if a SLIEAF has already submitted a certification to the Department when seeking HHS funds as set forth in subsection (e), that SLIEAF Home Energy Provider does not need to submit a second certification. The SLIEAF Home Energy Providers will be required to certify, among other things, that, as a participant in the UDAP, the SLIEAF Home Energy Provider will:

- A) use the funds in accordance with the requirements of the UDAP;
- B) only request funds for Eligible Participants;
- C) retain and provide access to records related to UDAP in accordance with the UDAP record retention requirements; and
- D) repay to the Department any funds received by the SLIEAF Home Energy Provider but not used for the purposes of the UDAP.

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- 3) A SLIEAF Home Energy Provider may only submit one request per Eligible Participant account.
- 4) The Department will review the information received from each SLIEAF Home Energy Provider and review the eligibility of a sample of household accounts submitted. The Department will promptly notify the SLIEAF Home Energy Provider of any households which are not eligible for UDAP and the basis for that determination. A SLIEAF Home Energy Provider may resubmit additional or corrected information, if applicable, by June 15, 2021 regarding households that the Department rejected.
- 5) After the Department reviews the eligible household information and arrearage amounts submitted by a SLIEAF Home Energy Provider, the Department will notify the SLIEAF Home Energy Provider of the total amount of funds to be approved. After receiving a notification of the total amount of funds to be processed from the Department, the SLIEAF Home Energy Provider shall credit each UDAP participant's account with the applicable amount promptly to prevent shut-off, notify the UDAP participant of the credit received from the UDAP, and notify the UDAP participant that there is no longer a threat of imminent disconnection of their home energy service.
- 6) To be eligible to receive a payment, the SLIEAF Home Energy Provider first will confirm certification with the Illinois Office of the Comptroller and, if not yet certified, take all necessary steps to receive UDAP funds from the Department. The Department will remit, through direct payments to the SLIEAF Home Energy Providers, the amounts of money that qualify for UDAP of at least \$250 up to \$5,000 per UDAP participant account. If the total in direct payments requested from SLIEAF Home Energy Providers for UDAP exceeds \$55 million, invoices will be reviewed and approved by the Department on a first-come, first-served basis.
- 7) The SLIEAF Home Energy Provider shall confirm in writing to the Department with support documentation that all the UDAP participant accounts have been properly credited with the amounts the SLIEAF Home Energy Provider submitted to the Department.
- g) Compliance and Records Retention

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- 1) Eligible Home Energy Providers and SLIEAF Home Energy Providers shall provide, upon the Department's request, documents and information relevant to any funds requested and received pursuant to the UDAP.
- 2) The Department reserves the right to seek a refund from any Eligible Home Energy Provider that made a false or fraudulent claim for funds or if the funds were not properly credited to UDAP participant accounts.
- 3) Eligible Home Energy Providers and SLIEAF Home Energy Providers that participate in the UDAP shall maintain, for five years from the date of receipt of the final payment under UDAP, adequate books and supporting documents, statistical records, and all other records pertinent to the UDAP. If any litigation, claim or audit is started before the expiration of the retention period, the records must be retained until all litigation, claims or audit exceptions involving the records have been resolved and final action taken.
- 4) LAAs are subject to the records retention, inspection and all other requirements of their current HHS LIHEAP grant agreements.

(Source: Added by emergency rulemaking at 45 Ill. Reg. 6295, effective April 29, 2021, for a maximum of 150 days)

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF EMERGENCY RULES

- 1) Heading of the Part: Special Programs
- 2) Code Citation: 56 Ill. Adm. Code 2870
- 3) 

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
2870.1	New Section
2870.5	New Section
2870.10	New Section
2870.15	New Section
2870.20	New Section
2870.25	New Section
2870.30	New Section
2870.35	New Section
2870.40	New Section
2870.45	New Section
2870.50	New Section
- 4) Statutory Authority: Implementing Sections 239, 401, 402, 409, 500, 502, 900, 901, 1700 and 1701 of the Unemployment Insurance Act [820 ILCS 403].
- 5) Effective Date of Rules: April 29, 2021
- 6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: This emergency amendment will expire at the end of the 150-day period, or upon adoption of permanent rules, whichever comes first.
- 7) Date Filed with the Index Department: April 29, 2021
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: Section 502 of the Illinois Unemployment Insurance Act, provides that the Director of Employment Security may by rule establish a Short-Time Compensation (STC) program. Prior to the COVID-19 pandemic, the business and labor interests of the State had shown no interest in IDES establishing an STC program. Therefore, no rules were promulgated to establish such a program. However, with the pandemic, the federal government has put in place federal funding for states to establish STC programs and to pay for the benefits to be paid through an STC program. With this

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in mind, IDES went about developing an STC program. Developing the STC program involved creating a brand new computer system to administer the program, and the drafting of rules. IDES intends to launch the STC program, to be known as "WorkShare IL", before April comes to an end. The urgency of making these funds available necessitates filing emergency rules.

- 10) A Complete Description of the Subjects and Issues Involved: This emergency rule establishes procedures by which employers may establish Short-Term Compensation (STC) programs for their employees during periods of reduced work.
- 11) Are there any amendments to this Part pending? No
- 12) Statement of Statewide Policy Objective: This rulemaking does not create or expand a State mandate.
- 13) Information and questions regarding these rules shall be directed to:

Kevin Lovellette, Chief Legal Counsel  
Illinois Department of Employment Security  
33 South State Street – Room 910  
Chicago IL 60603

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

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

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TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY  
SUBCHAPTER f: ELIGIBILITY FOR BENEFITSPART 2870  
SPECIAL PROGRAMS

## SUBPART A: SHORT-TIME COMPENSATION PROGRAM

## Section

2870.1 Definitions

EMERGENCY

2870.5 Application for Approval of Short-Time Compensation Plan

EMERGENCY

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2870.40 Short-Time Compensation Benefits' Formulas

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2870.45 Overpayments of Short-Time Compensation Benefits

EMERGENCY

2870.50 Coordination of Short-Time Compensation Benefits with Extended Benefits

EMERGENCY

AUTHORITY: Implementing and authorized by Sections 239, 401, 402, 409, 500, 502, 900, 901, 1700, and 1701 of the Unemployment Insurance Act [820 ILCS 405].

SOURCE: Emergency rules adopted at 45 Ill. Reg. 6310, effective April 29, 2021, for a maximum of 150 days.



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## SUBPART A: SHORT-TIME COMPENSATION PROGRAM

**Section 2870.1 Definitions**  
**EMERGENCY**

All other terms used in this Part shall have the meanings ascribed in Sections 200 through 247 and Section 502 of the Unemployment Insurance Act [820 ILCS 405], unless the context requires otherwise.

"Act" means the Unemployment Insurance Act [820 ILCS 405].

"Benefit Payment Amount" means the actual unemployment insurance benefits, including any dependent allowance provided in Section 401 of the Act, paid to an employee in the affected unit.

"Claimant" means a person who applies for benefits under the Act.

"Department" means the Illinois Department of Employment Security.

"DA = Dependent Allowance" means the amount of any dependent child or dependent spouse allowance which an individual may be eligible to receive under Section 401 of the Act.

"Director" means the Director of the Illinois Department of Employment Security.

"Employing unit" has the same meaning ascribed in Section 204 of the Act.

"Full-time work" is the number of hours a class of workers would customarily work if the employing unit had all of the work it could handle without working overtime. Except when the contrary is provided by a collective bargaining agreement or company policy, full-time work is customarily 40 hours per week. For example, 37.5 hours per week is the normal, full-time work for Illinois State employees under gubernatorial authority by State personnel policy.

"NH = Normal Hours" means the normal hours employees in the affected unit work each week. The maximum value allowed is 40 hours per week.

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"OH = Other Hours" means the total number of hours the employee in the affected unit worked for an employing unit or units other than hours worked under the short-time compensation (STC) plan.

"PH = Plan Hours" means the reduced hours that employees in the affected unit will work each week during the duration of the STC plan.

"STC Deduction" means the percentage value calculated using the claimant's WBA (defined below) and the WBAPA (defined below).

"TH = Total Hours" means the total sum of plan hours (PH) and other hours (OH).

"WBA = Weekly Benefit Amount" means an employee in the affected unit's weekly Unemployment Insurance Benefit Amount as specified on their Finding as provided in Section 701 of the Act.

"WBAPA = Weekly Benefit Amount Percentage Allowed" means the percentage of the WBA that will be paid to a claimant under the STC plan. This value cannot be less than 20% nor more than 60%.

"WorkShare IL" is the name of the STC program in Illinois under Section 502 of the Act. Notwithstanding this designation, hereafter in this Part, the STC program established by Section 502 of the Act is referred to as "Short-Time Compensation" or "STC".

**Section 2870.5 Application for Approval of Short-Time Compensation Plan  
EMERGENCY**

- a) In order to participate in the STC program, an employer must submit an STC plan application to the Department, and the Director must approve the plan. Employers are strongly encouraged to submit the application electronically via the Department's STC e-service portal located at [WorkShare.ides.illinois.gov](http://WorkShare.ides.illinois.gov). Filing an application can also be accomplished by calling 217-558-8150. Assistance in filing an application is also available at that number. The application will require the employer to provide information and make the certifications set forth in Section 502(C) of the Act.

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- b) A third-party administrator with a proper and fully executed IDES Power of Attorney on file with the Department may file an STC plan application and conduct all STC certifications and other STC business on behalf of an employer.
- c) An STC plan application will not be accepted by the Department if an employer fails to affirm the certifications as required by Section 502 of Act and contained in the application.
- d) An electronic submission of the STC plan application must be signed using an electronic signature in lieu of a written signature by clicking the "I Agree" check box beneath the certification statements prior to submission of the STC application. Electronic submission of the STC plan application has the same legal effect as a signature on a paper document.
- e) When the employer's STC plan application containing the required information and employer certifications is complete, signed, and submitted, the Director must either approve or disapprove the employer's STC plan application. Approval of the STC plan application establishes the terms of the employer's STC plan.

**Section 2870.10 Withdrawal of Application for Approval of Short-Time Compensation Plan**  
**EMERGENCY**

- a) At any point prior to the Director issuing a letter either approving or disapproving an STC plan, the employer may withdraw its application. The notice of withdrawal of the STC application must be sent to the Department via email to DES.WorkShare@illinois.gov.
- b) Once an employer has withdrawn its STC application, it may file a new application for approval of an STC plan by complying with the provisions of Section 2870.5.

**Section 2870.15 Approval or Disapproval of a Short-Time Compensation Plan**  
**EMERGENCY**

- a) The Director will have 45 days from the date of receipt of the STC plan application to approve or disapprove the employer's STC plan application. The Director's decision will be in writing and promptly communicated to the employer by sending the decision approving or disapproving the plan to the employer at its

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address or email account of record with the Department for purposes of STC. The Director's failure to issue a written decision within 45 days after the date of receipt of the STC plan application shall constitute a decision disapproving the plan.

- b) If an employer's STC plan application provides all the required information and certifications and otherwise meets the requirements of Section 502 of the Act, the Director must approve the application.
- c) If an employer's STC plan application fails to provide all the required information and certifications, the Director, through an authorized Department employee, will contact the employer to explain how the STC plan application is deficient and to allow the employer the opportunity to correct the deficiency or withdraw the STC plan application.
- d) A decision disapproving the STC plan application will clearly identify the reason or reasons for the disapproval of the plan application. A decision disapproving an STC plan application is final.
- e) An employer whose STC plan application for a particular affected unit has been disapproved must wait 30 days from the date of the decision of disapproval before submitting another STC plan application for that affected unit.
- f) An STC plan shall not be approved if the employer is delinquent in the filing of any reports required under the Act or in the payment of contributions, payments in lieu of contributions, interest, or penalties due under this Act as of the date of the employer's STC plan application. An employer that has appealed its delinquency is still considered to be delinquent for the purposes of this Part.

**Section 2870.20 Effective Dates of a Short-Time Compensation Plan  
EMERGENCY**

- a) All STC plans must begin on a Sunday and must end on a Saturday.
- b) The decision approving the STC plan shall specify the plan's start date and expiration date.
- c) The expiration date of the STC plan can be no later than the last Saturday of the 12<sup>th</sup> full calendar month after the month in which the start date of the plan occurs.

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EXAMPLE: Company B's STC plan is approved with a start date of Sunday, June 6, 2021. For purposes of Company B's STC plan, June 2021 is not a full calendar month, therefore, June 2022 is the 12<sup>th</sup> full calendar month that follows the month in which the start date of the plan occurs. Company B's STC plan can expire no later than Saturday, June 25, 2022, which is the last Saturday in the 12<sup>th</sup> full calendar month after the month in which the start date of the plan occurs.

- d) If an STC plan is revoked, the STC plan shall terminate on the date specified in the Director's written order of revocation.
- e) An employer may terminate a STC plan at any time upon written notice to the Director, with the plan ending on the Saturday of the week that the employer designates the plan is to terminate. The Director shall promptly notify each member of the affected unit of the termination date of the plan.
- f) At any time after an STC plan for a particular affected unit has expired or terminated prior to its initially established expiration date, an employer may submit an application under the provisions of Section 2870.5 to participate in another STC plan for that affected unit.

**Section 2870.25 Revocation of a Short-Time Compensation Plan  
EMERGENCY**

- a) At any time during the duration of an approved plan, the Director may revoke approval of the plan for good cause.
- b) Good cause to revoke approval of an STC plan includes the following:
  - 1) Failure of the employer to comply with the assurances given in the plan;

EXAMPLE 1: In its application for approval of its STC plan, Company C provides assurances that it will continue to provide health and retirement benefits to its employees in the affected unit under the same terms and conditions it would have if the employees' usual hours of work had not been reduced. Despite these assurances, Company C reduces health benefits to its employees in the affected unit in proportion to its reduction of their hours of work and Company C reduces the retirement benefits that it was providing to the employees in the affected unit. Both the reduction

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in the health benefits and the reduction of the retirement benefits constitute a failure of the employer to comply with assurances given in the STC plan. Either of these failures to comply with an assurance given in the plan constitutes good cause for the Director to revoke approval of the plan.

EXAMPLE 2: In its application for approval of its STC plan for its sales unit, Company D provides assurances that while the STC plan is in operation, it will not hire additional full-time or part-time employees for the affected unit, and that while the STC plan is in operation, it will not transfer employees to the affected unit. Despite these assurances, while the STC plan is in operation Company D hires one full-time employee and two part-time employees for its sales unit and transfers an employee to its sales unit who was working in its telemarketing department at the time of the transfer. Both the hiring of the new employees and the transfer into the unit of another employee constitute a failure of the employer to comply with an assurance given in the STC plan. Any of these failures to comply with an assurance given in the plan constitutes good cause for the Director to revoke approval of the plan.

- 2) Termination of the approval of the STC plan by the collective bargaining representative of employees in the affected unit as set forth in Section 502(F) of the Act;
- 3) Unreasonable revision of productivity standards for the affected unit as set forth in Section 502(F) of the Act. An unreasonable revision of productivity standards for the affected unit is a revision that is not proportional to the percentage of work hours reduced under the approved STC plan.

EXAMPLE: Company E has an approved STC plan in place for its assembly unit. The plan calls for a 20% reduction in hours for the workers in the affected unit. At some point after the plan has been approved, Company E announces to the workers in its assembly unit that even though their hours of work had been reduced by 20%, the employer is setting production standards at a 10% reduction from the standards that were in place before the approval of the STC plan. In this case, with a revision of productivity standards that is not in proportion with the reduction of hours, the revision of the employer's productivity standards

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for the affected unit is unreasonable and shall constitute good cause for the Director to revoke approval of the STC plan.

- 4) *Conduct or occurrences tending to defeat the intent and effective operation of the short-time compensation plan* as set forth in Section 502(F) of the Act. The intent and effective operation of the short-time compensation plan are to reduce unemployment, avoid layoffs, and provide employees unemployment benefits at a reduced rate.

EXAMPLE: Company F has in operation an approved STC plan for its affected warehouse unit. The plan calls for a 25% reduction in hours for the workers in the affected unit. The plan also calls for a temporary one-week shutdown between the Christmas and New Year holidays. After the workers in the affected unit return to work following the one-week shutdown, Company F lays off the two workers in the unit with the least seniority. The layoff of workers in the affected unit outside the temporary shutdown provided for in the plan defeats the intent and effective operation of the STC plan by failing to avoid layoffs, and constitutes good cause for the Director to revoke approval of the STC plan.

- 5) *Violation of any criteria on which approval of the plan was based* as set forth in Section 502 of the Act and certified to by the employer in the plan application (Sec. 502(F) of the Act);

EXAMPLE: Company G has in operation an approved STC plan for its affected transportation unit. The plan calls for a 25% reduction in hours for the workers in the affected unit. However, Company G reduces the workers' hours by 27%. The reduction of the workers' hours by a percentage other than that stated in the plan is a violation of a criterion on which approval of the plan was based and constitutes good cause for the Director to revoke approval of the STC plan.

- 6) The employer's failure to make timely filings of its wage reports while the plan is in operation;
- 7) The employer's failure to make timely and full payment of contributions or payments in lieu of contributions while the plan is in operation;
- 8) The employer's failure to provide the Department with required reports; or

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- 9) The employer's failure to allow the Director or an authorized Department employee to monitor and evaluate the plan.
- c) If the Director finds that good cause to revoke an STC plan exists, the Director, through an authorized Department employee, will contact the employer in the affected unit, and send it written notice informing it of the finding or findings of good cause to revoke the plan. The employer has seven calendar days from the issuance of such notice to contact the Department, in writing, in order to address and/or correct, the finding or findings of good cause to revoke the plan.
- d) Upon receipt and consideration of the employer's timely written correspondence set forth in subsection (c), if any, the Director may issue a decision revoking the plan. The decision of the Director to revoke an STC plan shall:
  - 1) be in writing;
  - 2) specify the reason or reasons for the revocation and the date the revocation is effective;
  - 3) be served upon the employer and all employees in the affected unit by sending the decision revoking the plan to the addresses or email accounts of record with the Department for purposes of STC; and
  - 4) be final.

**Section 2870.30 Modification of a Short-Time Compensation Plan  
EMERGENCY**

- a) When an employer seeks to modify an approved STC plan, the employer must promptly submit the request to modify the plan by sending an email to the Department at DES.WorkShare@illinois.gov. The request for modification must identify the provisions of the plan to be modified and explain why the modifications are necessary and consistent with the purposes for which the plan was approved and the certifications that the employer made in its application . The Director or authorized Department employee may request further information from the employer before a request to modify a plan is approved.



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EXAMPLE 1: Company H has in operation an approved STC plan for its affected design unit. The plan calls for a 50% reduction in hours for the workers in the affected unit. While the STC plan is in operation, economic conditions for Company H improve. Company H seeks to modify its plan to provide for a 20% reduction in hours for the workers in the affected unit. This proposed change in the percentage of reduction of hours worked falls within the parameters of permitted work reduction set forth in Section 502 of the Act. Such a proposed modification to the plan requires the employer to make a request to the Director for approval of the modification of the STC plan.

EXAMPLE 2: Company J has in operation an approved STC plan for its affected packing unit. The plan calls for a 20% reduction in hours for the workers in the affected unit. While the STC plan is in operation, economic conditions for Company J get worse. Company J seeks to modify its plan to provide for a 50% reduction in hours for the workers in the affected unit. This proposed change in the percentage of reduction of hours worked falls within the parameters of permitted work reduction set forth in Section 502 of the Act. Such a proposed modification to the plan requires the employer to make a request to the Director for approval of the modification of the STC plan.

EXAMPLE 3: Company N has in operation an approved STC plan for its affected parts unit. The plan provides for a 25% reduction in hours worked for the employees in the affected unit. Due to a snowstorm in western states, there is a delay in the shipment of parts to Company N. Company N is informed by its supplier that the delay will last one week. With this information, for the one week of the delay, Company N wishes to reduce the hours of work of its employees in the affected unit by 60%, but by no more than 60%. In this situation, Company N must make a request to the Director for approval to modify the STC plan prior to the change in hours worked.

EXAMPLE 4: Company K has an approved STC plan in operation for its affected factory unit. While the plan is in operation, Company L succeeds to substantially all of the employing enterprises of Company K, which includes the factory at which all of the employees in the affected unit work. The Director receives a request to modify the approved STC plan. Under these circumstances, the Director will require the new employer (Company L) to submit a new application for approval of a plan instead of treating the correspondence as a request to modify an approved plan.

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- b) The voluntary separation of an affected employee from employment with the employer does not require a modification of the plan, but this separation must be reported to the Department at DES.WorkShare@illinois.gov on or before the week the departure is effective. A non-voluntary separation of an affected employee requires the employer to request a modification of the plan under this Section.

EXAMPLE 1: Company M has in operation an approved STC plan for its affected ironwork unit. Mr. A is a worker in the affected unit. While the STC plan is in operation, Mr. A finds a new job and separates from Company M. The affected unit now has one fewer worker in it than it had at the time of the STC plan approval. Mr. A's departure from Company M does not require the employer to make a request to the Director for approval to modify the STC plan so long as the affected unit has no fewer than 2 workers, and so long as the plan proceeds in operation as it was approved. Nonetheless, the employer shall promptly notify the Director that Mr. A is no longer a participant in the plan.

EXAMPLE 2: Company M has in operation an approved STC plan for its affected ironwork unit. Ms. B is a worker in the affected unit. Company M discharges Ms. B from its employment, alleging that the discharge was for misconduct. Ms. B's discharge is a non-voluntary separation of an affected employee from the affected unit and requires a modification of the plan.

- c) A modification of an STC plan may change the start date of a plan, may shorten the duration of a plan, but it may not extend the expiration date of the plan as it was approved.
- d) When an employer requests a modification of an approved plan, the Director will have 30 days from the date of receipt of the request for modification of the STC plan to approve the proposed modification in whole or in part, or to disapprove the proposed modification. The Director's decision shall be final, and promptly communicated in writing to the employer to the address or email account of record with the Department for purposes of STC. The Director's failure to issue a written decision within 30 days after the date of receipt of the request to modify the plan constitutes a decision disapproving the request for modification.

**Section 2870.35 Employee's Eligibility for Short-Time Compensation Benefits  
EMERGENCY**

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- a) An individual who is an employee of an affected unit under an approved STC plan is eligible to receive STC benefits with respect to any week only if that individual:
- 1) Has filed a claim for STC unemployment insurance benefits, or has an existing claim for unemployment insurance benefits with a benefit year in effect at the time of the approved STC plan and has reopened that claim;
  - 2) Has completed a one-time certification process at [WorkShare.ides@illinois.gov](mailto:WorkShare.ides@illinois.gov) or by calling 217-558-8150;
  - 3) Is eligible for unemployment insurance benefits pursuant to Section 500(E) of the Act;
  - 4) Is available for all the individual's STC plan hours or is compensated for time off of work;

EXAMPLE 1: Company P has an approved STC plan in operation for its affected factory unit. The STC plan calls for a 20% reduction in hours for the workers in the affected unit. The employer does not have paid sick leave or paid vacation leave policies. Bob, an employee in the affected factory unit, is scheduled to work 32 hours Monday through Thursday under the approved STC plan. Bob calls off work on Monday. Bob then works the remainder of his scheduled hours. Since Bob did not work all his scheduled hours or receive compensation for the 8 hours he did not work on Monday, Bob is not eligible for STC benefits that week.

EXAMPLE 2: Same facts as EXAMPLE, 1 except the employer has paid sick leave and paid vacation leave policies. When Bob calls off work that Monday he requests and receives 8 hours of sick leave pay. Bob would be eligible for STC benefits that week because the 8 hours of sick leave compensation is considered hours worked.

EXAMPLE 3: Company Q has an approved STC plan in operation for its affected billing unit. The STC plan calls for a 20% reduction in hours for the workers in the affected unit. The employer's policies provide for paid holidays. Jennifer, an employee in the affected unit, is scheduled to work 32 hours Monday through Thursday under the approved STC plan. Friday is a paid holiday and Jennifer receives 8 hours' holiday pay. Since

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compensated hours are considered hours worked, Jennifer would not be eligible for STC benefits that week because the paid holiday puts the reduction in Jennifer's regular work hours below 20% provided for in the STC plan.

EXAMPLE 4: Company R has an approved STC plan in operation for its affected shipping unit. The STC plan calls for a 20% reduction in hours for the workers in the affected unit. The employer's policies do not provide for paid holidays. John, an employee in the affected unit, is scheduled to work 32 hours Monday through Thursday under the approved STC plan. Friday is a holiday and John is not scheduled to work. John would be eligible for the STC benefits that week because the holiday does not affect the reduction in John's regular work hours below 20% provided for in the STC plan.

EXAMPLE 5: Company S has an approved STC plan in operation for its affected factory unit. The STC plan calls for a 40% reduction in hours for the workers in the affected unit. The employer's policies provide for paid holidays. Elizabeth, an employee in the affected factory unit, is scheduled to work 24 hours Monday through Wednesday under the approved STC plan. Thursday is a holiday and Elizabeth is not scheduled to work but is paid 8 hours of holiday pay. Elizabeth would be eligible for the STC benefits that week because the combination of reduced hours and holiday pay (32 hours) would amount to a 20% reduction in her regular hours and is within the parameters provided in Section 502 of the Act. However, for that week, Elizabeth's STC benefit amount would be calculated on a 20% reduction in hours, rather than on a 40% reduction in hours (see Section 2870.40).

- 5) Works hours during the week that fall within the reduction of hours of work provided under the STC plan; and
  - 6) Is not otherwise disqualified for unemployment insurance benefits under the Act.
- b) An employee in an affected unit under an approved STC plan whose usual weekly hours of work have been reduced is deemed unemployed in any week for which the employee works less than the normal weekly hours of work in accordance with an approved STC plan.

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**Section 2870.40 Short-Time Compensation Benefits' Formulas  
EMERGENCY**

- a) Consistent with the provisions of Section 401 of the Act pertaining to rounding both an individual's weekly benefit amount and any dependent allowance to the next higher dollar if calculations result in a weekly benefit amount or a dependent allowance in an amount that is not already a multiple of one dollar, the STC weekly benefit amount will be the product of:
- 1) the percentage of reduction in the individual's usual weekly hours of work; and
  - 2) the sum of the regular weekly benefit amount for a week of total unemployment plus any applicable dependent allowance which the individual may be eligible to receive under Section 401 of the Act.
- b) A week for which benefits are paid under this Part will be reported as a week of STC benefits. The formulas used to calculate an individual's STC benefit payment for a week are as follows.
- 1) For an individual who is not eligible for any dependent allowance under Section 401 of the Act:

$$\text{Total Hours (TH)} = (\text{PH}) + (\text{OH})$$

$$\text{WBAPA} = 1 - ((\text{TH}) \div (\text{NH}))$$

$$\text{STC Deduction} = (\text{WBA}) \times (1 - (\text{WBAPA}))$$

$$\text{Benefit Payment Amount} = ((\text{WBA}) - (\text{STC Deduction})) \text{ or}$$

$$\text{Benefit Payment Amount} = (\text{WBA} \times \text{WBAPA})$$

EXAMPLE 1: Bob is an employee of an affected unit under an approved STC plan, which provides for a 20% reduction in Bob's normal hours. Bob normally works 40 hours a week. Bob's hours were reduced to 32 when the employer's STC plan was approved effective June 6, 2021. Bob filed a new claim for benefits. Bob's regular unemployment weekly benefit amount is \$500. Bob worked all his scheduled hours during the week ending June 12, 2021. Bob does not have a second job. Bob's STC benefit payment amount for the week ending June 12, 2021 is \$100, using the formulas as shown below.

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Using the formulas:

$$32 + 0 = 32 \text{ (TH)}$$

$$1 - (32 / 40) = 1 - (.80) = .20 \text{ (WBAPA)}$$

$$500 \times (1 - .20) = 500 \times .80 = 400 \text{ (STC Deduction)}$$

$$500 - 400 = 100 \text{ (Benefit Payment Amount) or}$$

$$500 \times .20 = 100 \text{ (Benefit Payment Amount)}$$

$$\text{\$100 (Benefit Payment Amount)}$$

EXAMPLE 2: Mary is an employee of an affected unit under an approved STC plan, which provides for a 20% reduction in Mary's normal hours. Mary normally works 40 hours a week. Mary's hours were reduced to 32 when the employer's STC plan was approved effective June 6, 2021. Mary filed a new claim for benefits. Mary's regular unemployment weekly benefit amount is \$484. Mary worked all scheduled hours during the week ending June 12, 2021. Mary does not have a second job. Mary's STC benefit payment amount for the week ending June 12, 2021 is \$97, using the formulas as shown below.

Using the formulas:

$$32 + 0 = 32 \text{ (TH)}$$

$$1 - (32 / 40) = 1 - (.80) = .20 \text{ (WBAPA)}$$

$$484 \times (1 - .20) = 484 \times .80 = 387.20 \text{ (STC Deduction)}$$

$$484 - 387.20 = 96.80 \text{ (Benefit Payment Amount) or}$$

$$484 \times .20 = 96.80 \text{ (Benefit Payment Amount)}$$

$$\text{\$97 (Benefit Payment Amount due to rounding)}$$

- 2) For an individual who is eligible for a dependent allowance under Section 401 of the Act:

$$\text{Total Hours (TH)} = (\text{PH}) + (\text{OH})$$

$$\text{WBAPA} = 1 - ((\text{TH}) \div (\text{NH}))$$

$$\text{STC Deduction} = [(\text{WBA}) + (\text{DA})] \times (1 - (\text{WBAPA}))$$

$$\text{Benefit Payment Amount} = [(\text{WBA}) + (\text{DA})] - (\text{STC Deduction}) \text{ or}$$

$$\text{Benefit Payment Amount} = [(\text{WBA}) + (\text{DA})] \times \text{WBAPA}$$

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EXAMPLE 1: Same facts as in EXAMPLE 1 in subsection (b)(1), except Bob is eligible for \$188 in dependent child allowance. Bob's STC benefit payment amount, including dependent allowance, for the week ending June 12, 2021 is \$138, using the formulas as shown below.

Using the formulas:

$$32 + 0 = 32 \text{ (TH)}$$

$$1 - (32 / 40) = 1 - (.80) = .20 \text{ (WBAPA)}$$

$$(500 + 188) \times (1 - .20) = 688 \times .80 = 550.40 \text{ (STC Deduction)}$$

$$688 - 550.40 = 137.60 \text{ (Benefit Payment Amount) or}$$

$$688 \times .20 = 137.60$$

(Of the 137.60, 100.00 constitutes Benefit Payment Amount and 37.60 constitutes Dependent Allowance)

$$100 \text{ (Benefit Payment Amount due to rounding) +}$$

$$38 \text{ (Dependent Allowance due to rounding) =}$$

$$\text{\$138 (Benefit Payment Amount Plus Dependent Allowance)}$$

EXAMPLE 2: Same facts as in EXAMPLE 2 in subsection (b)(1), except Mary is eligible for \$181 in dependent child allowance. Mary's STC benefit payment amount, including dependent allowance, for the week ending June 12, 2021 is \$134, using the formulas as shown below.

Using the formulas:

$$32 + 0 = 32 \text{ (TH)}$$

$$1 - (32 / 40) = 1 - (.80) = .20 \text{ (WBAPA)}$$

$$(484 + 181) \times (1 - .20) = 665 \times .80 = 532 \text{ (STC Deduction)}$$

$$665 - 532 = 133 \text{ (Benefit Payment Amount) or}$$

$$665 \times .20 = 133$$

(Of the 133, 96.80 constitutes Benefit Payment Amount and 36.20 constitutes Dependent Allowance)

$$97 \text{ (Benefit Payment Amount due to rounding) +}$$

$$37 \text{ (Dependent Allowance due to rounding) =}$$

$$\text{\$134 (Benefit Payment Amount Plus Dependent Allowance)}$$

- c) An individual may be eligible for STC benefits or unemployment insurance benefits, as appropriate, except that:

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF EMERGENCY RULES

- 1) no individual shall be eligible for both STC benefits and unemployment insurance benefits for the same week;
  - 2) no individual shall be eligible for combined benefits (excluding any payments attributable to a dependent allowance under Section 401 of the Act) in any benefit year in an amount more than the individual's maximum benefit amount; and
  - 3) no individual shall be paid STC benefits for more than 52 weeks under a STC plan.
- d) The STC benefits paid to an individual in an affected unit (excluding any payments attributable to a dependent allowance under Section 401 of the Act) will be deducted from the maximum benefit amount established for that individual in the benefit year.
- e) The following provisions apply to individuals who work for both a STC employer and another employer during weeks covered by the approved STC plan:
- 1) If combined hours of work in a week for both employers do not result in a reduction of at least 20% of the usual weekly hours of work with the STC employer, the individual is not eligible for benefits.

EXAMPLE: Same facts as in EXAMPLE 1 in subsection (b)(1), except Bob has a second job. In the week ending June 12, 2021, Bob worked all regular plan hours and an additional 4 hours for the second employer. For the week, Bob worked a total of 36 hours, consisting of 32 hours worked for the STC employer and 4 hours worked for a second employer. In total, Bob's reduction of hours worked for the week, as compared to a normal 40 hours of work for the STC employer, is 4 hours, which is a 10% reduction in the normal hours of work for the STC employer. Since Bob's reduction in total hours worked amounts to only 10% of the normal STC hours, Bob's short-time weekly benefit amount would be \$0, as the employer's STC plan only allows for a 20% reduction. Bob's weekly benefit amount percentage amount (WBAPA) equaling only 10% of the normal weekly hours is lower than the 20% under the STC plan (20% is also the lowest percentage of reduction of hours worked allowed for a STC plan under Section 502 of the Act). Therefore, Bob is not eligible for STC benefits that week. See formulas below:



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$$32 + 4 = 36 \text{ (TH)}$$

$$1 - (36 / 40) = 1 - (.90) = .10 \text{ (WBAPA)}$$

$$500 \times (1 - .10) = 500 \times .90 = 450 \text{ (STC Deduction)}$$

- 2) If combined hours of work for both employers results in a reduction equal to or greater than 20% of the usual weekly hours of work for the STC employer, the STC benefit amount payable to the individual is reduced for that week and is determined by multiplying the percentage by which the combined hours of work have been reduced by the weekly benefit amount for a week of total unemployment.

EXAMPLE: Same facts as in EXAMPLE 1 in subsection (b)(1), except the employer's STC plan provides for a 50% reduction in Bob's normal hours. Bob works his 20 plan hours and an additional 4 hours for a second employer. Bob's weekly benefit payment amount would be \$200. See formulas below.

$$20 + 4 = 24 \text{ (TH)}$$

$$1 - (24 / 40) = 1 - (.60) = .40 \text{ (WBAPA)}$$

$$500 \times (1 - .40) = 500 \times .60 = 300 \text{ (STC Deduction)}$$

$$500 - 300 = 200 \text{ (Benefit Payment Amount) or}$$

$$500 \times .40 = 200 \text{ (Benefit Payment Amount)}$$

- 3) If an individual worked the reduced percentage of the usual weekly hours of work for the STC employer, is available for all usual hours of work with the STC employer, and did not work any hours for the other employer either because of the lack of work with that employer or because the individual is excused from work with the other employer, the individual is eligible for STC benefits for that week.

EXAMPLE: With the same facts as in EXAMPLE 1 in subsection (b)(1), Bob's weekly benefit payment amount would be \$100.

$$32 + 0 = 32 \text{ (TH)}$$

$$1 - (32 / 40) = 1 - (.80) = .20 \text{ (WBAPA)}$$

$$500 \times (1 - .20) = 500 \times .80 = 400 \text{ (STC Deduction)}$$

$$500 - 400 = 100 \text{ (Benefit Payment Amount) or}$$

$$500 \times .20 = 100 \text{ (Benefit Payment Amount)}$$

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- 4) An individual who is not provided any work during a week by the STC employer, or any other employer, and who is otherwise eligible for unemployment insurance, is eligible for the amount of regular unemployment insurance benefits plus any dependent allowance for which that individual may be eligible.

EXAMPLE: Same facts as in EXAMPLE 1 in subsection (b)(1), except that the STC employer shut down for a week of inventory and maintenance and Bob did not work any STC plan hours, nor did Bob work for another employer. Since the reduction in Bob's hours is more than the 60% allowed under Section 502 of the Act, Bob would not be eligible for any STC benefits. However, Bob would be entitled to regular unemployment insurance benefits, provided he is otherwise eligible.

- 5) An individual who is not provided any work by the STC employer during a week, but who works for another employer and is otherwise eligible may be paid unemployment insurance for that week subject to the disqualifying income and other provisions applicable to claims for regular unemployment insurance.

EXAMPLE: Same facts as in EXAMPLE 1 in subsection (b)(1), except that the STC employer shut down for a week of inventory and maintenance and Bob did not work any STC plan hours. Bob did, however, work 10 hours for another employer and earned \$400 in gross income in the week ending June 12, 2021. Since the reduction in Bob's STC plan hours is more than the 60% allowed under Section 502 of the Act, Bob would not be eligible for any STC benefits. However, Bob could be eligible for reduced regular unemployment insurance benefits under the provisions of Section 402 of the Act.

**Section 2870.45 Overpayments of Short-Time Compensation Benefits  
EMERGENCY**

- a) Overpayments of unemployment insurance benefits under the Act may be recovered from an individual receiving STC benefits in the manner provided under Sections 900 and 901 of the Act (see Section 2835.TABLE A).

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## NOTICE OF EMERGENCY RULES

- b) Overpayments of benefits paid under an STC plan may be recovered from an individual receiving unemployment insurance benefits under the Act in the manner provided under Sections 900 and 901 of the Act (see Section 2835.TABLE A).

**Section 2870.50 Coordination of Short-Time Compensation Benefits with Extended Benefits  
EMERGENCY**

- a) Any STC benefit received by an individual is considered to be "regular compensation" as the term is used under Federal-State Extended Unemployment Compensation Act of 1970 (PL 91-373; codified in note to 26 USC 3304).
- b) An individual who has received all of the STC or combined STC and regular unemployment insurance benefits that are available in a benefit year shall be an "exhaustee" for purposes of extended benefits under the provisions of Section 409 of the Act.
- c) Extended benefits paid to a participant in a STC plan are to be charged or noncharged to an employer who is subject to the payment of contributions, and attributed or non-attributed to an employer making payments in lieu of contributions, in the same manner and to the same extent as extended benefits paid to an exhaustee of regular unemployment insurance.

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## NOTICE OF EMERGENCY RULE

- 1) Heading of the Part: Periods of Extended Benefits
- 2) Code Citation: 56 Ill. Adm. Code 2970
- 3) Section Number: 2970.1      Emergency Action: New Section
- 4) Statutory Authority: Implementing and authorized by Sections 409, 1700, and 1701 of the Unemployment Insurance Act [820 ILCS 405].
- 5) Effective Date of Rule: April 29, 2021
- 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: This rule will not expire before the end of the 150 day period.
- 7) Date Filed with the Index Department: April 29, 2021
- 8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This rule addresses a technical issue raised by the U.S. Department of Labor in the implementation of the provisions of the Continued Assistance Act (PL 116-260) in Illinois that could affect benefits received by unemployment insurance claimants in Illinois. Without an emergency rule, the Department would need to transition claimants between programs, potentially leading to claimant confusion and possible overpayments. Filing the rule as an emergency will avoid these issues.
- 10) A Complete Description of the Subjects and Issues Involved: This rule addresses a technical issue raised by the U.S. Department of Labor (USDOL) arising from the time frame in which the former White House administration signed the Continued Assistance Act (PL 116-260). This rule avoids the appearance of a one-day gap in federal funding of Extended Benefits (EB) between the end of the CARES Act (PL 116-136) and the beginning of the Continued Assistance Act. The rule confirms that there was no gap, and the EB period continued uninterrupted for Illinois unemployment insurance claimants who were eligible to receive EB.
- 11) Are there any rulemakings pending on this Part? No

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF EMERGENCY RULE

- 12) Statement of Statewide Policy Objective: This rulemaking neither creates nor expands a State Mandate.
- 13) Information and questions regarding this emergency rule shall be directed to:

Kevin Lovellette, Chief Legal Counsel  
Illinois Department of Employment Security  
33 South State Street – Room 910  
Chicago IL 60603

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

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

## DEPARTMENT OF EMPLOYMENT SECURITY

## NOTICE OF EMERGENCY RULE

TITLE 56: LABOR AND EMPLOYMENT  
CHAPTER IV: DEPARTMENT OF EMPLOYMENT SECURITY  
SUBCHAPTER i: EXTENDED BENEFITSPART 2970  
PERIODS OF EXTENDED BENEFITS

## Section

2970.1 Extended Benefit Period and High Unemployment Period During COVID-19  
Pandemic

## EMERGENCY

AUTHORITY: Implementing and authorized by Sections 409, 1700, and 1701 of the Unemployment Insurance Act [820 ILCS 405].

SOURCE: Emergency rules adopted at 45 Ill. Reg. 6332, effective April 29, 2021, for a maximum of 150 days.

**Section 2970.1 Extended Benefit Period and High Unemployment Period During COVID-19 Pandemic**  
**EMERGENCY**

As of the week beginning December 27, 2020, notwithstanding Section 409(A)(1) of the Act, the extended benefit period beginning May 24, 2020 by virtue of the trigger specified in Section 409(A)(2)(b) of the Act being met remained in effect without lapse, and the high unemployment period beginning July 5, 2020 by virtue of the trigger specified in Section 409(F)(2) of the Act being met remained in effect without lapse. Thereafter, the extended benefit period as described above shall remain in effect through the third week after the first week for which the trigger specified in Section 409(A)(2)(b) of the Act is not met, and benefits payable under the high unemployment period remained in effect until February 20, 2021 under the trigger specified in Section 409(F)(2) of the Act.

## DEPARTMENT OF PUBLIC HEALTH

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- 1) Heading of the Part: Home Health, Home Services, and Home Nursing Agency Code
- 2) Code Citation: 77 Ill. Adm. Code 245
- 3) 

<u>Section Numbers:</u>	<u>Emergency Actions:</u>
245.200	Amendment
245.205	Amendment
- 4) Statutory Authority: Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]
- 5) Effective Date of Rules: May 3, 2021
- 6) If these emergency rules are to expire before the end of the 150-day period, please specify the date on which they are to expire: This emergency rulemaking will expire at the end of the 150-day period, upon repeal of the emergency rulemaking, or upon adoption of permanent rulemaking, whichever comes first.
- 7) Date Filed with the Index Department: May 3, 2021
- 8) A copy of the emergency rules, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This rulemaking brings this Part into compliance with State and federal law to allow home health agencies to accept orders from advanced practice registered nurses and physician assistants. The Home Health, Home Services, and Home Nursing Agency Licensing Act has permitted home health agencies to accept orders from advanced practice registered nurses and physician assistants since 2013. The federal CARES Act permitted this in federal law during the COVID-19 public health emergency. On April 30, 2020, federal CMS issued an interim final rulemaking implementing this authority on a permanent basis, applicable to services provided on or after March 1, 2020, even after the conclusion of the public health emergency.

This emergency rulemaking is also adopted in response to Governor JB Pritzker's Gubernatorial Disaster Proclamations related to COVID-19. Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100/5-45] defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." The COVID-19 outbreak in Illinois is a significant public health crisis that warrants this emergency rule. The best way to serve the public interest

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY AMENDMENTS

and to protect the safety and welfare of the vulnerable population served by home health agencies is to bring 77 Ill. Adm. Code 245 into compliance with federal and State law through emergency rulemaking, pending adoption of proposed rulemaking. This will ensure continuity of regulatory oversight and eliminate confusion that may arise from conflict between 77 Ill. Adm. Code 245 and State and federal law.

- 10) A Complete Description of the Subject and Issues Involved: This rulemaking brings this Part into compliance with State and federal law to allow home health agencies to accept orders from advanced practice registered nurses and physician assistants.
- 11) Are there any other rulemakings pending on this Part? No
- 12) Statement of Statewide Policy Objective: This rulemaking will not create or expand a State mandate.
- 13) Information and questions regarding this emergency rule shall be directed to:

Department of Public Health  
Attention: Tracey Trigillo, Rules Coordinator  
Lincoln Plaza  
524 South 2nd Street, 6<sup>th</sup> Floor  
Springfield IL 62701

217/782-1159  
dph.rules@illinois.gov

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 b: HOSPITALS AND AMBULATORY CARE FACILITIES

## PART 245

HOME HEALTH, HOME SERVICES,  
AND HOME NURSING AGENCY CODE

## SUBPART A: GENERAL PROVISIONS

## Section

245.1 COVID-19 Emergency Provisions

## EMERGENCY

245.10 Purpose

245.20 Definitions

245.25 Incorporated and Referenced Materials

## SUBPART B: OPERATIONAL REQUIREMENTS

## Section

245.30 Organization and Administration

245.40 Staffing and Staff Responsibilities

245.50 Services (Repealed)

245.55 Vaccinations

245.60 Annual Financial Statement

245.70 Home Health Aide Training

245.71 Qualifications and Requirements for Home Services Workers

245.72 Health Care Worker Background Check

245.75 Infection Control

## SUBPART C: LICENSURE PROCEDURES

## Section

245.80 Licensure Required

245.90 License Application

245.95 License Application Fee, Single or Multiple Licenses

245.100 Provisional License

245.110 Inspections and Investigations

245.115 Complaints

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245.120	Violations
245.130	Adverse Licensure Actions
245.140	Penalties and Fines
245.150	Hearings

## SUBPART D: CLIENT/PATIENT SERVICES

## Section

245.200 Services – Home Health

EMERGENCY

245.205 Services – Home Nursing Agencies

EMERGENCY

245.210 Services – Home Services Agencies

245.211 Services – Alzheimer's Disease and Related Dementias

245.212 Services – Home Nursing Placement Agency

245.214 Services – Home Services Placement Agency

245.220 Client Service Contracts – Home Nursing and Home Services Agencies

245.225 Client Service Contracts – Home Nursing Placement Agency and Home Services  
Placement Agency

245.240 Quality Improvement Program

245.250 Abuse, Neglect, and Financial Exploitation Prevention and Reporting

**AUTHORITY:** Implementing and authorized by the Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55].

**SOURCE:** Adopted at 2 Ill. Reg. 31, p. 77, effective August 2, 1978; emergency amendment at 3 Ill. Reg. 38, p. 314, effective September 7, 1979, for a maximum of 150 days; amended at 3 Ill. Reg. 40, p. 153, effective October 6, 1979; emergency amendment at 4 Ill. Reg. 18, p. 129, effective April 21, 1980, for a maximum of 150 days; amended at 4 Ill. Reg. 40, p. 56, effective September 23, 1980; emergency amendment at 6 Ill. Reg. 5855, effective April 28, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 11006, effective August 30, 1982; amended at 7 Ill. Reg. 13665, effective October 4, 1983; codified at 8 Ill. Reg. 16829; amended at 9 Ill. Reg. 4836, effective April 1, 1985; amended at 14 Ill. Reg. 2382, effective February 15, 1990; amended at 15 Ill. Reg. 5376, effective May 1, 1991; amended at 18 Ill. Reg. 2414, effective January 22, 1994; emergency amendments at 20 Ill. Reg. 488, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3273, effective February 15, 1996; amended at 20 Ill. Reg. 10033, effective July 15, 1996; amended at 22 Ill. Reg. 3948, effective February 13, 1998; amended at 22 Ill. Reg. 22050, effective December 10, 1998; amended at 23 Ill. Reg. 1028, effective January 15, 1999; amended at 24 Ill.

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Reg. 17213, effective November 1, 2000; amended at 25 Ill. Reg. 6379, effective May 1, 2001; amended at 26 Ill. Reg. 11241, effective July 15, 2002; amended at 28 Ill. Reg. 3487, effective February 9, 2004; amended at 28 Ill. Reg. 8094, effective May 26, 2004; amended at 29 Ill. Reg. 20003, effective November 28, 2005; amended at 31 Ill. Reg. 9453, effective June 25, 2007; amended at 32 Ill. Reg. 8949, effective June 5, 2008; amended at 34 Ill. Reg. 5711, effective April 5, 2010; amended at 39 Ill. Reg. 16406, effective December 10, 2015; amended at 43 Ill. Reg. 9134, effective August 12, 2019; emergency amendment at 44 Ill. Reg. 5929, effective March 25, 2020, for a maximum of 150 days; emergency expired August 21, 2020; emergency amendment at 44 Ill. Reg. 14328, effective August 24, 2020, for a maximum of 150 days; emergency rule expired January 20, 2021; emergency amendment at 45 Ill. Reg. 1710, effective January 21, 2021, for a maximum of 150 days; emergency amendment at 45 Ill. Reg. 6335, effective May 3, 2021, for a maximum of 150 days.

## SUBPART D: CLIENT/PATIENT SERVICES

**Section 245.200 Services – Home Health****EMERGENCY**

- a) Each home health agency shall provide skilled nursing service and at least one other home health service on a part-time or intermittent basis. The agency staff shall directly provide basic skilled nursing service. The agency staff may provide other home health services directly or through a contractual purchase of services. Additional skilled specialty nursing services and use of additional nursing staff to meet changes in caseload may be provided by contract. All services shall be provided in accordance with the orders of the patient's health care professional~~physician or podiatrist~~, under a plan of treatment established by the health care professional~~physician or podiatrist~~, and under the supervision of agency staff.
- b) The agency shall state in writing what services will be provided directly and what services will be provided under contractual arrangements.
- c) Services provided under contractual arrangements shall be through a written agreement that includes, but is not limited to, the following:
  - 1) A detailed description of the services to be provided;

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- 2) Provision for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies;
  - 3) Designation of full responsibility for agency control over contracted services;
  - 4) Procedures for submitting clinical and progress notes;
  - 5) Charges for contracted services;
  - 6) Statement of responsibility of liability and insurance coverage;
  - 7) Period of time in effect;
  - 8) Date and signatures of appropriate authorities; and
  - 9) Provision for termination of services.
- d) Acceptance of Patients. Patient acceptance and discharge policies shall include, but not be limited to, the following:
- 1) Persons shall be accepted for health services on a part-time or intermittent basis in accordance with a plan of treatment established by the patient's health care professional~~physician or podiatrist~~. This plan shall be promulgated in writing within 14 days after acceptance and signed by the health care professional~~physician~~ within 30 days after the start of the care date.
  - 2) Prior to acceptance of a patient, the agency shall inform the person of the agency's charges for the various services that it offers.
  - 3) No person shall be refused service because of age, race, color, sex, marital status, national origin or source of payment. An agency is not required to accept a patient whose source of payment is less than the cost of services.
  - 4) Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing and social needs can be met adequately by the agency in the patient's place of residence.

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- 5) When services are to be terminated by the home health agency, the patient is to be notified three working days in advance of the date of termination, stating the reason for termination. This information shall be documented in the clinical record. When any continuing care is indicated, a plan shall be developed or a referral made.
  - 6) Services shall not be terminated until the RN, or the appropriate therapist, or both, in consultation with the patient's health care professional~~physician or podiatrist~~, consider termination appropriate or arrangements are made for continuing care.
- e) Plan of Treatment
- Skilled nursing and other home health services shall be in accordance with a plan based on the patient's diagnosis and an assessment of the patient's immediate and long-range needs and resources. The plan of treatment is established in consultation with the home health services team, which includes the patient's health care professional~~physician or podiatrist~~, pertinent members of the agency staff, the patient, and members of the patient's family. The plan of treatment shall include:
- 1) Diagnoses;
  - 2) Functional limitations and rehabilitation potential;
  - 3) Expected outcomes for the patient;
  - 4) The patient's health care professional~~physician's or podiatrist's~~ regimen of:
    - A) Medications;
    - B) Treatments;
    - C) Activity;
    - D) Diet;
    - E) Specific procedures considered essential for the health and safety of the patient;

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- F) Mental status;
  - G) Frequency of visits;
  - H) Equipment required;
  - I) Instructions for timely discharge or referral; and
  - J) Assessed need for influenza and pneumococcal vaccination;
- 5) The patient's health care professional~~physician's or podiatrist's~~ signature and date.
- f) Consultation with the patient's health care professional~~physician or podiatrist~~ on any modifications in the plan of treatment deemed necessary shall be documented, and the patient's health care professional's~~physician's or podiatrist's~~ signature shall be obtained within 30 days after any modification of the medical plan of treatment.
- 1) The home health services team shall review the plan every 60 days, or more often if the patient's condition warrants.
  - 2) An updated plan of treatment shall be given to the patient's health care professional~~physician or podiatrist~~ for review, for any necessary revisions, and for signature every 60 days, or more often as indicated.
- g) Patient Care Plan
- 1) Home health services from members of the agency staff, as well as those under contractual arrangements, shall be provided in accordance with the plan of treatment and the patient care plan. The patient care plan shall be written by appropriate members of the home health services team based upon the plan of treatment and an assessment of the patient's needs, resources, family and environment. An RN shall make the initial assessment. An assessment by other members of the health services team shall be made on orders of the patient's health care professional~~physician, or podiatrist~~ or by request of an RN. If the patient's health care professional~~physician~~ has ordered only therapy services, the appropriate

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therapist (physical therapist, speech-language pathologist or occupational therapist) may perform the initial assessment.

- 2) The patient care plan shall be updated as often as the patient's condition indicates. The plan shall be maintained as a permanent part of the patient's record. The patient care plan shall indicate:
  - A) Patient problems;
  - B) Patient's goals, family's goals, and service goals;
  - C) Service approaches to modify or eliminate problems;
  - D) The staff responsible for each element of service;
  - E) Anticipated outcome of the service approach with an estimated time frame for completion; and
  - F) Potential for discharge from service.

h) Clinical Records

- 1) Each patient shall have a clinical record identifiable for home health services and maintained by the agency in accordance with accepted professional standards. Clinical records shall contain:
  - A) Appropriate identifying information for the patient, household members and caretakers, medical history, and current findings;
  - B) A plan of treatment signed by the patient's health care professional~~physician or podiatrist~~;
  - C) A patient care plan developed by the home health services team in accordance with the patient's health care professional's~~physician's or podiatrist's~~ plan of treatment;
  - D) A noted medication list with dates reviewed and revised and date sent to the patient's health care professional~~physician or podiatrist~~;

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY AMENDMENTS

- E) Initial and periodic patient assessments by the RN that include documentation of the patient's functional status and eligibility for service;
- F) Assessments made by other members of the home health services team;
- G) Signed and dated clinical notes for each contact that are written the day of service and incorporated into the patient's clinical record at least weekly;
- H) Reports on all patient home health care conferences;
- I) Reports of contacts with the patient's [health care professional](#)~~physician or podiatrist~~ by patient and staff;
- J) Indication of supervision of home health services by the supervising nurse, an RN, or other members of the home health services team;
- K) Written and signed confirmation of the patient's [health care professional](#)~~physician's or podiatrist's~~ interim verbal orders;
- L) A discharge summary giving a brief review of service, patient status, reason for discharge, and plans for post-discharge needs of the patient. A discharge summary may suffice as documentation to close the patient record for one-time visits and short-term or event-focused or diagnoses-focused interventions. A completed discharge summary shall be sent to the primary care physician or other health care professional who will be responsible for providing care and services to the patient after discharge from the home health agency (if any) within five business days after the patient's discharge; and
- M) A copy of appropriate patient transfer information. When a patient is transferred to another health facility or health agency for continued health services, the patient transfer records must be sent to the new health facility or health agency within two business days after a planned transfer, if the patient's care will be



## DEPARTMENT OF PUBLIC HEALTH

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immediately continued in a health care facility. In the event of an unplanned patient transfer, the transfer information must be sent within two business days from when the home health agency became aware of the unplanned transfer, if the patient is still receiving care in a health care facility.

- 2) For record keeping, the agency may utilize hard copies or an electronic format. Each agency shall have written policies and procedures for records maintenance and shall retain records for a minimum of five years beyond the last date of service provided. These procedures may include that the agency will use and maintain faxed or electronic copies of records from licensed professionals, rather than original records, provided that the original records are maintained for a period of five years by the professional who originated the records. If the professional is providing services through a contract with the agency, then the contract shall include that the professional shall maintain the original records for a period of five years.
- 3) Agencies that are subject to the Local Records Act should note that, *except as otherwise provided by law, no public record shall be disposed of by any officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act)
- 4) Each agency shall have a written policy and procedure for protecting the confidentiality of patient records that explains the use of records, removal of records and release of information.
- 5) Agencies that maintain client records electronically rather than hard copy may use electronic signatures. The agency shall develop policies and procedures governing these entries and the appropriate authentication and dating of electronic records. Authentication may include signatures, written initials, or computer-secure entry by a unique identifier or primary author who has received and approved the entry. The agency shall enact safeguards to prevent unauthorized access to the records and shall draft a process for reconstruction of the records if the system fails or breaks down.

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- i) Drugs and Biologicals. The agency shall have written policies governing the supervision and administration of drugs and biologicals that shall include, but not be limited to, the following:
- 1) All orders for medications to be given shall be dated and signed by the patient's health care professional~~physician or podiatrist~~.
  - 2) Drugs and treatments shall be administered by agency staff only as ordered by the health care professional~~physician~~, with the exception of influenza and pneumococcal polysaccharide vaccines, which may be administered per agency policy developed in consultation with a health care professional~~physician~~, and after an assessment of the patient.
  - 3) All orders for medications shall contain the name of the drug, dosage, frequency, method or site of injection, and permission from the patient's health care professional~~physician or podiatrist~~ if the patient, the patient's family, or both are to be taught to give medications.
  - 4) The agency's health care professional~~physician or podiatrist~~ or RN shall check all medicines that a patient may be taking to identify possible ineffective drug therapy or adverse reactions, significant side effects, drug allergies, and contraindicated medications, and shall promptly report any problem to the patient's health care professional~~physician or podiatrist~~.
  - 5) All verbal orders for medication or change in medication orders shall be taken by the nurse, written, and signed by the patient's health care professional~~physician or podiatrist~~ within 30 days after the verbal order.
  - 6) When any compound, sera, allergenic desensitizing agent, or other potentially hazardous compound drug is administered, the RN shall have an emergency plan and any drugs and devices that may be necessary if an adverse reaction occurs.
- j) QAPI. The home health agency shall develop, implement, evaluate and maintain an effective ongoing, agency-wide, data-driven QAPI program. The agency's governing body shall ensure that the program reflects the complexity of its organization and services; involves all home health agency services (including those services provided under contract or arrangement); focuses on indicators related to improved outcomes, including the use of emergent care services,

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hospital admissions and re-admissions; and takes action that addresses the home health agency's performance across the spectrum of care, including the prevention and reduction of medical errors. The home health agency shall maintain documentary evidence of its QAPI program and be able to demonstrate its operations. The program shall:

- 1) Be capable of showing measurable improvement in indicators when there is evidence that improvement in those indicators will improve health outcomes, patient safety, and quality of care;
  - 2) Measure, analyze and track:
    - A) quality indicators, including adverse patient events; and
    - B) other aspects of performance that enable the home health agency to access processes of care, home health agency services, and operations;
  - 3) Use quality indicator data, including measures and data collected to monitor the effectiveness and safety of services and quality of care; and identify opportunities for improvement;
  - 4) Develop improvement activities to focus on high risk, high volume or a problem-prone area; consider incidence, prevalence, and severity of problems in those areas; and lead to an immediate correction of any individual problem that directly or potentially threatens the health and safety of patients;
  - 5) Track adverse patient events, analyze their causes, and implement preventive actions; and
  - 6) Measure actions implemented to improve performance to determine their success and track performance to ensure improvements are sustained.
- k) Policy and Administrative Review. As a part of the evaluation process, the policies and administrative practices of the agency shall be reviewed to determine the extent to which they promote patient care that is appropriate, adequate, effective and efficient

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- l) Clinical Record Review  
Clinical records shall be reviewed continually for each 60-day period that a patient received home health services to determine the adequacy of the plan of treatment and the appropriateness of continuing home health care.

(Source: Amended by emergency rulemaking at 45 Ill. Reg. 6335, effective May 3, 2021, for a maximum of 150 days)

**Section 245.205 Services – Home Nursing Agencies****EMERGENCY**

- a) Each home nursing agency shall provide skilled nursing services and may provide home health aide services under the supervision of the registered nurse. Home nursing services may be provided directly by agency staff or through a contractual purchase of services. All services shall be provided:
  - 1) In accordance with the client's health care professional~~physician or podiatrist~~, or under a plan of treatment established by the health care professional~~physician, podiatrist or prescribing health care professional~~; and
  - 2) Under the supervision of agency staff, by a health care professional. If the agency manager is the designated nursing supervisor, the agency shall also have another nurse on staff to provide the direct skilled nursing care.
- b) The agency shall state in writing to the client what services will be provided directly by agency staff, and what services will be provided under contractual arrangements with a third party.
- c) If the agency provides services under contractual arrangements with a third party, it shall have a written agreement that includes, but is not limited to, the following:
  - 1) A detailed description of the services to be provided;
  - 2) Provisions for adherence to all applicable agency policies and personnel requirements, including requirements for initial health evaluations and employee health policies, and criminal background checks if applicable;

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- 3) Designation of full responsibility for agency control over contracted services;
  - 4) Procedures for submitting clinical and progress notes;
  - 5) Charges for contracted services;
  - 6) A statement of responsibility of liability and insurance coverage (employment, workers' compensation) and taxes, including employment and social security taxes;
  - 7) The period of time the written agreement is in effect;
  - 8) The date and signatures of appropriate authorities; and
  - 9) Provisions for termination of services.
- d) Acceptance and Discharge of Patients
- Patient acceptance and discharge policies shall include, but not be limited to, the following:
- 1) Persons shall be accepted for services with a plan of treatment established by the patient's health care professional. This plan shall be promulgated in writing within 30 days after acceptance and shall be signed by the prescribing health care professional within 45 days after acceptance.
  - 2) Prior to acceptance, the person shall be informed of the agency's charges for the various services that it offers.
  - 3) No person shall be refused service because of age, race, color, sex, marital status, national origin or sexual orientation. Patients shall be accepted for treatment on the basis of a reasonable expectation that the patient's nursing needs can be met adequately in the patient's place of residence.
  - 4) When services are to be terminated by the agency, the patient shall be notified seven working days in advance of the date of termination. The notice shall state the reason for termination. This information shall be documented in the clinical record. When any continuing care is indicated, a plan shall be developed or a referral made.

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- 5) Services shall not be terminated until the registered nurse has provided a minimum of seven days' notice to the patient's health care professional. The seven-day notice requirement is not applicable in cases in which the worker's safety is at risk. In these cases, the agency shall notify the client of the timing of the termination of services and the reason for the termination. Documentation of the risk to the worker shall be maintained in the client record.
- e) Plan of Treatment  
Skilled nursing services shall be in accordance with a plan based on the client's diagnosis, an assessment of the client's immediate and long-range needs and resources, and client participation. The plan is to be established in consultation with the nursing personnel; the client's health care professional; other pertinent members of the agency staff; the client; and client's advocate. The plan shall include:
  - 1) Diagnoses;
  - 2) Client limitations and prognosis;
  - 3) Expected outcomes for the client;
  - 4) The prescribing health care professional's regimen of care designed to address identified client needs, including medications; treatments; activity; diet; specific procedures deemed essential for the health and safety of the client; mental status; and potential for discharge;
  - 5) The types and frequency of services to be provided; and
  - 6) Assessment of need for influenza and pneumococcal vaccination.
- f) Consultation with the client's health care professional on any modifications in the plan of treatment deemed necessary shall be documented, and the prescribing health care professional's signature shall be obtained within 45 days after any modification of the plan.
  - 1) The home nursing services team shall review the plan every 90 days, or more often should the patient's condition warrant.

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- 2) An updated plan of treatment shall be given to the client's health care professional for review, for any necessary revisions, and for signature every 90 days, or more often as indicated.
- g) Clinical Records
- 1) The agency shall maintain a clinical record for each client in accordance with accepted professional standards. Clinical records shall contain:
    - A) Appropriate identifying information for the client, household members and caretakers;
    - B) A plan of treatment developed by the home nursing agency in accordance with the health care professional's order;
    - C) A list of medications that the client is taking, updated as needed. The list shall specify the dose, method, route of administration, and frequency of administration of each medication. All potential contraindications, drug interactions, and adverse reactions shall be reported to the health care professional within 24 hours, or sooner as warranted, and documented in the clinical record;
    - D) Initial and periodic client assessments by the registered nurse;
    - E) Signed and dated clinical notes for each contact that are written the day of service and incorporated into the client's clinical record at least weekly;
    - F) Reports on all client conferences;
    - G) Report of contacts with the client's health care professional by client and staff;
    - H) Documentation of supervision of services by the supervising nurse, a registered nurse, or other members of the home nursing supervisory/management team;

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- I) Written and signed confirmation of the client's health care professional's interim verbal orders;
  - J) A discharge summary giving a brief review of service, client status, reason for discharge, and plans for post-discharge needs of the client. A discharge summary may suffice as documentation to close the client record for one-time visits or short-term services. The discharge summary need not be a separate piece of paper and may be incorporated into the routine summary of reports already furnished to the physician or health care professional;
  - K) A copy of appropriate client transfer information, when requested, if the client is transferred to another health facility or health agency.
- 2) For record keeping, the agency may utilize hard copies or an electronic format. Each agency shall have written policies and procedures for records maintenance and shall retain records for a minimum of five years beyond the last date of service provided. The procedures may include that the agency will use and maintain faxed copies of records from licensed professionals, rather than original records, provided that the faxed copies will be maintained on non-thermal paper and that the original records will be maintained for a period of five years by the professional who originated the records. If that professional is providing services through a contract with the agency, then the contract shall provide that the professional maintain the original records for a period of five years.
  - 3) Agencies that maintain client records by computer rather than hard copy may use electronic signatures. The agency shall have policies and procedures in place in regard to these entries and the appropriate authentication and dating of those records. Authentication may include signatures, written initials, or computer secure entry by a unique identifier of a primary author who has received and approved the entry. The agency shall have safeguards in place to prevent unauthorized access to the records and a process for reconstruction of the records if the system fails or breaks down.
  - 4) Agencies that are subject to the Local Records Act should note that, *except as otherwise provided by law, no public record shall be disposed of by any*



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*officer or agency unless the written approval of the appropriate Local Records Commission is first obtained.* (Section 7 of the Local Records Act)

- 5) Each agency shall have a written policy and procedure for protecting the confidentiality of client records that explains the use of records, removal of records and release of information.
- h) **Drugs and Biologicals**  
The agency shall have written policies governing the supervision and administration of drugs and biologicals, which shall include, but not be limited to, the following:
  - 1) All orders for medications to be given shall be dated and signed by the client's health care professional.
  - 2) All orders for medications shall contain the name of the drug, dosage, frequency, method, and route of administration, and permission from the prescribing health care professional if the client, the client's family, or both are to be taught to give medications.
  - 3) All verbal orders for medication or change in medication orders shall be taken by the nurse, written, and signed by the patient's health care professional within 45 days.
  - 4) When any experimental drug, sera, allergenic desensitizing agent, penicillin or other potentially hazardous drug is administered, the registered nurse administering the drugs shall have an emergency plan and any drugs and devices that may be necessary if a drug reaction occurs.

(Source: Amended by emergency rulemaking at 45 Ill. Reg. 6335, effective May 3, 2021, for a maximum of 150 days)

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- 1) Heading of the Part: Skilled Nursing and Intermediate Care Facilities Code
- 2) Code Citation: 77 Ill. Adm. Code 300
- 3) Section Number: 300.675      Emergency Action: New Section
- 4) Statutory Authority: Nursing Home Care Act [210 ILCS 45]
- 5) Effective Date of Emergency Rule: May 1, 2021
- 6) If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which they are to expire: This emergency rulemaking will expire at the end of the 150-day period, upon repeal of the emergency rulemaking, or upon adoption of permanent rulemaking, whichever comes first.
- 7) Date Filed with the Index Department: April 29, 2021
- 8) A copy of the emergency rule, including any material incorporated by reference, is on file in the Agency's principal office and is available for public inspection.
- 9) Reason for Emergency: This emergency amendment is adopted in response to Governor JB Pritzker's Gubernatorial Disaster Proclamations related to COVID-19.

Section 5-45 of the Illinois Administrative Procedure Act [5 ILCS 100/5-45] defines "emergency" as "the existence of any situation that any agency finds reasonably constitutes a threat to the public interest, safety, or welfare." The COVID-19 outbreak in Illinois is a significant public health crisis that warrants this emergency rule.

- 10) A Complete Description of the Subject and Issues: This emergency rulemaking outlines the COVID-19 training requirements for skilled nursing and intermediate care facilities, including the requirement that frontline clinical and management staff at these facilities must complete Targeted COVID-19 Training for Frontline Nursing Home Staff & Management, a free training provided by Centers for Medicare & Medicaid Services (CMS). This free training includes topics such as infection control, personal protective equipment, disinfection, screening, surveillance, cohorting and caring for individuals with dementia during a pandemic. CMS developed this training in consultation with the Centers for Disease Control and Prevention and expert stakeholders. The training has five specific modules designed for frontline clinical staff and 10 modules designed for

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nursing home management. The emergency amendment includes deadlines for meeting the training requirements including that all new frontline and management staff hired by skilled nursing and intermediate care facilities hired after January 31, 2021, must complete the required training within 14 days of being hired.

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

<u>Section Numbers:</u>	<u>Proposed Actions:</u>	<u>Illinois Register Citations:</u>
300.110	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.330	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.340	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.660	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.661	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.663	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.696	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.1060	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.1450	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.1610	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.1620	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.2040	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.2810	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.2820	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.2920	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.2940	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.3020	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.3130	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.3140	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.3210	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.3240	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.3250	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.3300	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.3320	Amendment	45 Ill. Reg. 4778; April 16, 2021
300.TABLE C	Repealed	45 Ill. Reg. 4778; April 16, 2021

12) Statement of Statewide Policy Objective: This rulemaking may create a state mandate for county-owned nursing homes.

13) Information and questions regarding this emergency rulemaking shall be directed to:

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Department of Public Health  
Attention: Tracey Trigillo, Rules Coordinator  
535 W. Jefferson St., 5th Floor  
Springfield IL 62761

217/782-1159  
[dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

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

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## 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

300.2 COVID 19 Emergency Provisions for Licenses and Inspections

## EMERGENCY

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

300.250 Ownership Disclosure

300.260 Issuance of Conditional Licenses

300.270 Monitor and Receivership

300.271 Presentation of Findings

300.272 Determination to Issue a Notice of Violation or Administrative Warning

300.274 Determination of the Level of a Violation

300.276 Notice of Violation

300.277 Administrative Warning

300.278 Plans of Correction

300.280 Reports of Correction

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300.282	Conditions for Assessment of Penalties
300.284	Calculation of Penalties (Repealed)
300.286	Notice of Penalty Assessment; Response by Facility
300.287	Consideration of Factors for Assessing Penalties
300.288	Reduction or Waiver of Penalties
300.290	Quarterly List of Violators (Repealed)
300.300	Alcoholism Treatment Programs In Long-Term Care Facilities
300.310	Department May Survey Facilities Formerly Licensed
300.315	Supported Congregate Living Arrangement Demonstration
300.320	Waivers
300.330	Definitions
300.340	Incorporated and Referenced Materials
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## SUBPART B: ADMINISTRATION

Section	
300.510	Administrator

## SUBPART C: POLICIES

Section	
300.610	Resident Care Policies
300.615	Determination of Need Screening and Request for Resident Criminal History Record Information
300.620	Admission, Retention and Discharge Policies
300.624	Criminal History Background Checks for Persons Who Were Residents on May 10, 2006 (Repealed)
300.625	Identified Offenders
300.626	Discharge Planning for Identified Offenders
300.627	Transfer of an Identified Offender
300.630	Contract Between Resident and Facility
300.640	Residents' Advisory Council
300.650	Personnel Policies
300.651	Whistleblower Protection
300.655	Initial Health Evaluation for Employees
300.660	Nursing Assistants
300.661	Health Care Worker Background Check
300.662	Resident Attendants

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300.663	Registry of Certified Nursing Assistants
300.665	Student Interns
300.670	Disaster Preparedness
<u>300.675</u>	<u>COVID-19 Training Requirements</u>
<u>EMERGENCY</u>	
300.680	Restraints
300.682	Nonemergency Use of Physical Restraints
300.684	Emergency Use of Physical Restraints
300.686	Unnecessary, Psychotropic, and Antipsychotic Medications
300.690	Incidents and Accidents
300.695	Contacting Local Law Enforcement
300.696	Infection Control
EMERGENCY	

## SUBPART D: PERSONNEL

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300.810	General
300.820	Categories of Personnel
300.830	Consultation Services
300.840	Personnel Policies

## SUBPART E: MEDICAL AND DENTAL CARE OF RESIDENTS

Section	
300.1010	Medical Care Policies
300.1020	Communicable Disease Policies
300.1025	Tuberculin Skin Test Procedures
300.1030	Medical Emergencies
300.1035	Life-Sustaining Treatments
300.1040	Care and Treatment of Sexual Assault Survivors
300.1050	Dental Standards
300.1060	Vaccinations

## SUBPART F: NURSING AND PERSONAL CARE

Section	
300.1210	General Requirements for Nursing and Personal Care
300.1220	Supervision of Nursing Services

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300.1230	Direct Care Staffing
300.1231	Calculation of Direct Care Staffing During Inspections, Surveys and Evaluations
300.1232	Waiver of Registered Professional Nurse Staffing Requirements
300.1233	Quarterly Administrative Staffing Compliance Review
300.1234	Penalties and Notice of Violation
300.1240	Additional Requirements

## SUBPART G: RESIDENT CARE SERVICES

Section	
300.1410	Activity Program
300.1420	Specialized Rehabilitation Services
300.1430	Work Programs
300.1440	Volunteer Program
300.1450	Language Assistance Services

## SUBPART H: MEDICATIONS

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300.1610	Medication Policies and Procedures
300.1620	Compliance with Licensed Prescriber's Orders
300.1630	Administration of Medication
300.1640	Labeling and Storage of Medications
300.1650	Control of Medications

## SUBPART I: RESIDENT AND FACILITY RECORDS

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300.1810	Resident Record Requirements
300.1820	Content of Medical Records
300.1830	Records Pertaining to Residents' Property
300.1840	Retention and Transfer of Resident Records
300.1850	Other Resident Record Requirements
300.1860	Staff Responsibility for Medical Records
300.1870	Retention of Facility Records
300.1880	Other Facility Record Requirements

## SUBPART J: FOOD SERVICE



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300.2010	Director of Food Services
300.2020	Dietary Staff in Addition to Director of Food Services
300.2030	Hygiene of Dietary Staff
300.2040	Diet Orders
300.2050	Meal Planning
300.2060	Therapeutic Diets (Repealed)
300.2070	Scheduling Meals
300.2080	Menus and Food Records
300.2090	Food Preparation and Service
300.2100	Food Handling Sanitation
300.2110	Kitchen Equipment, Utensils, and Supplies

## SUBPART K: MAINTENANCE, HOUSEKEEPING, AND LAUNDRY

## Section

300.2210	Maintenance
300.2220	Housekeeping
300.2230	Laundry Services

## SUBPART L: FURNISHINGS, EQUIPMENT, AND SUPPLIES

## Section

300.2410	Furnishings
300.2420	Equipment and Supplies
300.2430	Sterilization of Equipment and Supplies

## SUBPART M: WATER SUPPLY AND SEWAGE DISPOSAL

## Section

300.2610	Codes
300.2620	Water Supply
300.2630	Sewage Disposal
300.2640	Plumbing

SUBPART N: DESIGN AND CONSTRUCTION STANDARDS  
FOR NEW INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

## Section

## DEPARTMENT OF PUBLIC HEALTH

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300.2810	Applicability of these Standards
300.2820	Codes and Standards
300.2830	Preparation of Drawings and Specifications
300.2840	Site
300.2850	Administration and Public Areas
300.2860	Nursing Unit
300.2870	Dining, Living, Activities Rooms
300.2880	Therapy and Personal Care
300.2890	Service Departments
300.2900	General Building Requirements
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SUBPART O: DESIGN AND CONSTRUCTION STANDARDS  
FOR EXISTING INTERMEDIATE CARE AND SKILLED NURSING FACILITIES

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300.3010	Applicability
300.3020	Codes and Standards
300.3030	Preparation of Drawings and Specifications
300.3040	Site
300.3050	Administration and Public Areas
300.3060	Nursing Unit
300.3070	Living, Dining, Activities Rooms
300.3080	Treatment and Personal Care
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300.3210	General
300.3220	Medical Care

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300.3230	Restraints (Repealed)
300.3240	Abuse and Neglect
300.3250	Communication and Visitation
300.3260	Resident's Funds
300.3270	Residents' Advisory Council
300.3280	Contract With Facility
300.3290	Private Right of Action
300.3300	Transfer or Discharge
300.3310	Complaint Procedures
300.3320	Confidentiality
300.3330	Facility Implementation

## SUBPART Q: SPECIALIZED LIVING FACILITIES FOR THE MENTALLY ILL

## Section

300.3410	Application of Other Sections of These Minimum Standards (Repealed)
300.3420	Administrator (Repealed)
300.3430	Policies (Repealed)
300.3440	Personnel (Repealed)
300.3450	Resident Living Services Medical and Dental Care (Repealed)
300.3460	Resident Services Program (Repealed)
300.3470	Psychological Services (Repealed)
300.3480	Social Services (Repealed)
300.3490	Recreational and Activities Services (Repealed)
300.3500	Individual Treatment Plan (Repealed)
300.3510	Health Services (Repealed)
300.3520	Medical Services (Repealed)
300.3530	Dental Services (Repealed)
300.3540	Optometric Services (Repealed)
300.3550	Audiometric Services (Repealed)
300.3560	Podiatric Services (Repealed)
300.3570	Occupational Therapy Services (Repealed)
300.3580	Nursing and Personal Care (Repealed)
300.3590	Resident Care Services (Repealed)
300.3600	Record Keeping (Repealed)
300.3610	Food Service (Repealed)
300.3620	Furnishings, Equipment and Supplies (New and Existing Facilities) (Repealed)
300.3630	Design and Construction Standards (New and Existing Facilities) (Repealed)

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## SUBPART R: DAYCARE PROGRAMS

## Section

300.3710 Day Care in Long-Term Care Facilities

## SUBPART S: PROVIDING SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

## Section

300.4000 Applicability of Subpart S

300.4010 Comprehensive Assessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S

300.4020 Reassessments for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S

300.4030 Individualized Treatment Plan for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S

300.4040 General Requirements for Facilities Subject to Subpart S

300.4050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart S

300.4060 Discharge Plans for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S

300.4070 Work Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S

300.4080 Community-Based Rehabilitation Programs for Residents with Serious Mental Illness Residing in Facilities Subject to Subpart S

300.4090 Personnel for Providing Services to Persons with Serious Mental Illness for Facilities Subject to Subpart S

SUBPART T: FACILITIES PARTICIPATING IN ILLINOIS DEPARTMENT OF  
HEALTHCARE AND FAMILY SERVICES'  
DEMONSTRATION PROGRAM FOR PROVIDING  
SERVICES TO PERSONS WITH SERIOUS MENTAL ILLNESS

## Section

300.6000 Applicability of Subpart T (Repealed)

300.6005 Quality Assessment and Improvement for Facilities Subject to Subpart T (Repealed)

300.6010 Comprehensive Assessments for Residents of Facilities Subject to Subpart T (Repealed)

300.6020 Reassessments for Residents of Facilities Subject to Subpart T (Repealed)

300.6030 Individualized Treatment Plan for Residents of Facilities Subject to Subpart T

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- (Repealed)
- 300.6040 General Requirements for Facilities Subject to Subpart T (Repealed)
- 300.6045 Serious Incidents and Accidents in Facilities Subject to Subpart T (Repealed)
- 300.6047 Medical Care Policies for Facilities Subject to Subpart T (Repealed)
- 300.6049 Emergency Use of Restraints for Facilities Subject to Subpart T (Repealed)
- 300.6050 Psychiatric Rehabilitation Services for Facilities Subject to Subpart T (Repealed)
- 300.6060 Discharge Plans for Residents of Facilities Subject to Subpart T (Repealed)
- 300.6070 Work Programs for Residents of Facilities Subject to Subpart T (Repealed)
- 300.6080 Community-Based Rehabilitation Programs for Residents of Facilities Subject to Subpart T (Repealed)
- 300.6090 Personnel for Providing Services to Residents of Facilities Subject to Subpart T (Repealed)
- 300.6095 Training and Continuing Education for Facilities Subject to Subpart T (Repealed)

SUBPART U: ALZHEIMER'S SPECIAL CARE UNIT OR CENTER PROVIDING  
CARE TO PERSONS WITH ALZHEIMER'S DISEASE OR OTHER DEMENTIA

## Section

- 300.7000 Applicability
- 300.7010 Admission Criteria
- 300.7020 Assessment and Care Planning
- 300.7030 Ability-Centered Care
- 300.7040 Activities
- 300.7050 Staffing
- 300.7060 Environment
- 300.7070 Quality Assessment and Improvement
- 300.7080 Variances to Enhance Residents' Quality of Life
- 300.APPENDIX A Example of Staffing Calculations from Section 300.1230
- 300.APPENDIX B Crosswalk of Nursing Home Care Act Job Descriptions and Payroll Based Journal Job Titles
- 300.APPENDIX C Federal Requirements Regarding Patients'/Residents' Rights (Repealed)
- 300.APPENDIX D Forms for Day Care in Long-Term Care Facilities
- 300.APPENDIX E Criteria for Activity Directors Who Need Only Minimal Consultation (Repealed)
- 300.APPENDIX F Guidelines for the Use of Various Drugs
- 300.APPENDIX G Facility Report
- 300.TABLE A Sound Transmission Limitations in New Skilled Nursing and Intermediate Care Facilities

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300.TABLE B	Pressure Relationships and Ventilation Rates of Certain Areas for New Intermediate Care Facilities and Skilled Nursing Facilities
300.TABLE C	Construction Types and Sprinkler Requirements for Existing Skilled Nursing Facilities/Intermediate Care Facilities
300.TABLE D	Heat Index Table/Apparent Temperature

AUTHORITY: Implementing and authorized by the Nursing Home Care Act [210 ILCS 45].

SOURCE: Emergency rules adopted at 4 Ill. Reg. 10, p. 1066, effective March 1, 1980, for a maximum of 150 days; adopted at 4 Ill. Reg. 30, p. 311, effective July 28, 1980; emergency amendment at 6 Ill. Reg. 3229, effective March 8, 1982, for a maximum of 150 days; amended at 6 Ill. Reg. 5981, effective May 3, 1982; amended at 6 Ill. Reg. 6454, effective May 14, 1982; amended at 6 Ill. Reg. 8198, effective June 29, 1982; amended at 6 Ill. Reg. 11631, effective September 14, 1982; amended at 6 Ill. Reg. 14550 and 14554, effective November 8, 1982; amended at 6 Ill. Reg. 14684, effective November 15, 1982; amended at 7 Ill. Reg. 285, effective December 22, 1982; amended at 7 Ill. Reg. 1972, effective January 28, 1983; amended at 7 Ill. Reg. 8579, effective July 11, 1983; amended at 7 Ill. Reg. 15831, effective November 10, 1983; amended at 7 Ill. Reg. 15864, effective November 15, 1983; amended at 7 Ill. Reg. 16992, effective December 14, 1983; amended at 8 Ill. Reg. 15599, 15603, and 15606, effective August 15, 1984; amended at 8 Ill. Reg. 15947, effective August 17, 1984; amended at 8 Ill. Reg. 16999, effective September 5, 1984; codified at 8 Ill. Reg. 19766; amended at 8 Ill. Reg. 24186, effective November 29, 1984; amended at 8 Ill. Reg. 24668, effective December 7, 1984; amended at 8 Ill. Reg. 25102, effective December 14, 1984; amended at 9 Ill. Reg. 132, effective December 26, 1984; amended at 9 Ill. Reg. 4087, effective March 15, 1985; amended at 9 Ill. Reg. 11049, effective July 1, 1985; amended at 11 Ill. Reg. 16927, effective October 1, 1987; amended at 12 Ill. Reg. 1052, effective December 24, 1987; amended at 12 Ill. Reg. 16811, effective October 1, 1988; emergency amendment at 12 Ill. Reg. 18477, effective October 24, 1988, for a maximum of 150 days; emergency expired March 23, 1989; amended at 13 Ill. Reg. 4684, effective March 24, 1989; amended at 13 Ill. Reg. 5134, effective April 1, 1989; amended at 13 Ill. Reg. 20089, effective December 1, 1989; amended at 14 Ill. Reg. 14950, effective October 1, 1990; amended at 15 Ill. Reg. 554, effective January 1, 1991; amended at 16 Ill. Reg. 681, effective January 1, 1992; amended at 16 Ill. Reg. 5977, effective March 27, 1992; amended at 16 Ill. Reg. 17089, effective November 3, 1992; emergency amendment at 17 Ill. Reg. 2420, effective February 3, 1993, for a maximum of 150 days; emergency expired on July 3, 1993; emergency amendment at 17 Ill. Reg. 8026, effective May 6, 1993, for a maximum of 150 days; emergency expired on October 3, 1993; amended at 17 Ill. Reg. 15106, effective September 3, 1993; amended at 17 Ill. Reg. 16194, effective January 1, 1994; amended at 17 Ill. Reg. 19279, effective October 26, 1993; amended at 17 Ill. Reg. 19604, effective November 4, 1993; amended at 17 Ill. Reg. 21058, effective November 20, 1993; amended at 18 Ill. Reg. 1491,

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effective January 14, 1994; amended at 18 Ill. Reg. 15868, effective October 15, 1994; amended at 19 Ill. Reg. 11600, effective July 29, 1995; emergency amendment at 20 Ill. Reg. 567, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 10142, effective July 15, 1996; amended at 20 Ill. Reg. 12208, effective September 10, 1996; amended at 21 Ill. Reg. 15000, effective November 15, 1997; amended at 22 Ill. Reg. 4094, effective February 13, 1998; amended at 22 Ill. Reg. 7218, effective April 15, 1998; amended at 22 Ill. Reg. 16609, effective September 18, 1998; amended at 23 Ill. Reg. 1103, effective January 15, 1999; amended at 23 Ill. Reg. 8106, effective July 15, 1999; amended at 24 Ill. Reg. 17330, effective November 1, 2000; amended at 25 Ill. Reg. 4911, effective April 1, 2001; amended at 26 Ill. Reg. 3113, effective February 15, 2002; amended at 26 Ill. Reg. 4846, effective April 1, 2002; amended at 26 Ill. Reg. 10523, effective July 1, 2002; emergency amendment at 27 Ill. Reg. 2181, effective February 1, 2003, for a maximum of 150 days; emergency expired June 30, 2003; emergency amendment at 27 Ill. Reg. 5452, effective March 25, 2003, for a maximum of 150 days; emergency expired August 21, 2003; amended at 27 Ill. Reg. 5862, effective April 1, 2003; emergency amendment at 27 Ill. Reg. 14204, effective August 15, 2003, for a maximum of 150 days; emergency expired January 11, 2004; amended at 27 Ill. Reg. 15855, effective September 25, 2003; amended at 27 Ill. Reg. 18105, effective November 15, 2003; expedited correction at 28 Ill. Reg. 3528, effective November 15, 2003; amended at 28 Ill. Reg. 11180, effective July 22, 2004; amended at 28 Ill. Reg. 14623, effective October 20, 2004; amended at 29 Ill. Reg. 876, effective December 22, 2004; emergency amendment at 29 Ill. Reg. 11824, effective July 12, 2005, for a maximum of 150 days; emergency rule modified in response to JCARE Recommendation at 29 Ill. Reg. 15101, effective September 23, 2005, for the remainder of the maximum 150 days; emergency amendment expired December 8, 2005; amended at 29 Ill. Reg. 12852, effective August 2, 2005; amended at 30 Ill. Reg. 1425, effective January 23, 2006; amended at 30 Ill. Reg. 5213, effective March 2, 2006; amended at 31 Ill. Reg. 6044, effective April 3, 2007; amended at 31 Ill. Reg. 8813, effective June 6, 2007; amended at 33 Ill. Reg. 9356, effective June 17, 2009; amended at 34 Ill. Reg. 19182, effective November 23, 2010; amended at 35 Ill. Reg. 3378, effective February 14, 2011; amended at 35 Ill. Reg. 11419, effective June 29, 2011; expedited correction at 35 Ill. Reg. 17468, effective June 29, 2011; amended at 36 Ill. Reg. 14090, effective August 30, 2012; amended at 37 Ill. Reg. 2298, effective February 4, 2013; amended at 37 Ill. Reg. 4954, effective March 29, 2013; amended at 38 Ill. Reg. 22851, effective November 21, 2014; amended at 39 Ill. Reg. 5456, effective March 25, 2015; amended at 41 Ill. Reg. 14811, effective November 15, 2017; amended at 43 Ill. Reg. 3536, effective February 28, 2019; emergency amendment at 44 Ill. Reg. 8521, effective May 5, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 44 Ill. Reg. 16264, effective September 15, 2020, for the remainder of the 150 days; emergency rule as amended expired October 1, 2020; emergency amendment at 44 Ill. Reg. 10217, effective May 28, 2020, for a maximum of 150 days; amended by emergency amendment to emergency rule at 44 Ill. Reg. 12931, effective July 14, 2020, for the remainder of

## DEPARTMENT OF PUBLIC HEALTH

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the 150 days; emergency rule as amended repealed at 44 Ill. Reg. 17790, effective October 23, 2020; emergency amendment at 44 Ill. Reg. 16894, effective October 2, 2020, for a maximum of 150 days; emergency rule expired February 28, 2021; emergency amendment at 44 Ill. Reg. 18462, effective October 23, 2020, for a maximum of 150 days; emergency rule expired March 21, 2021; emergency amendment at 44 Ill. Reg. 19551, effective December 2, 2020, for a maximum of 150 days; emergency amendment to emergency rule at 45 Ill. Reg. 393, effective December 18, 2020, for the remainder of the 150 days; emergency rule as amended expired April 30, 2021; amended at 45 Ill. Reg. 1134, effective January 8, 2021; emergency amendment at 45 Ill. Reg. 3046, effective March 1, 2021, for a maximum of 150 days; emergency amendment at 45 Ill. Reg. 4285, effective March 22, 2021, for a maximum of 150 days; emergency amendment at 45 Ill. Reg. 6354, effective May 1, 2021, for a maximum of 150 days.

## SUBPART C: POLICIES

**Section 300.675 COVID-19 Training Requirements**  
**EMERGENCY**

- a) Definitions. For the purposes of this Section, the following terms have the meanings ascribed in this subsection (a):
- 1) "CMMS Training" means CMMS Targeted COVID-19 Training for Frontline Nursing Home Staff and Management, available at <https://QSEP.cms.gov>.
  - 2) "Frontline clinical staff" means the medical director of the facility, facility treating physicians, registered nurses, licensed practical nurses, certified nurse assistants, psychiatric service rehabilitation aides, rehabilitation therapy aides, psychiatric services rehabilitation coordinators, assistant directors of nursing, directors of nursing, social service directors, and any licensed physical, occupational or speech therapists. Any consultants, contractors, volunteers, students in any training programs, and caregivers who provide, engage in, or administer direct care and services to residents on behalf of the facility are also considered frontline clinical staff.
  - 3) "Management staff" means any facility staff who:
    - A) Assign and direct nursing activities;



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- B) [Oversee comprehensive assessment of residents' medical needs and care planning;](#)
  - C) [Recommend numbers and levels of nursing personnel;](#)
  - D) [Plan nursing service budgeting;](#)
  - E) [Develop standards of nursing practice;](#)
  - F) [Supervise in-service education and skill training for all personnel;](#)  
or
  - G) [Participate in the screening of prospective residents and resident placement.](#)
- b) [Required Frontline Clinical Staff Training](#)
  - 1) [All frontline staff employed by facilities shall complete the following portions of CMMS Training:](#)
    - A) [Module 1: Hand Hygiene and PPE;](#)
    - B) [Module 2: Screening and Surveillance;](#)
    - C) [Module 3: Cleaning the Nursing Home;](#)
    - D) [Module 4: Cohorting; and](#)
    - E) [Module 5: Caring for Residents with Dementia in a Pandemic.](#)
  - 2) [Facilities shall ensure at least 50% of frontline clinical staff have completed the CMMS Training by January 31, 2021.](#)
  - 3) [Facilities shall ensure 100% of the frontline clinical staff have completed the CMMS Training by February 28, 2021.](#)
  - 4) [Facilities shall require, within 14 days after hiring, CMMS Training for all frontline clinical staff hired after January 31, 2021.](#)

## DEPARTMENT OF PUBLIC HEALTH

## NOTICE OF EMERGENCY AMENDMENT

c) Required Management Staff Training

- 1) All management staff employed by facilities shall complete the following portions of CMMS Training:
    - A) Module 1: Hand Hygiene and PPE;
    - B) Module 2: Screening and Surveillance;
    - C) Module 3: Cleaning the Nursing Home;
    - D) Module 4: Cohorting;
    - E) Module 5: Caring for Residents with Dementia in a Pandemic;
    - F) Module 6: Infection Prevention and Control;
    - G) Module 7: Emergency Preparedness and Surge Capacity;
    - H) Module 8: Addressing Emotional Health of Residents and Staff;
    - I) Module 9: Telehealth for Nursing Homes; and
    - J) Module 10: Getting Your Vaccine Delivery System Ready.
  - 2) Facilities shall ensure at least 50% of management staff have completed the CMMS Training by January 31, 2021.
  - 3) Facilities shall ensure 100% of management staff have completed the CMMS Training by February 28, 2021.
  - 4) Facilities shall require, within 14 days after hiring, CMMS Training for all management staff hired after January 31, 2021.
- d) By January 31, 2021, all facilities shall certify compliance, in the form and format specified by the Department, with subsections (b)(2) and (c)(2).
- e) By February 28, 2021, all facilities shall certify compliance, in the form and format specified by the Department, with subsections (b)(3) and (c)(3).

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF EMERGENCY AMENDMENT

(Source: Added by emergency rulemaking at 45 Ill. Reg. 6354, effective May 1, 2021,  
for a maximum of 150 days)

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## MAY MEETING AGENDA

STRATTON BUILDING  
ROOM C-1  
SPRINGFIELD, ILLINOIS  
11:00 A.M.  
MAY 18, 2021

**NOTICE:** JCAR policy is to allow only representatives of State agencies to testify orally on any rule under consideration at Committee hearings. If members of the public wish to express their views with respect to a proposed rulemaking, they should submit written comments to the JCAR Office at the following address:

Joint Committee on Administrative Rules  
700 Stratton Office Building  
Springfield, Illinois 62706  
217/785-2254 jcar@ilga.gov

**AGENDA**

- I. Attendance Roll Call**
- II. Approval of April 13, 2021 Minutes**
- III. Consideration of Rulemakings/Issues**

The following rulemakings are scheduled for review at this meeting. JCAR staff may be proposing action with respect to some of these rulemakings. JCAR members may have questions concerning, and may initiate action with respect to, any item scheduled for JCAR review and any other issues within the Committee's purview.

**PROPOSED RULEMAKINGS**Aging

89-210-21-02315 EMS

- 1. Introduction (Repealer) (89 Ill. Adm. Code 210)
  - First Notice Published: 45 Ill. Reg. 2315 – 2/26/21
  - Expiration of Second Notice: 6/5/21

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## MAY MEETING AGENDA

89-220-21-01753 EMS

2. General Programmatic Requirements (89 Ill. Adm. Code 220)
  - First Notice Published: 45 Ill. Reg. 1753 – 2/16/21
  - Expiration of Second Notice: 6/5/21

3. 89-230-21-01764 EMS

- Older Americans Act Programs (89 Ill. Adm. Code 230)
- First Notice Published: 45 Ill. Reg. 1764 – 2/16/21
  - Expiration of Second Notice: 6/5/21

Education

4. 23-25-20-18003 JE

- Educator Licensure (23 Ill. Adm. Code 25)
- First Notice Published: 44 Ill. Reg. 18003 – 11/13/20
  - Expiration of Second Notice: 5/29/21

Elevator Safety Review Board

5. 41-1000-21-01312 BT

- Illinois Elevator Safety Rules (41 Ill. Adm. Code 1000)
- First Notice Published: 45 Ill. Reg. 1312 – 5/20/20
  - Expiration of Second Notice: 5/20/21

Employment Security

6. 56-2720-21-02555 JE

- Claims, Adjudication, Appeals and Hearings (56 Ill. Adm. Code 2720)
- First Notice Published: 45 Ill. Reg. 2555 – 3/5/21
  - Expiration of Second Notice: 6/5/21

7. 56-2835-21-02563 JE

- Recovery of Benefits (56 Ill. Adm. Code 2835)
- First Notice Published: 45 Ill. Reg. 2563 – 3/5/21
  - Expiration of Second Notice: 6/5/21

Human Services

8. 77-2080-20-17587 EMS

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## MAY MEETING AGENDA

Electronic Prescription Monitoring Program (77 Ill. Adm. Code 2080)

-First Notice Published: 44 Ill. Reg. 17587 – 11/5/20

-Expiration of Second Notice: 6/2/21

89-112-20-19632 EMS

9. Temporary Assistance for Needy Families (89 Ill. Adm. Code 112)

-First Notice Published: 44 Ill. Reg. 19632 – 12/28/20

-Expiration of Second Notice: 5/29/21

89-113-20-19649 EMS

10. Aid to the Aged, Blind or Disabled (89 Ill. Adm. Code 113)

-First Notice Published: 44 Ill. Reg. 19649 – 12/28/20

-Expiration of Second Notice: 5/29/21

89-121-20-19663 EMS

11. Supplemental Nutrition Assistance Program (SNAP) (89 Ill. Adm. Code 121)

-First Notice Published: 44 Ill. Reg. 19663 – 12/28/20

-Expiration of Second Notice: 5/29/21

Insurance

50-2019-20-14416 JE

12. Benefits Standard for Diabetes Coverage (50 Ill. Adm. Code 2019)

-First Notice Published: 44 Ill. Reg. 14416 – 9/11/20

-Expiration of Second Notice: 6/2/21

Labor

56-210-20-08472 JE

13. Minimum Wage Law (56 Ill. Adm. Code 210)

-First Notice Published: 44 Ill. Reg. 8472 – 5/22/20

-Expiration of Second Notice: 6/13/21

56-240-20-12728 JE

14. Employee Classification (56 Ill. Adm. Code 240)

-First Notice Published: 44 Ill. Reg. 12728 – 7/31/20

-Expiration of Second Notice: 5/20/21

Revenue

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## MAY MEETING AGENDA

15. 86-130-21-02216 BT  
Retailers' Occupation Tax (86 Ill. Adm. Code 130)  
-First Notice Published: 45 Ill. Reg. 2216 – 2/19/21  
-Expiration of Second Notice: 6/13/21

Secretary of State

14-150-21-01114 JE

16. Business Corporation Act (14 Ill. Adm. Code 150)  
-First Notice Published: 45 Ill. Reg. 1114 – 1/22/21  
-Expiration of Second Notice: 6/16/21

14-178-21-02243 JE

17. Limited Liability Company (14 Ill. Adm. Code 178)  
-First Notice Published: 45 Ill. Reg. 2243 – 2/19/21  
-Expiration of Second Notice: 6/16/21

State Employees' Retirement System of Illinois

80-1540-21-01464 KK

18. The Administration and Operation of the State Employees' Retirement System of Illinois (80 Ill. Adm. Code 1540)  
-First Notice Published: 45 Ill. Reg. 1464 – 2/5/21  
-Expiration of Second Notice: 5/12/21

**EMERGENCY RULEMAKINGS**Education

23-1-21-04543E JE

19. Public Schools Evaluation, Recognition and Supervision (23 Ill. Adm. Code 1)  
-45 Ill. Reg. 4543; effective: 3/24/21  
-Emergency Expires: 8/20/21

23-228-21-04558E JE

20. Transitional Bilingual Education (23 Ill. Adm. Code 228)  
-45 Ill. Reg. 4558; effective: 4/9/21  
-Emergency Expires: 8/20/21

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## MAY MEETING AGENDA

Financial and Professional Regulation

68-1140-21-05409E KK

21. Acupuncture Practice Act (68 Ill. Adm. Code 1140)
  - 45 Ill. Reg. 5409; effective: 4/23/21
  - Emergency Expires: 9/8/21

Healthcare and Family Services

89-140-21-05419E EMS

22. Medical Payment (89 Ill. Adm. Code 140)
  - 45 Ill. Reg. 5419; effective: 4/23/21
  - Emergency Expires: 9/5/21

Human Services

89-50-21-04946E EMS

23. Child Care (89 Ill. Adm. Code 50)
  - 45 Ill. Reg. 4946; effective: 4/1/21
  - Emergency Expires: 8/28/21

Public Health

77-295-21-05541E EMS

24. Assisted Living and Shared Housing Establishment Code (77 Ill. Adm. Code 295)
  - 45 Ill. Reg. 5541; effective: 4/18/21
  - Emergency Expires: 9/14/21

77-330-21-05554E EMS

25. Sheltered Care Facilities Code (77 Ill. Adm. Code 330)
  - 45 Ill. Reg. 5554; effective: 4/18/21
  - Emergency Expires: 9/14/21

77-340-21-05576E EMS

26. Illinois Veterans' Homes Code (77 Ill. Adm. Code 340)
  - 45 Ill. Reg. 5576; effective: 4/18/21
  - Emergency Expires: 9/14/21



## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## MAY MEETING AGENDA

77-350-21-05594E EMS

27. Intermediate Care for Developmentally Disabled Facilities Code (77 Ill. Adm. Code 370)

-45 Ill. Reg. 5594; effective: 4/18/21

-Emergency Expires: 9/14/21

77-370-21-05619E EMS

28. Community Living Facilities Code (77 Ill. Adm. Code 370)

-45 Ill. Reg. 5619; effective: 4/18/21

-Emergency Expires: 9/14/21

77-380-21-05631E EMS

29. Specialized Mental Health Rehabilitation Facilities Code (77 Ill. Adm. Code 380)

-45 Ill. Reg. 5631; effective: 4/18/21

-Emergency Expires: 9/14/21

77-390-21-05648E EMS

30. Medically Complex for the Developmentally Disabled Facilities Code (77 Ill. Adm. Code 390)

-45 Ill. Reg. 5576; effective: 4/18/21

-Emergency Expires: 9/14/21

77-545-21-05671E EMS

31. Sexual Assault Survivors Emergency Treatment Code (77 Ill. Adm. Code 545)

-45 Ill. Reg. 5671; effective: 4/16/21

-Emergency Expires: 9/12/21

Secretary of State

92-1030-21-05450E JE

32. Issuance of Licenses (92 Ill. Adm. Code 1030)

-45 Ill. Reg. 5450; effective: 4/23/21

-Emergency Expires: 9/4/21

92-1060-21-05466E JE

33. Commercial Driver Training Schools (92 Ill. Adm. Code 1060)

-45 Ill. Reg. 5466; effective: 4/23/21

-Emergency Expires: 9/5/21

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## MAY MEETING AGENDA

**PEREMPTORY RULEMAKING**Central Management Systems

80-310-21-05675

34. Pay Plan (80 Ill. Adm. Code 310)  
-45 Ill. Reg. 5671; effective: 4/16/21

**AGENCY RESPONSES**Financial and Professional Regulation

38-381-21-00197 KK

35. Examination Consistency and Due Process (38 Ill. Adm. Code 381)  
-First Notice Published: 45 Ill. Reg. 197 – 1/4/21  
-Agency Response: Agree

68-1270-20-16065 KK

36. Illinois Professional Land Surveyor Act of 1989 (68 Ill. Adm. Code 1270)  
-First Notice Published: 44 Ill. Reg. 16065; 10/2/20  
-Agency Response: Agree

**IV. Announcement of the next JCAR Meeting****V. Adjournment**

## JOINT COMMITTEE ON ADMINISTRATIVE RULES

## SECOND NOTICES RECEIVED

The following second notices were received during the period of April 27, 2021 through May 3, 2021. These rulemakings are scheduled for the May 18, 2021 meeting. Other items not contained in this published list may also be considered. Members of the public wishing to express their views with respect to a rulemaking should submit written comments to the Committee at the following address: Joint Committee on Administrative Rules, 700 Stratton Bldg., Springfield IL 62706.

Second Notice Expires	Agency and Rule	Start of First Notice	JCAR Meeting
6/13/21	<u>Department of Revenue</u> , Retailers' Occupation Tax (86 Ill. Adm. Code 130)	2/19/21 45 Ill. Reg. 2216	5/18/21
6/13/21	<u>Department of Labor</u> , Minimum Wage Law (56 Ill. Adm. Code 210)	5/22/20 44 Ill. Reg. 8472	5/18/21
6/16/21	<u>Office of the Secretary of State</u> , Limited Liability Company Act (14 Ill. Adm. Code 178)	2/19/21 45 Ill. Reg. 2243	5/18/21
6/16/21	<u>Office of the Secretary of State</u> Business Corporation Act (14 Ill. Adm. Code 150)	1/22/21 45 Ill. Reg. 1114	5/18/21

## EXECUTIVE ORDER

**2021-9**  
**EXECUTIVE ORDER 2021-09**  
**(COVID-19 EXECUTIVE ORDER NO. 78)**

**WHEREAS**, since early March 2020, Illinois has faced a pandemic that has caused extraordinary sickness and loss of life, infecting over 1,335,000, and taking the lives of more than 21,950 residents; and,

**WHEREAS**, as Illinois adapts and responds to the public health disaster caused by Coronavirus Disease 2019 (COVID-19), a novel severe acute respiratory illness that spreads rapidly through respiratory transmissions and that continues to be without an effective treatment or vaccine, the burden on residents, healthcare providers, first responders, and governments throughout the State is unprecedented; and,

**WHEREAS**, at all times but especially during a public health crisis, protecting the health and safety of Illinoisans is among the most important functions of State government; and,

**WHEREAS**, public health research and guidance indicates the necessity and efficacy of wearing cloth face coverings in public settings where social distancing measures are difficult to maintain, and indicates that the risk of transmission outdoors is less than the risk of transmission indoors; and,

**WHEREAS**, public health guidance advises that minimizing physical interactions between people who do not reside in the same household is critical to slowing the spread of COVID-19; and,

**WHEREAS**, as COVID-19 has spread in Illinois over the course of the Gubernatorial Disaster Proclamations, the circumstances causing a disaster throughout the State have changed and continue to change, making definitive predictions of the course the virus will take over the coming months extremely difficult; and,

**WHEREAS**, in addition to causing the tragic loss of more than 21,950 Illinoisans and wreaking havoc on the physical health of tens of thousands more, COVID-19 has caused extensive economic loss and continues to threaten the financial welfare of a significant number of individuals and businesses across the nation and the State; and,

**WHEREAS**, many executive agencies in the State have focused their limited resources on the ongoing response to the COVID-19 pandemic; and,

## EXECUTIVE ORDER

**WHEREAS**, the COVID-19 pandemic has required the Illinois Department of Agriculture (IDOA) to address the outbreak's impact on the State's food supply chain through regulation and oversight of meat and poultry facilities and livestock management facilities; and,

**WHEREAS**, the COVID-19 pandemic's disruption to the livestock market has required IDOA to concentrate its resources on working with livestock owners and producers in addressing safe and environmental animal disposal concerns through its oversight and regulation of the Dead Animal Disposal Act; and,

**WHEREAS**, IDOA regulates and investigates many other industries that have been directly impacted by the COVID-19 pandemic including, but not limited to, pesticide applicators, animal shelters, pet shops, and gas stations, and the continued, proper regulation of these industries requires IDOA to commit additional time and resources into creating new procedures for conducting remote investigations and trainings; and,

**WHEREAS**, the COVID-19 pandemic's detrimental impact to IDOA's regulated industries has required IDOA to place additional time and resources into organizing and managing the timely implementation of the Business Interruption Grant Program; and,

**WHEREAS**, on April 30, 2021, considering the expected continuing spread of COVID-19 and the ongoing health and economic impacts that that will be felt over the coming month by people across the State, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, in response to the epidemic emergency and public health emergency described above, I find it necessary to re-issue Executive Orders 2020-03, 2020-04, 2020-07, 2020-08, 2020-09, 2020-11, 2020-12, 2020-15, 2020-16, 2020-17, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2020-26, 2020-27, 2020-29, 2020-30, 2020-34, 2020-35, 2020-36, 2020-40, 2020-42, 2020-43, 2020-45, 2020-47, 2020-50, 2020-57, 2020-68, 2020-72, 2021-03, and 2021-07 and hereby incorporate the WHEREAS clauses of those Executive Orders;

**THEREFORE**, by the powers vested in me as the Governor of the State of Illinois, pursuant to the Illinois Constitution and Sections 7(1), 7(2), 7(3), 7(8), 7(9), and 7(12) of the Illinois Emergency Management Agency Act, 20 ILCS 3305, and consistent with the powers in public health laws, I hereby order the following, effective April 30, 2021:

**Part 1: Re-Issue of Executive Orders.**

Executive Orders 2020-03, 2020-04, 2020-07, 2020-08, 2020-09, 2020-11, 2020-12, 2020-15, 2020-16, 2020-17, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2020-26, 2020-27, 2020-29, 2020-30, 2020-34, 2020-35, 2020-36, 2020-40, 2020-42, 2020-43, 2020-45, 2020-47, 2020-50, 2020-57, 2020-68, 2020-72, 2021-03, and 2021-07 are hereby re-issued as follows:

## EXECUTIVE ORDER

**Executive Order 2020-04 (Closure of James R. Thompson Center; waiver of sick leave requirement for State employees):**

Sections 2 and 3 of Executive Order 2020-04 are re-issued and extended through **May 29, 2021**. Nothing in Section 2 precludes the Department of Central Management Services from designating specific points of ingress and egress and controlling traffic flow in the James R. Thompson Center for State employees, members of the public attending to State business, and members of the public patronizing the businesses and food court.

**Executive Order 2020-07 (In-person meeting requirements):**

Section 6 of Executive Order 2020-07, as amended by Executive Order 2020-33 and Executive Order 2020-44, is re-issued and extended through **May 29, 2021**.

**Executive Order 2020-08 (Secretary of State operations):**

Section 2 of Executive Order 2020-08, as amended by Executive Order 2021-06, is re-issued and extended through **May 15, 2021**.

Sections 3, 4, and 5 of Executive Order 2020-08, as amended by Executive Order 2020-39 and Executive Order 2020-44, are re-issued and extended through **May 29, 2021**.

**Executive Order 2020-09 (Telehealth):**

Executive Order 2020-09, as amended by Executive Order 2020-52, is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-11 (Illinois Department of Corrections notification period):**

Section 4 of Executive Order 2020-11 is re-issued and extended through **May 29, 2021**.

**Executive Order 2020-12 (Health care worker background checks; Illinois Department of Juvenile Justice notification period):**

Sections 1 and 3 of Executive Order 2020-12 are re-issued and extended through **May 29, 2021**.

**Executive Order 2020-15 (Suspending provisions of the Illinois School Code):**

## EXECUTIVE ORDER

Sections 5, 6, 7, 8, and 9 of Executive Order 2020-15 are re-issued and extended through **May 29, 2021**.

**Executive Order 2020-16 (Suspension of classroom training requirement for security services):**

Section 2 of Executive Order 2020-16 is re-issued and extended through **May 29, 2021**.

**Executive Orders 2020-03 and 2020-17 (Cannabis deadlines and applications):**

Executive Orders 2020-03 and 2020-17, as modified by Executive Order 2020-18, are re-issued and shall remain in effect as specified by Executive Order 2020-18.

**Executive Order 2020-20 (Public assistance requirements):**

Executive Order 2020-20 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-21 (Furlough of Illinois Department of Corrections inmates):**

Executive Order 2020-21 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-23 (Actions by the Illinois Department of Financial and Professional Regulation for licensed professionals engaged in disaster response):**

Executive Order 2020-23 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-24 (Illinois Department of Human Services Forensic Treatment Program; investigations of Illinois Department of Human Services employees):**

Executive Order 2020-24 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-25 (Garnishment and wage deductions):**

Executive Order 2020-25, as amended by Executive Order 2020-55, is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-26 (Hospital capacity):**

Executive Order 2020-26 is re-issued in its entirety and extended through **May 29, 2021**.

## EXECUTIVE ORDER

**Executive Order 2020-27 (Cadavers testing positive for COVID-19):**

Executive Order 2020-27 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-29 (In-person education or exams for professional insurance licenses):**

Executive Order 2020-29 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-30 (Expired consular identification documents; electronic filings for the Illinois Human Rights Commission):**

Sections, 1, 4, 5, and 6 of Executive Order 2020-30 are re-issued and extended through **May 29, 2021**.

**Executive Order 2020-34 (Cannabis requirements):**

Executive Order 2020-34 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-35 (Illinois Department of Public Health regulatory activities):**

Sections 14, 15, 16, and 17 of Executive Order 2020-35 are re-issued and extended through **May 29, 2021**.

**Executive Order 2020-36 (Marriage licenses):**

Executive Order 2020-36 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-40 (Child Labor Law):**

Sections 2 and 4 of Executive Order 2020-40 are re-issued and extended through **May 29, 2021**.

**Executive Order 2020-42 (State Fairs):**

Executive Order 2020-42 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-43 (Phase 4 Community Revitalization Order):**



## EXECUTIVE ORDER

Executive Order 2020-43, as amended by Executive Order 2020-55 and Executive Order 2020-59, is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-43 is further amended and revised as follows:**

**Public health requirements for individuals.** Individuals must take the following public health steps to protect their own and their neighbors' health and lives:

- b. **Wear a face covering in public places or when working.** Any individual who is over age two and able to medically tolerate a face covering (a mask or cloth face covering) shall be required to cover their nose and mouth with a face covering when in a public place and unable to maintain a six-foot social distance. This requirement applies whether in an indoor space, such as a store, or in a public outdoor space where maintaining a six-foot social distance is not always possible. However, fully vaccinated people no longer need to wear a mask outdoors, except in crowded settings and venues where there is a decreased ability to maintain physical distance.

**Executive Order 2020-45 (Cannabis licenses):**

Executive Order 2020-45 is re-issued in its entirety and shall remain in effect as specified by Executive Order 2020-45.

**Executive Order 2020-47 (In-person instruction at preK-12 schools):**

Executive Order 2020-47 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-50 (Resuming transfers from county jails to Illinois Department of Corrections):**

Executive Order 2020-50 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-57 (Cannabis identification cards):**

Executive Order 2020-57 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2020-68 (Cannabis registry identification card renewals):**

Executive Order 2020-68, as amended by Executive Order 2021-05, is re-issued in its entirety and extended through **May 29, 2021**.

## EXECUTIVE ORDER

**Executive Order 2020-72 (Residential eviction moratorium):**

Executive Order 2020-72, as amended by Executive Order 2020-74, Executive Order 2021-01, Executive Order 2021-05, and Executive Order 2021-06, is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2021-03 (Regional mitigation metrics):**

Executive Order 2021-03 is re-issued in its entirety and extended through **May 29, 2021**.

**Executive Order 2021-07 (Suspending provisions of the Illinois Energy Assistance Act):**

Executive Order 2021-07 is re-issued in its entirety and extended through **May 29, 2021**.

**Part 2: Savings Clause.** If any provision of this Executive Order or its application to any person or circumstance is held invalid by any court of competent jurisdiction, this invalidity does not affect any other provision or application of this Executive Order, which can be given effect without the invalid provision or application. To achieve this purpose, the provisions of this Executive Order are declared to be severable.

Issued by the Governor April 30, 2021

Filed by the Secretary of State April 30, 2021

## PROCLAMATION

**2021-58  
Gubernatorial Disaster Proclamation**

**WHEREAS**, since early March 2020, Illinois has faced a pandemic that has caused extraordinary sickness and loss of life, infecting over 1,335,000, and taking the lives of more than 21,950 residents; and,

**WHEREAS**, protecting the health and safety of Illinoisans is among the most important functions of State government; and,

**WHEREAS**, Illinoisans who become sick must have access to necessary care from medical professionals, including hospital beds, emergency room beds, or ventilators if needed; and,

**WHEREAS**, it is also critical that the State's health care and first responder workforce has adequate personal protective equipment (PPE) to safely treat patients, respond to public health disasters, and prevent the spread of communicable diseases; and,

**WHEREAS**, as Illinois continues to respond to the public health disaster caused by Coronavirus Disease 2019 (COVID-19), a novel severe acute respiratory illness that spreads rapidly through respiratory transmissions, the burden on residents, healthcare providers, first responders, and governments throughout the State is unprecedented; and,

**WHEREAS**, the World Health Organization declared COVID-19 a Public Health Emergency of International Concern on January 30, 2020, and the United States Secretary of Health and Human Services declared that COVID-19 presents a public health emergency on January 27, 2020; and,

**WHEREAS**, on March 11, 2020, the World Health Organization characterized the COVID-19 outbreak as a pandemic, and has now reported more than 150 million confirmed cases of COVID-19 and more than 3.1 million deaths attributable to COVID-19 globally; and,

**WHEREAS**, despite efforts to contain COVID-19, the virus has continued to spread rapidly, resulting in the need for federal and State governments to take significant steps; and,

**WHEREAS**, while vaccines have proven to be effective against COVID-19, it is critical that Illinois continue to prevent spread of the disease as vaccine accessibility expands; and,

**WHEREAS**, on March 9, 2020, I, JB Pritzker, Governor of Illinois, declared all counties in the State of Illinois as a disaster area in response to the outbreak of COVID-19; and,

## PROCLAMATION

**WHEREAS**, on March 13, 2020, the President declared a nationwide emergency pursuant to Section 501(b) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. 5121-5207 (the "Stafford Act"), covering all states and territories, including Illinois; and,

**WHEREAS**, on March 26, 2020, the President declared a major disaster in Illinois pursuant to Section 401 of the Stafford Act; and,

**WHEREAS**, on April 1, 2020, due to the exponential spread of COVID-19 in Illinois, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on April 30, 2020, due to the continued spread of COVID-19 in Illinois, the threatened shortages of hospital beds, ER beds, and ventilators, and the inadequate testing capacity, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on May 29, 2020, due to the continued spread of COVID-19 in Illinois, and the resulting health and economic impacts of the virus, and the need to increase testing capacity, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on June 26, 2020, due to the further spread of COVID-19 in Illinois, the continuing health and economic impacts of the virus, and the need to continue to increase testing capacity and preserve our progress against the disease, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on July 24, 2020, due to the resurgence of COVID-19 in Illinois, the continuing health and economic impacts of the virus, and the need to continue to increase testing capacity and preserve our progress against the disease, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on August 21, 2020, due to the resurgence of COVID-19 in Illinois, the continuing health and economic impacts of the virus, and the need to continue to increase testing capacity and preserve our progress against the disease, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on September 18, 2020, due to the resurgence of COVID-19 in Illinois, the continuing health and economic impacts of the virus, and the need to continue to increase testing capacity and preserve our progress against the disease, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on October 16, 2020, due to the resurgence of COVID-19 in Illinois, the continuing health and economic impacts of the virus, and the need to continue to increase testing

## PROCLAMATION

capacity and preserve our progress against the disease, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on November 13, 2020, due to the increased spread of COVID-19 in Illinois, the continuing health and economic impacts of the virus, and the need to continue to increase testing capacity and preserve our progress against the disease, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on December 11, 2020, due to the continued rapid spread of COVID-19 in Illinois, the health and economic impacts of the virus, and the need to continue to increase testing capacity and preserve our progress against the disease, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on January 8, 2021, due to the continued rapid spread of COVID-19 in Illinois, and the health and economic impacts of the virus, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on February 5, 2021, due to the continued rapid spread of COVID-19 in Illinois, and the health and economic impacts of the virus, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on March 5, 2021, due to the continued rapid spread of COVID-19 in Illinois, and the health and economic impacts of the virus, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, on April 2, 2021, due to the continued rapid spread of COVID-19 in Illinois, and the health and economic impacts of the virus, I declared all counties in the State of Illinois as a disaster area; and,

**WHEREAS**, as circumstances surrounding COVID-19 have evolved and new evidence emerges, there have been frequent changes in information and public health guidance; and,

**WHEREAS**, the unprecedented nature of COVID-19, including the health consequences it has on not just the respiratory system but the heart, brain, kidneys, and the body's immune response, has made the virus's effects and its path difficult to predict; and,

**WHEREAS**, from the outset, data suggested that older adults and those with serious underlying health conditions are more likely to experience severe and sometimes fatal complications from COVID-19; and,

## PROCLAMATION

**WHEREAS**, evidence has shown that young people, including infants and toddlers, are also at risk of such complications; and,

**WHEREAS**, young and middle-aged people have comprised a significant proportion of COVID-19 cases and hospitalized COVID-19 patients; and,

**WHEREAS**, some people infected by the virus remain asymptomatic but nonetheless may spread it to others; and,

**WHEREAS**, although the CDC initially recommended against wearing cloth face coverings or masks as protection, as a result of research on asymptomatic and pre-symptomatic transmission, the CDC revised its conclusions and recommends wearing cloth face coverings in public settings where social distancing measures are difficult to maintain; and,

**WHEREAS**, the CDC now advises that cloth face coverings or masks protect both the wearer and those around them from COVID-19; and,

**WHEREAS**, public health research and guidance now indicates the necessity and efficacy of wearing cloth face coverings in public settings where social distancing measures are difficult to maintain, and indicates that the risk of transmission outdoors is less than the risk of transmission indoors; and,

**WHEREAS**, the CDC recently issued interim recommendations for fully vaccinated people, which indicate that fully vaccinated people no longer need to wear a mask outdoors, except in certain crowded settings and venues and in other situations that pose increased risk of transmission; and

**WHEREAS**, public health guidance advises that minimizing physical interactions between people who do not reside in the same household is critical to slowing the spread of COVID-19; and,

**WHEREAS**, as COVID-19 has spread in Illinois over the course of the Gubernatorial Disaster Proclamations, the circumstances causing a disaster throughout the State have changed and continue to change, making definitive predictions of the course the virus will take over the coming months extremely difficult; and,

**WHEREAS**, at the time I issued the first Gubernatorial Disaster Proclamation, there were 11 confirmed cases of COVID-19 in one Illinois county; and,

**WHEREAS**, as of today, there have been over 1,335,000 confirmed cases of COVID-19 in all 102 Illinois counties; and,

## PROCLAMATION

**WHEREAS**, the first death attributed to COVID-19 in Illinois was announced on March 17, 2020; and,

**WHEREAS**, as of today, more than 21,950 residents of Illinois have died due to COVID-19; and,

**WHEREAS**, from the outset, studies have suggested that for every confirmed case there are many more unknown cases, some of which are asymptomatic individuals who can pass the virus to others without knowing; and,

**WHEREAS**, the CDC estimates that total cases of COVID-19 may be higher than reported for certain regions; and,

**WHEREAS**, while the number of new COVID-19 cases in Illinois has decreased recently, the virus continues to infect thousands of individuals and claim the lives of too many Illinoisans each day; and,

**WHEREAS**, the COVID-19 pandemic is not limited to the most populous counties, and as of today, counties in all regions of the State are demonstrating significant COVID-19 risk; and,

**WHEREAS**, without precautions COVID-19 can spread exponentially, even in less populous areas; for example, in Jasper County, a single infected first responder visited a nursing home and instigated series of infections that resulted in one of highest infection rates in the State; and similarly, in Randolph County, a single infected person attended an event in mid-March that caused that county likewise to suffer one of the State's highest infection rates; and,

**WHEREAS**, the State and the Illinois Department of Public Health have developed and continued to update a detailed mitigation plan to trigger additional precautions when regions meet certain risk levels; and,

**WHEREAS**, the U.S. has surpassed 32 million total cases and nearly 575,000 deaths; and,

**WHEREAS**, COVID-19 has claimed the lives of and continues to impact the health of Black and Hispanic Illinoisans at a disproportionately high rate – magnifying significant health disparities and inequities; and,

**WHEREAS**, the Illinois Department of Public Health activated its Illinois Emergency Operations Plan and its Emergency Support Function 8 Plan to coordinate emergency response efforts by hospitals, local health departments, and emergency management systems in order to

## PROCLAMATION

avoid a surge in the use of hospital resources and capacity; and,

**WHEREAS**, as the virus has progressed through Illinois, the crisis facing the State continues to develop and requires an evolving response to ensure hospitals, health care professionals and first responders are able to meet the health care needs of all Illinoisans and in a manner consistent with CDC guidance that continues to be updated; and,

**WHEREAS**, in order to ensure that health care professionals, first responders, hospitals and other facilities are able to meet the health care needs of all residents of Illinois, the State must have critical supplies, including PPE, such as masks, face shields, gowns, and gloves; and,

**WHEREAS**, the State of Illinois maintains a stockpile that supports the existing PPE supply chains and stocks at various healthcare facilities; and,

**WHEREAS**, while the State continues to make every effort to ensure an adequate supply of PPE, if those procurement efforts are disrupted or Illinois experiences a surge in COVID-19 cases, the State may face a life-threatening shortage of respirators, masks, protective eyewear, face shields, gloves, gowns, and other protective equipment for health care workers and first responders; and,

**WHEREAS**, Illinois continues to use a significant percentage of hospital beds and ICU beds; and, if COVID-19 cases surge, the State could face a shortage of critical health care resources; and,

**WHEREAS**, Illinois now has tested more than 22.5 million total specimens for COVID-19; and,

**WHEREAS**, in addition to causing the tragic loss of more than 22,950 Illinoisans and wreaking havoc on the physical health of tens of thousands more, COVID-19 has caused extensive economic loss and continues to threaten the financial welfare of a significant number of individuals and businesses across the nation and the State; and,

**WHEREAS**, nationwide, more than 75 million people have filed unemployment claims since the start of the pandemic; and,

**WHEREAS**, the Illinois Department of Employment Security announced that the State's unemployment rate continues to be high; and,

**WHEREAS**, the Illinois Department of Employment Security is responding to the economic crisis in a number of ways, including through the Pandemic Unemployment Assistance program; and,



## PROCLAMATION

**WHEREAS**, the Department of Commerce and Economic Opportunity is working to address the economic crisis, including through assistance programs such as the Business Interruption Grants Program for businesses that experienced a limited ability to operate due to COVID-19 related closures; and,

**WHEREAS**, many executive agencies in the State have focused their limited resources on the ongoing response to the COVID-19 pandemic; and,

**WHEREAS**, the COVID-19 pandemic has required the Illinois Department of Agriculture (IDOA) to address the outbreak's impact on the State's food supply chain through regulation and oversight of meat and poultry facilities and livestock management facilities; and

**WHEREAS**, the COVID-19 pandemic's disruption to the livestock market has required IDOA to concentrate its resources on working with livestock owners and producers in addressing safe and environmental animal disposal concerns through its oversight and regulation of the Dead Animal Disposal Act; and

**WHEREAS**, IDOA regulates and investigates many other industries that have been directly impacted by the COVID-19 pandemic including, but not limited to, pesticide applicators, animal shelters, pet shops, and gas stations, and the continued, proper regulation of these industries requires IDOA to commit additional time and resources into creating new procedures for conducting remote investigations and trainings; and

**WHEREAS**, the COVID-19 pandemic's detrimental impact to IDOA's regulated industries has required IDOA to place additional time and resources into organizing and managing the timely implementation of the Business Interruption Grant Program; and

**WHEREAS**, the economic loss and insecurity caused by COVID-19 threatens the viability of business and the access to housing, medical care, food, and other critical resources that directly affect the health and safety of residents; and,

**WHEREAS**, access to housing helps prevent spread of COVID-19 because individuals with housing are able to minimize physical contact with those outside their households; and,

**WHEREAS**, temporarily halting eviction proceedings avoids numerous interactions associated with being evicted, including with law enforcement officers, courtroom personnel, landlords, movers, and friends and family who agree to provide temporary housing, as well as, for those who are forced into homelessness, the interactions associated with taking refuge in a shelter; and,

**WHEREAS**, preventing spread by temporarily halting eviction proceedings thus also prevents spread of COVID-19 in the broader community; and,

## PROCLAMATION

**WHEREAS**, COVID-19 also has been extraordinarily disruptive to schools, and it is among the highest priorities of the State to ensure that students are able to obtain a quality education and that schools are able to provide an environment that is safe for students, teachers, and the community; and,

**WHEREAS**, based on the foregoing facts, and considering the rapid spread of COVID-19 and the ongoing health and economic impacts that will be felt over the coming month by people across the State, the current circumstances in Illinois surrounding the spread of COVID-19 constitute an epidemic emergency and a public health emergency under Section 4 of the Illinois Emergency Management Agency Act; and,

**WHEREAS**, based on the foregoing, the continuing burden on hospital resources, the ongoing potential that the State could face shortages of these resources in the event of a surge in infections, and the critical need to increase the purchase and distribution of PPE as well as to continue to expand COVID-19 testing capacity constitute a public health emergency under Section 4 of the Illinois Emergency Management Agency Act; and,

**WHEREAS**, it is the policy of the State of Illinois to be prepared to address any disasters and, therefore, it is necessary and appropriate to make additional State resources available to ensure that that our healthcare delivery system is capable of serving those who are sick and that Illinoisans remain safe and secure and able to obtain medical care; and,

**WHEREAS**, this proclamation will assist the State in facilitating economic recovery for individuals and businesses in an effort to prevent further devastating consequences from the economic instability COVID-19 has caused; and,

**WHEREAS**, this proclamation will assist Illinois agencies in coordinating State and Federal resources, including materials needed to test for COVID-19, personal protective equipment, and medicines, in an effort to support the State responses as well as the responses of local governments to the present public health emergency; and,

**WHEREAS**, these conditions provide legal justification under Section 7 of the Illinois Emergency Management Agency Act for the new issuance of a proclamation of disaster; and,

**WHEREAS**, the Illinois Constitution, in Article V, Section 8, provides that "the Governor shall have the supreme executive power, and shall be responsible for the faithful execution of the laws," and states, in the Preamble, that a central purpose of the Illinois Constitution is "provide for the health, safety, and welfare of the people";

## PROCLAMATION

**NOW, THEREFORE**, in the interest of aiding the people of Illinois and the local governments responsible for ensuring public health and safety, I, JB Pritzker, Governor of the State of Illinois, hereby proclaim as follows:

**Section 1.** Pursuant to the provisions of Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, I find that a disaster exists within the State of Illinois and specifically declare all counties in the State of Illinois as a disaster area. The proclamation authorizes the exercise of all of the emergency powers provided in Section 7 of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7, including but not limited to those specific emergency powers set forth below.

**Section 2.** The Illinois Department of Public Health and the Illinois Emergency Management Agency are directed to coordinate with each other with respect to planning for and responding to the present public health emergency.

**Section 3.** The Illinois Department of Public Health is further directed to cooperate with the Governor, other State agencies and local authorities, including local public health authorities, in the development and implementation of strategies and plans to protect the public health in connection with the present public health emergency.

**Section 4.** The Illinois Emergency Management Agency is directed to implement the State Emergency Operations Plan to coordinate State resources to support local governments in disaster response and recovery operations.

**Section 5.** To aid with emergency purchases necessary for response and other emergency powers as authorized by the Illinois Emergency Management Agency Act, the provisions of the Illinois Procurement Code that would in any way prevent, hinder or delay necessary action in coping with the disaster are suspended to the extent they are not required by federal law. If necessary, and in accordance with Section 7(1) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(1), the Governor may take appropriate executive action to suspend additional statutes, orders, rules, and regulations.

**Section 6.** Pursuant to Section 7(3) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(3), this proclamation activates the Governor's authority, as necessary, to transfer the direction, personnel or functions of State departments and agencies or units thereof for the purpose of performing or facilitating emergency response programs.

**Section 7.** The Illinois Department of Public Health, Illinois Department of Insurance and the Illinois Department of Healthcare and Family Services are directed to recommend, and, as appropriate, take necessary actions to ensure expanded access to testing for COVID-19 and that

## PROCLAMATION

consumers do not face financial barriers in accessing diagnostic testing and treatment services for COVID-19.

**Section 8.** The Illinois State Board of Education is directed to recommend, and, as appropriate, take necessary actions to address any impact to learning associated with the present public health emergency and to continue to alleviate any barriers to the use of remote learning during the effect of this proclamation that exist in the Illinois School Code, 105 ILCS 5/1-1 et. seq.

**Section 9.** All State agencies are directed to cooperate with the Governor, other State agencies and local authorities in the development and implementation of strategies and plans to cope with and recover from the economic impact of the present public health emergency.

**Section 10.** Pursuant to Section 7(14) of the Illinois Emergency Management Agency Act, 20 ILCS 3305/7(14), increases in the selling price of goods or services, including medical supplies, protective equipment, medications and other commodities intended to assist in the prevention of or treatment and recovery of COVID-19, shall be prohibited in the State of Illinois while this proclamation is in effect.

**Section 11.** This proclamation can facilitate requests for federal emergency and/or disaster assistance if a complete and comprehensive assessment of damage indicates that effective recovery is beyond the capabilities of the State and affected local governments.

**Section 12.** For purposes of Public Act 101-0640, Article 15, section 15-5, amending the Open Meetings Act, new section 5 ILCS 120/7(e)(4), I find that the public health concerns at issue in this proclamation render in-person attendance of more than ten people at the regular meeting location not feasible.

**Section 13.** This proclamation shall be effective immediately and remain in effect for 30 days.

Issued by the Governor April 30, 2021

Filed by the Secretary of State April 30, 2021

## **ILLINOIS ADMINISTRATIVE CODE**

### **Issue Index - With Effective Dates**

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