1) **Heading of the Part:** Health Care Personnel Vaccination Code

2) **Code Citation:** 77 Ill. Adm. Code 956

3) **Section Numbers:**

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4) **Statutory Authority:** Section 2310-195, Section 2310-610, and Section 2310-650 of the Department of Public Health Powers and Duties Law of the Civil Administrative Code [20 ILCS 2310/2310-195, 2310/2310-610, and 2310/2310-650]

5) **Effective Date of Rules:** December 29, 2009

6) **If this emergency rulemaking is to expire before the end of the 150-day period, please specify the date on which it is to expire:** This emergency rulemaking will expire at the end of 150 days or upon adoption of permanent rules, whichever comes first.

7) **Date filed with the Index Department:** December 29, 2009

8) **A copy of the emergency amendments, including any material incorporated by reference, is on file in the agency's principal office and is available for public inspection.**

9) **Reason for Emergency:** These emergency rules are part of the Illinois Department of Public Health's efforts to combat influenza. The emergency rules implement Public Act 96-823, which amended the Department of Public Health Powers and Duties Law to authorize the Department to require any facility licensed by the Department to implement an influenza vaccination program that ensures that health care personnel are offered the opportunity to be vaccinated against seasonal influenza and other novel/pandemic influenza viruses as vaccines become available. The emergency rules will provide health care settings with as much time as possible to implement vaccination programs for the influenza season. The 2009-2010 influenza season presents the potential for the simultaneous circulation of both seasonal influenza viruses and the pandemic H1N1 strain. Seasonal and pandemic influenza places a great demand on the health care delivery system by making many people ill over a short period of time, so that every available health care worker may be necessary to provide care. Health care personnel who do not provide direct care must also be protected from influenza, because their work
is essential to the efficient and effective delivery of health care. In addition, exposed personnel themselves can transmit the disease. Many professional organizations, such as the Centers for Disease Control and Prevention (CDC), the Joint Commission for the Accreditation of Health Care Organizations (JCAHO), and the National Foundation for Infectious Diseases, endorse the universal, annual vaccination of health care personnel. The purpose of these emergency rules is to increase vaccination rates, to reduce the incidence of illness among health care personnel, and to reduce transmission rates in the population of the State.

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." In addition, the emergency must require adoption of a rule upon fewer days than is required by the regular rulemaking process. The situation that the Department faces in regard to influenza vaccination of health care personnel meets these criteria. The prospect of thousands of health care personnel becoming infected with influenza poses a threat to the public interest, safety, and welfare, in regard to both their own health and the health of the population of the State whose care is entrusted to them. In addition, health care personnel who have been exposed to influenza in a work environment can expose others outside of that environment with whom they come in contact. Voluntary vaccination of health care personnel is an important step in controlling the spread of influenza and protecting the health of the population. Using the regular rulemaking process to adopt these rules would preclude their effectiveness at the time when they are most needed, which is during the influenza season. Health care personnel need to be vaccinated before they are called upon to care for individuals who have influenza. Adoption of these emergency rules will help to fulfill the Department's goal of taking proactive steps to prevent the spread of disease. The Department is also publishing identical proposed rules, which were approved by the State Board of Health on December 10, 2009.

10) A Complete Description of the Subjects and Issues Involved: Part 956 requires all of the health care facilities and programs that the Department licenses, including hospitals and long-term care facilities, to offer the opportunity for influenza vaccination to their health care personnel. Health care personnel will have the option of declining the vaccination, in accordance with policies set forth in the rules. The rules also include documentation requirements, definitions and a sample declination form.

11) Are there any proposed amendments to this Part pending? Yes, identical proposed rules are published in this issue of the Illinois Register.
12) **Statement of Statewide Policy Objectives:** These rules do not impose or expand a State mandate.

13) **Information and questions regarding these rules shall be directed to:**

Susan Meister  
Administrative Rules Coordinator  
Department of Public Health  
535 W. Jefferson St., 5th Floor  
Springfield, Illinois 62761  

217/782-2043  
dph.rules@illinois.gov

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

NOTICE OF EMERGENCY RULES

TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER u: MISCELLANEOUS PROGRAMS AND SERVICES

PART 956
HEALTH CARE PERSONNEL VACCINATION CODE

Section 956.10 Definitions

Health care personnel – All paid and unpaid persons working in health care settings who have the potential for exposure to infectious materials, including body substances, contaminated medical supplies and equipment, contaminated environmental surfaces, or contaminated air. Health care personnel include, but are not limited to, physicians, nurses, nursing assistants, therapists, technicians, emergency medical services personnel, pharmacists, laboratory personnel, contractual staff not employed by the health care setting, and persons not directly involved in patient care (e.g., clerical, dietary, housekeeping, maintenance and
volunteers) but potentially exposed to infectious agents that can be transmitted to and from health care personnel.

Health care setting –

A facility licensed under the Alternative Health Care Delivery Act;

An ambulatory surgical treatment center, as defined in the Ambulatory Surgical Treatment Center Act;

An assisted living facility, a shared housing establishment, or a board and care home, as defined in the Assisted Living and Shared Housing Act;

A community living facility, as defined in the Community Living Facilities Licensing Act;

A life care facility, as defined in the Life Care Facilities Act;

A long-term care facility, as defined in the Nursing Home Care Act;

An EMS System, as defined in the Emergency Medical Services (EMS) Systems Act.

A freestanding emergency center, licensed under the Emergency Medical Services (EMS) Systems Act;

A home health agency, home services agency or home nursing agency, as defined in the Home Health, Home Services, and Home Nursing Agency Licensing Act;

A hospice care program or voluntary hospice program, as defined in the Hospice Program Licensing Act;

An end stage renal disease facility, as defined in the End Stage Renal Disease Facility Act;

A supportive residence, as defined in the Supportive Residences Licensing Act;
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A hospital, as defined in the Hospital Licensing Act;

The University of Illinois Hospital, Chicago, as defined in the University of Illinois Hospital Act.

Influenza – An acute infectious respiratory disease, caused by influenza viruses.

Vaccination – The act or practice of vaccinating; inoculation with vaccine.

Section 956.20  Referenced Materials
EMERGENCY

The following Illinois statutes are referenced in this Part:

a)  Alternative Health Care Delivery Act [210 ILCS 3]

b)  Ambulatory Surgical Treatment Center Act [210 ILCS 5]

c)  Assisted Living and Shared Housing Act [210 ILCS 9]

d)  Community Living Facilities Licensing Act [210 ILCS 35]

e)  Life Care Facilities Act [210 ILCS 40]

f)  Nursing Home Care Act [210 ILCS 45]

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

h)  Home Health, Home Services, and Home Nursing Agency Licensing Act [210 ILCS 55]

i)  Hospice Program Licensing Act [210 ILCS 60]

j)  End Stage Renal Disease Facility Act [210 ILCS 62]

k)  Supportive Residences Licensing Act [210 ILCS 65]

l)  Hospital Licensing Act [210 ILCS 85]
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m) University of Illinois Hospital Act [110 ILCS 330]

Section 956.30 Influenza Vaccination

EMERGENCY

Beginning with the 2010 to 2011 influenza season, each health care setting shall ensure that all health care personnel are provided education on influenza and are offered the opportunity to receive seasonal, novel and pandemic influenza vaccine, in accordance with this Section, during the influenza season (between September 1 and March 1 of each year), unless the vaccine is unavailable (see subsection (e)).

a) Each health care setting shall notify all health care personnel of the influenza vaccination provisions of this Part and shall provide or arrange for vaccination of all health care personnel who accept the offer of vaccination. Each health care setting shall provide all health care personnel with education about the benefits of influenza vaccine and potential consequences of influenza illness. Information provided shall include the epidemiology, modes of transmission, diagnosis, treatment and non-vaccine infection control strategies.

b) Each health care setting shall develop and implement a policy that includes the following:

1) The specific influenza vaccine to be administered;
2) The dates by which health care personnel should be vaccinated; and
3) Any required documentation relating to the health care personnel vaccination requirement of this Part.

c) Declination of Vaccine

1) Health care personnel may decline to accept the offer of vaccination for reasons including the following:

A) The vaccine is medically contraindicated, which means that administration of influenza vaccine to that person would likely be detrimental to the person's health;

B) Vaccination is against the person's religious beliefs;
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C) The person has already been vaccinated; or

D) For any other reasons documented by the person as the basis of the refusal.

2) Health care personnel who decline vaccination for any reason indicated in subsection (c)(1) shall sign a statement declining vaccination and certifying that he or she received education about the benefits of influenza vaccine.

d) Unavailability of Vaccine. A health care setting shall not be required to offer influenza vaccination when the vaccine is unavailable for purchase, shipment or administration by a third party, or when complying with an order of the Department that restricts the use of the vaccine. A health care setting shall offer to provide or arrange for influenza vaccination for health care personnel as soon as the vaccine becomes available.

e) Documentation

1) Each health care setting shall maintain a system to track the offer of vaccination to health care personnel. The system shall include documentation that each person either accepted the offer or declined the offer by signing a declination statement pursuant to subsection (c)(2).

2) If a health care setting is unable to provide or arrange for influenza vaccination for health care personnel who wish to be vaccinated, the reasons why the vaccination could not be provided or arranged for shall be documented.

3) Individual declination statements should be handled in a manner that ensures individual confidentiality.

f) Health care settings may choose to develop and implement more stringent influenza vaccination policies, strategies or programs designed to improve health care personnel vaccination rates than those required by this Part and that are consistent with existing law and regulation.
EMERGENCY

1. I decline the vaccine today because I have already had an influenza vaccination this year.

   Location where vaccinated ___________ Date vaccinated ___________

   Signature ___________________________ Date signed ___________

2. I acknowledge that I am aware of the following facts:

   • Influenza is a serious respiratory disease that kills, on average, 36,000 Americans every year.

   • Influenza virus may be shed for up to 48 hours before symptoms begin, allowing transmission to others.

   • Up to 30% of people with influenza have no symptoms, allowing transmission to others.

   • Influenza virus changes often, making annual vaccination necessary. Immunity following vaccination is strongest for 2 to 6 months.

   • I understand that influenza vaccine cannot transmit influenza. It does not, however, prevent all disease.

   • I have declined to receive the influenza vaccine for the ______ season. I acknowledge that influenza vaccination is recommended by the Centers for Disease Control and Prevention (CDC) for all health care personnel to prevent infection from and transmission of influenza and its complications, including death, to patients/residents/clients, my co-workers, my family and my community.

3. I decline the offer of vaccination for the following reasons (please initial all that apply):

   _________ My philosophical or religious beliefs prohibit vaccination.

   _________ I have a medical contraindication to receiving the vaccine.
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__________  Other reason _____________________________________________

__________  I do not wish to say why I decline.

4. **Knowing the facts set forth above, I choose to decline vaccination at this time.** I may change my mind and accept vaccination later, if vaccine is available. I have read and fully understand the information on this declination form.

Print name __________________________  Department ________________

Signature ____________________________  Date _______________________
