

ILLINOIS REGISTER

DEPARTMENT OF PUBLIC HEALTH

NOTICE OF PROPOSED REPEALER

- 1) Heading of the Part: Penalties
- 2) Code Citation: 77 Ill. Adm. Code 2540
- 3)

<u>Section Numbers:</u>	<u>Proposed Actions:</u>
2540.10	Repealed
2540.20	Repealed
2540.30	Repealed
- 4) Statutory Authority: Illinois Health Finance Reform Act [20 ILCS 2215]
- 5) A Complete Description of the Subjects and Issues Involved: This Part is being repealed because the Illinois Health Finance Reform Act data is now collected under the Health Care Data Collection and Submission Code (77 Ill. Adm. Code 1010). The repeal of this Part will remove the redundancy.

The economic effect of this proposed rulemaking is unknown. Therefore, the Department requests any information that would assist in calculating this effect.

The Department anticipates adoption of this rulemaking approximately six to nine months after publication of the Notice in the *Illinois Register*.

- 6) Published studies or reports, and sources of underlying data used to compose this rulemaking: None
- 7) Will this rulemaking replace any emergency rulemaking currently in effect? No
- 8) Does this rulemaking contain an automatic repeal date? No
- 9) Does this rulemaking contain incorporations by reference? No
- 10) Are there any other proposed rulemakings pending on this Part? No
- 11) Statement of Statewide Policy Objectives: This rulemaking does not create a State mandate.
- 12) Time, Place and Manner in which interested persons may comment on this proposed rulemaking: Interested persons may present their comments concerning this rulemaking within 45 days after the publication of this issue of the *Illinois Register* to:

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- 13) Initial Regulatory Flexibility Analysis:
- A) Types of small businesses, small municipalities and not for profit corporations affected: None
 - B) Reporting, bookkeeping or other procedures required for compliance: None
 - C) Types of professional skills necessary for compliance: None
- 14) Regulatory Agenda on which this rulemaking was summarized: This rule 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 Repealer begins on the next page:

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ILLINOIS HEALTH CARE COST CONTAINMENT COUNCIL

NOTICE OF PROPOSED REPEALER

TITLE 77: PUBLIC HEALTH

CHAPTER XI: ILLINOIS HEALTH CARE COST CONTAINMENT COUNCIL

PART 2540

PENALTIES (REPEALED)

Section

2540.10	Criminal Penalties
2540.20	Referral to State's Attorney
2540.30	Request for Injunction

AUTHORITY: Implementing Article V and authorized by Section 2-3 of Article II of the Illinois Health Finance Reform Act [20 ILCS 2215/Art. V and 2-3].

SOURCE: Adopted at 9 Ill. Reg. 12778, effective August 5, 1985; amended at 12 Ill. Reg. 6114, effective March 21, 1988; emergency amendment at 16 Ill. Reg. 19223, effective November 25, 1992, for a maximum of 150 days; amended at 17 Ill. Reg. 9713, effective June 10, 1993; amended at 19 Ill. Reg. 12485, effective August 21, 1995; amended at 25 Ill. Reg. 2078, effective January 19, 2001; repealed at 40 Ill. Reg. _____, effective _____.

Section 2540.10 Criminal Penalties

- a) *Any individual hospital or licensed ambulatory surgical treatment center or other organization or entity willfully violating the provisions of the Illinois Health Finance Reform Act [20 ILCS 2215] or this Chapter promulgated by the Council, shall be guilty of a business offense punishable by a fine of \$10,000 and each day's violation shall constitute a separate offense. These penalties apply to all intentional breaches of patient confidentiality not authorized by statute or the Council. [20 ILCS 2215/5-2]*
- b) *The State's Attorney of the county in which the violation occurred, or the Attorney General, shall, upon the request of the Council, bring an action for an injunction against any hospital or licensed ambulatory surgical treatment center violating the provisions of the Act. [20 ILCS 2215/5-2]*

Section 2540.20 Referral to State's Attorney

Whenever the Council is aware of the existence of probable cause to believe that a hospital or licensed ambulatory surgical treatment center is willfully violating any provisions of the Act or of this Chapter, it shall inform the State's Attorney of the county in which the alleged violation

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occurred of the facts known to the Council concerning the alleged violation.

Section 2540.30 Request for Injunction

- a) Whenever the Council finds that it is necessary in order for the Council to effectively perform its duties pursuant to the Act, it may request the State's Attorney of the county in which an alleged violation of the Act or this Chapter occurred, or the Attorney General, to bring an action for injunction against any hospital or licensed ambulatory surgical treatment center violating the provisions of the Act or this Chapter.
- b) The Council will send two warning letters to hospitals or licensed ambulatory surgical treatment centers who are out of compliance with its requirements for the correct submission of financial data or UB-92/HCFA 1450 or HCFA 1500 data as set forth in 77 Ill. Adm. Code 2510. The letters will be sent within 60 days after the time the hospital or licensed ambulatory surgical treatment center is determined to be out of compliance. The first letter will be sent no later than 20 days and the second letter no later than 40 days after the hospital or licensed ambulatory surgical treatment center is determined by the Council to be out of compliance. The letters will be sent certified mail return receipt requested.
- c) The first letter will be a reminder that data are due. The final letter will indicate that, if the hospital or licensed ambulatory surgical treatment center does not provide a satisfactory response within ten days, the Council shall request an injunction.
- d) A satisfactory response from a hospital or licensed ambulatory surgical treatment center shall be the submission of the late data or a response acceptable to the Council from the hospital or licensed ambulatory surgical treatment center demonstrating that either compliance is impossible or that the hospital or licensed ambulatory surgical treatment center is actively undertaking those steps necessary to submit the late data. Compliance is impossible when the Council determines that it would constitute a burden outweighing the benefit to the public that would be obtained by the submission of the data.