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CERTIFICATE OF EMERGENCY AMENDMENT

The Department of Public Health, State of Illinois, certifies that the attached hereto is a true and correct copy of:

Heading for the Part: Hospital Licensing Requirements

Code Citation: 77 Ill. Adm. Code 250

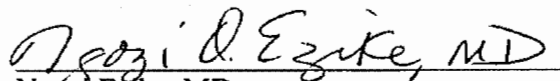
Section Involved:
250.455

which was duly amended by emergency action by this Agency.

Reason for Emergency: This emergency rule 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 these emergency amendments.

Statutory Authority: Hospital Licensing Requirements [210 ILCS 85]



Ngozi Ezike, MD
Director

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FEB 14 2022

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TITLE 77: PUBLIC HEALTH
CHAPTER I: DEPARTMENT OF PUBLIC HEALTH
SUBCHAPTER b: HOSPITALS AND AMBULATORY CARE FACILITIES

PART 250
HOSPITAL LICENSING REQUIREMENTS

SUBPART A: GENERAL PROVISIONS

Section

- 250.1 COVID-19 Emergency Provisions for Hospitals
EMERGENCY
- 250.2 COVID-19 Emergency Provisions for Hospitals and Alternate Care Facilities
EMERGENCY
- 250.3 COVID-19 Emergency Provisions – At-Home Patient Care
EMERGENCY
- 250.100 Definitions
- 250.105 Incorporated and Referenced Materials
- 250.110 Application for and Issuance of Permit to Establish a Hospital
- 250.120 Application for and Issuance of a License to Operate a Hospital
- 250.130 Administration by the Department
- 250.140 Hearings
- 250.150 Definitions (Renumbered)
- 250.160 Incorporated and Referenced Materials (Renumbered)

SUBPART B: ADMINISTRATION AND PLANNING

Section

- 250.210 The Governing Board
- 250.220 Accounting
- 250.230 Planning
- 250.240 Admission and Discharge
- 250.245 Failure to Initiate Criminal Background Checks
- 250.250 Visiting Rules
- 250.260 Patients' Rights
- 250.265 Language Assistance Services
- 250.270 Manuals of Procedure
- 250.280 Agreement with Designated Organ Procurement Agencies
- 250.285 Smoking Restrictions
- 250.290 Safety Alert Notifications

SUBPART C: THE MEDICAL STAFF

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FEB 14 2022

SOS-CODE DIV.

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FEB 9 2022

SOS-CODE DIV.

Section	
250.310	Organization
250.315	House Staff Members
250.320	Admission and Supervision of Patients
250.330	Orders for Medications and Treatments
250.340	Availability for Emergencies

SUBPART D: PERSONNEL SERVICE

Section	
250.410	Organization
250.420	Personnel Records
250.430	Duty Assignments
250.435	Health Care Worker Background Check
250.440	Education Programs
250.445	Workplace Violence Prevention Program
250.450	Personnel Health Requirements
250.455	COVID-19 Vaccination of Hospital Staff

EMERGENCY

250.460	Benefits
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SUBPART E: LABORATORY

Section	
250.510	Laboratory Services
250.520	Blood and Blood Components
250.525	Designated Blood Donor Program
250.530	Proficiency Survey Program (Repealed)
250.540	Laboratory Personnel (Repealed)
250.550	Western Blot Assay Testing Procedures (Repealed)

SUBPART F: RADIOLOGICAL SERVICES

Section	
250.610	General Diagnostic Procedures and Treatments
250.620	Radioactive Isotopes
250.630	General Policies and Procedures Manual

SUBPART G: GENERAL HOSPITAL EMERGENCY SERVICES

Section

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

- 250.710 Classification of Emergency Services
- 250.720 General Requirements
- 250.725 Notification of Emergency Personnel
- 250.730 Community or Areawide Planning
- 250.740 Disaster and Mass Casualty Program
- 250.750 Medical Forensic Services for Sexual Assault Survivors

SUBPART H: RESTORATIVE AND REHABILITATION SERVICES

Section

- 250.810 Applicability of Other Parts of These Requirements
- 250.820 General
- 250.830 Classifications of Restorative and Rehabilitation Services
- 250.840 General Requirements for all Classifications
- 250.850 Specific Requirements for Comprehensive Physical Rehabilitation Services
- 250.860 Medical Direction
- 250.870 Nursing Care
- 250.880 Additional Allied Health Services
- 250.890 Animal-Assisted Therapy

SUBPART I: NURSING SERVICE AND ADMINISTRATION

Section

- 250.910 Nursing Services
- 250.920 Organizational Plan
- 250.930 Role in hospital planning
- 250.940 Job descriptions
- 250.950 Nursing committees
- 250.960 Specialized nursing services
- 250.970 Nursing Care Plans
- 250.980 Nursing Records and Reports
- 250.990 Unusual Incidents
- 250.1000 Meetings
- 250.1010 Education Programs
- 250.1020 Licensure
- 250.1030 Policies and Procedures
- 250.1035 Domestic Violence Standards
- 250.1040 Patient Care Units
- 250.1050 Equipment for Bedside Care
- 250.1060 Drug Services on Patient Unit
- 250.1070 Care of Patients
- 250.1075 Use of Restraints

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

- 250.1080 Admission Procedures Affecting Care
- 250.1090 Sterilization and Processing of Supplies
- 250.1100 Infection Control
- 250.1110 Mandatory Overtime Prohibition
- 250.1120 Staffing Levels
- 250.1130 Nurse Staffing by Patient Acuity

SUBPART J: SURGICAL AND RECOVERY ROOM SERVICES

Section

- 250.1210 Surgery
- 250.1220 Surgery Staff
- 250.1230 Policies & Procedures
- 250.1240 Surgical Privileges
- 250.1250 Surgical Emergency Care
- 250.1260 Operating Room Register and Records
- 250.1270 Surgical Patients
- 250.1280 Equipment
- 250.1290 Safety
- 250.1300 Operating Room
- 250.1305 Visitors in Operating Room
- 250.1310 Cleaning of Operating Room
- 250.1320 Postanesthesia Care Units

SUBPART K: ANESTHESIA SERVICES

Section

- 250.1410 Anesthesia Service

SUBPART L: RECORDS AND REPORTS

Section

- 250.1510 Medical Records
- 250.1520 Reports

SUBPART M: FOOD SERVICE

Section

- 250.1610 Dietary Department Administration
- 250.1620 Facilities
- 250.1630 Menus and Nutritional Adequacy
- 250.1640 Diet Orders

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

- 250.1650 Frequency of Meals
- 250.1660 Therapeutic (Modified) Diets
- 250.1670 Food Preparation and Service
- 250.1680 Sanitation

SUBPART N: HOUSEKEEPING AND LAUNDRY SERVICES

Section

- 250.1710 Housekeeping
- 250.1720 Garbage, Refuse and Solid Waste Handling and Disposal
- 250.1730 Insect and Rodent Control
- 250.1740 Laundry Service
- 250.1750 Soiled Linen
- 250.1760 Clean Linen

SUBPART O: OBSTETRIC AND NEONATAL SERVICE

Section

- 250.1810 Applicability of Other Provisions of this Part
- 250.1820 Obstetric and Neonatal Service (Perinatal Service)
- 250.1830 General Requirements for All Obstetric Departments
- 250.1840 Discharge of Newborn Infants from Hospital
- 250.1845 Caesarean Birth
- 250.1850 Single Room Postpartum Care of Mother and Infant
- 250.1860 Special Programs (Repealed)
- 250.1870 Labor, Delivery, Recovery and Postpartum Care

SUBPART P: ENGINEERING AND MAINTENANCE OF THE PHYSICAL PLANT, SITE, EQUIPMENT, AND SYSTEMS – HEATING, COOLING, ELECTRICAL, VENTILATION, PLUMBING, WATER, SEWER, AND SOLID WASTE DISPOSAL

Section

- 250.1910 Maintenance
- 250.1920 Emergency electric service
- 250.1930 Water Supply
- 250.1940 Ventilation, Heating, Air Conditioning, and Air Changing Systems
- 250.1950 Grounds and Buildings Shall be Maintained
- 250.1960 Sewage, Garbage, Solid Waste Handling and Disposal
- 250.1970 Plumbing
- 250.1980 Fire and Safety

SUBPART Q: CHRONIC DISEASE HOSPITALS

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

Section	
250.2010	Definition
250.2020	Requirements

SUBPART R: PHARMACY OR DRUG AND MEDICINE SERVICE

Section	
250.2110	Service Requirements
250.2120	Personnel Required
250.2130	Facilities for Services
250.2140	Pharmacy and Therapeutics Committee

SUBPART S: PSYCHIATRIC SERVICES

Section	
250.2210	Applicability of other Parts of these Regulations
250.2220	Establishment of a Psychiatric Service
250.2230	The Medical Staff
250.2240	Nursing Service
250.2250	Allied Health Personnel
250.2260	Staff and Personnel Development and Training
250.2270	Admission, Transfer and Discharge Procedures
250.2280	Care of Patients
250.2290	Special Medical Record Requirements for Psychiatric Hospitals and Psychiatric Units of General Hospitals or General Hospitals Providing Psychiatric Care
250.2300	Diagnostic, Treatment and Physical Facilities and Services

SUBPART T: DESIGN AND CONSTRUCTION STANDARDS

Section	
250.2410	Applicability of these Standards
250.2420	Submission of Plans for New Construction, Alterations or Additions to Existing Facility
250.2430	Preparation of Drawings and Specifications – Submission Requirements
250.2440	General Hospital Standards
250.2442	Fees
250.2443	Advisory Committee
250.2450	Details
250.2460	Finishes
250.2470	Structural
250.2480	Mechanical

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

- 250.2490 Plumbing and Other Piping Systems
250.2500 Electrical Requirements

SUBPART U: CONSTRUCTION REQUIREMENTS FOR EXISTING HOSPITALS

- Section
250.2610 Applicability of Subpart U
250.2620 Codes and Standards
250.2630 Existing General Hospital Requirements
250.2640 Details
250.2650 Finishes
250.2660 Mechanical
250.2670 Plumbing and Other Piping Systems
250.2680 Electrical Requirements

SUBPART V: SPECIAL CARE AND/OR SPECIAL SERVICE UNITS

- Section
250.2710 Special Care and/or Special Service Units
250.2720 Day Care for Mildly Ill Children

SUBPART W: ALCOHOLISM AND INTOXICATION TREATMENT SERVICES

- Section
250.2810 Applicability of Other Parts of These Requirements
250.2820 Establishment of an Alcoholism and Intoxication Treatment Service
250.2830 Classification and Definitions of Service and Programs
250.2840 General Requirements for all Hospital Alcoholism Program Classifications
250.2850 The Medical and Professional Staff
250.2860 Medical Records
250.2870 Referral
250.2880 Client Legal and Human Rights
- 250.APPENDIX A Codes and Standards (Repealed)
 250.EXHIBIT A Codes (Repealed)
 250.EXHIBIT B Standards (Repealed)
 250.EXHIBIT C Addresses of Sources (Repealed)
- 250.ILLUSTRATION A Seismic Zone Map
250.TABLE A Measurements Essential for Level I, II, III Hospitals
250.TABLE B Sound Transmission Limitations in General Hospitals
250.TABLE C Filter Efficiencies for Central Ventilation and Air Conditioning Systems in General Hospitals (Repealed)

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

250.TABLE D	General Pressure Relationships and Ventilation of Certain Hospital Areas (Repealed)
250.TABLE E	Piping Locations for Oxygen, Vacuum and Medical Compressed Air
250.TABLE F	General Pressure Relationships and Ventilation of Certain Hospital Areas
250.TABLE G	Insulation/Building Perimeter

AUTHORITY: Implementing and authorized by the Hospital Licensing Act [210 ILCS 85].

SOURCE: Rules repealed and new rules adopted August 27, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 21, p. 49, effective May 16, 1978; emergency amendment at 2 Ill. Reg. 31, p. 73, effective July 24, 1978, for a maximum of 150 days; amended at 2 Ill. Reg. 45, p. 85, effective November 6, 1978; amended at 3 Ill. Reg. 17, p. 88, effective April 22, 1979; amended at 4 Ill. Reg. 22, p. 233, effective May 20, 1980; amended at 4 Ill. Reg. 25, p. 138, effective June 6, 1980; amended at 5 Ill. Reg. 507, effective December 29, 1980; amended at 6 Ill. Reg. 575, effective December 30, 1981; amended at 6 Ill. Reg. 1655, effective January 27, 1982; amended at 6 Ill. Reg. 3296, effective March 15, 1982; amended at 6 Ill. Reg. 7835 and 7838, effective June 17, 1982; amended at 7 Ill. Reg. 962, effective January 6, 1983; amended at 7 Ill. Reg. 5218 and 5221, effective April 4, 1983 and April 5, 1983; amended at 7 Ill. Reg. 6964, effective May 17, 1983; amended at 7 Ill. Reg. 8546, effective July 12, 1983; amended at 7 Ill. Reg. 9610, effective August 2, 1983; codified at 8 Ill. Reg. 19752; amended at 8 Ill. Reg. 24148, effective November 29, 1984; amended at 9 Ill. Reg. 4802, effective April 1, 1985; amended at 10 Ill. Reg. 11931, effective September 1, 1986; amended at 11 Ill. Reg. 10283, effective July 1, 1987; amended at 11 Ill. Reg. 10642, effective July 1, 1987; amended at 12 Ill. Reg. 15080, effective October 1, 1988; amended at 12 Ill. Reg. 16760, effective October 1, 1988; amended at 13 Ill. Reg. 13232, effective September 1, 1989; amended at 14 Ill. Reg. 2342, effective February 15, 1990; amended at 14 Ill. Reg. 13824, effective September 1, 1990; amended at 15 Ill. Reg. 5328, effective May 1, 1991; amended at 15 Ill. Reg. 13811, effective October 1, 1991; amended at 17 Ill. Reg. 1614, effective January 25, 1993; amended at 17 Ill. Reg. 17225, effective October 1, 1993; amended at 18 Ill. Reg. 11945, effective July 22, 1994; amended at 18 Ill. Reg. 15390, effective October 10, 1994; amended at 19 Ill. Reg. 13355, effective September 15, 1995; emergency amendment at 20 Ill. Reg. 474, effective January 1, 1996, for a maximum of 150 days; emergency expired May 29, 1996; amended at 20 Ill. Reg. 3234, effective February 15, 1996; amended at 20 Ill. Reg. 10009, effective July 15, 1996; amended at 22 Ill. Reg. 3932, effective February 13, 1998; amended at 22 Ill. Reg. 9342, effective May 20, 1998; amended at 23 Ill. Reg. 1007, effective January 15, 1999; emergency amendment at 23 Ill. Reg. 3508, effective March 4, 1999, for a maximum of 150 days; amended at 23 Ill. Reg. 9513, effective August 1, 1999; amended at 23 Ill. Reg. 13913, effective November 15, 1999; amended at 24 Ill. Reg. 6572, effective April 11, 2000; amended at 24 Ill. Reg. 17196, effective November 1, 2000; amended at 25 Ill. Reg. 3241, effective February 15, 2001; amended at 27 Ill. Reg. 1547, effective January 15, 2003; amended at 27 Ill. Reg. 13467, effective July 25, 2003; amended at 28 Ill. Reg. 5880, effective March 29, 2004; amended at 28 Ill. Reg. 6579, effective April 15,

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

2004; amended at 29 Ill. Reg. 12489, effective July 27, 2005; amended at 31 Ill. Reg. 4245, effective February 20, 2007; amended at 31 Ill. Reg. 14530, effective October 3, 2007; amended at 32 Ill. Reg. 3756, effective February 27, 2008; amended at 32 Ill. Reg. 4213, effective March 10, 2008; amended at 32 Ill. Reg. 7932, effective May 12, 2008; amended at 32 Ill. Reg. 14336, effective August 12, 2008; amended at 33 Ill. Reg. 8306, effective June 2, 2009; amended at 34 Ill. Reg. 2528, effective January 27, 2010; amended at 34 Ill. Reg. 3331, effective February 24, 2010; amended at 34 Ill. Reg. 19031, effective November 17, 2010; amended at 34 Ill. Reg. 19158, effective November 23, 2010; amended at 35 Ill. Reg. 4556, effective March 4, 2011; amended at 35 Ill. Reg. 6386, effective March 31, 2011; amended at 35 Ill. Reg. 13875, effective August 1, 2011; amended at 36 Ill. Reg. 17413, effective December 3, 2012; amended at 38 Ill. Reg. 13280, effective June 10, 2014; amended at 39 Ill. Reg. 5443, effective March 25, 2015; amended at 39 Ill. Reg. 13041, effective September 3, 2015; amended at 41 Ill. Reg. 7154, effective June 12, 2017; amended at 41 Ill. Reg. 14945, effective November 27, 2017; amended at 42 Ill. Reg. 9507, effective May 24, 2018; amended at 43 Ill. Reg. 3889, effective March 18, 2019; amended at 43 Ill. Reg. 12990, effective October 22, 2019; emergency amendment at 44 Ill. Reg. 5934, effective March 25, 2020, for a maximum of 150 days; emergency expired August 21, 2020; emergency amendment at 44 Ill. Reg. 7788, effective April 16, 2020, for a maximum of 150 days; emergency repeal of emergency amendment at 44 Ill. Reg. 14333, effective August 24, 2020; emergency amendment at 44 Ill. Reg. 14804, effective August 24, 2020, for a maximum of 150 days; emergency expired January 20, 2021; amended at 44 Ill. Reg. 18379, effective October 29, 2020; emergency amendment at 45 Ill. Reg. 1202, effective January 8, 2021, for a maximum of 150 days; emergency amendment expired June 6, 2021; emergency amendment at 45 Ill. Reg. 1715, effective January 21, 2021, for a maximum of 150 days; emergency expired June 19, 2021; emergency amendment at 45 Ill. Reg. 7544, effective June 7, 2021, for a maximum of 150 days; emergency expired November 3, 2021; emergency amendment at 45 Ill. Reg. 8096, effective June 15, 2021, for a maximum of 150 days; emergency expired November 11, 2021; emergency amendment at 45 Ill. Reg. 8503, effective June 20, 2021, for a maximum of 150 days; emergency expired November 16, 2021; emergency amendment at 45 Ill. Reg. 11907, effective September 17, 2021, for a maximum of 150 days; emergency expired February 13, 2022; emergency amendment at 45 Ill. Reg. 14519, effective November 4, 2021, for a maximum of 150 days; emergency amendment at 45 Ill. Reg. 15115, effective November 12, 2021, for a maximum of 150 days; emergency amendment at 45 Ill. Reg. 15375, effective November 17, 2021, for a maximum of 150 days; emergency amendment at 46 Ill. Reg. 1911, effective January 13, 2022, for a maximum of 150 days; emergency amendment at 46 Ill. Reg. _____, effective February 14, 2022, for a maximum of 150 days.

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

**Section 250.455 COVID-19 Vaccination of Hospital Staff
EMERGENCY**

- a) For the purposes of this Section:
- 1) "Staff" or "staff person" means any person who is employed by, volunteers for, or is contracted to provide services for a hospital, or is employed by an entity that is contracted to provide services to a hospital and is in close contact (fewer than 6 feet) with other persons in the hospital for more than 15 minutes at least once a week on a regular basis as determined by the hospital. The term "staff" or "staff person" does not include any person who is present at the hospital for only a short period of time and whose moments of close physical proximity to others on-site are fleeting (e.g., contractors making deliveries to a site where they remain physically distanced from others or briefly entering a site to pick up a shipment).
 - 2) "COVID-19 vaccine" means a vaccine for COVID-19 that has been authorized for emergency use, licensed, or otherwise approved by the U.S. Food and Drug Administration (FDA).
 - 3) An individual is "fully vaccinated against COVID-19" two weeks after receiving the second dose in a two-dose series of a COVID-19 vaccine authorized for emergency use, licensed, or otherwise approved by the FDA, or two weeks after receiving a single-dose COVID-19 vaccine authorized for emergency use, licensed, or otherwise approved by the FDA.
 - 4) "Outbreak" means a situation when two or more individuals within the same outbreak setting at the hospital:
 - A) are laboratory positive for SARS-CoV-2 by antigen or PCR testing;
 - B) are epidemiologically linked to the outbreak setting;
 - C) have onset of illness or a positive SARS-Co-V test (if asymptomatic) within the same 14- day period;
 - D) do not share a household; and

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

- E) are not listed as a close contact of each other outside of the outbreak setting.
 - 5) "Outbreak setting" means a place where people congregate to learn, work, receive or provide care, dine or conduct business, and that is generally limited to parts of a hospital building unless the COVID-19 outbreak among individuals is widely dispersed throughout the entire building. Examples of outbreak settings include but are not limited to, learning centers, hospital units, procedural areas, outpatient service areas, and administrative offices.
 - 6 An individual is "up to date" when they have received all recommended COVID-19 vaccines, including any booster dose(s) when eligible.
 - 7 An individual is "not up to date" when they have not received all recommended COVID-19 vaccinations, including any booster dose(s) when eligible.
- b) Each hospital shall require all staff to be fully vaccinated against COVID-19 or be tested in a manner consistent with the requirements of subsection (c).
- 1) Each hospital shall require staff who are fully vaccinated against COVID-19 to submit proof of all COVID-19 vaccinations. Proof of vaccination may be met by providing to the hospital one of the following:
 - A) a Centers for Disease Control and Prevention (CDC) COVID-19 vaccination record card or photo of the card;
 - B) documentation of vaccination from a health care provider or electronic health record; or
 - C) state immunization records.
 - 2) Each hospital shall make available opportunities for staff to be up to date on COVID-19 vaccinations, either directly at the hospital or indirectly, such as through an arrangement with a pharmacy partner, local health department, or other appropriate health entity.
 - 3) Each hospital shall exempt individual staff members from the requirement that all staff be fully vaccinated against COVID-19 if:

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

- A) vaccination is medically contraindicated, including any individual staff member who is entitled to an accommodation under the Americans with Disabilities Act or any other law applicable to a disability-related reasonable accommodation; or
 - B) vaccination would require the individual staff member to violate or forgo a sincerely held religious belief, practice, or observance.
- 4) Staff that fall within the exemption in subsection (b)(3) shall undergo the testing requirements set forth in subsection (c).
 - 5) Hospitals may adopt more stringent policies requiring all staff to be vaccinated. Nothing in this Section supersedes or modifies the date these policies are designated by the hospital to take effect.
 - 6) Hospitals certified by the Centers for Medicare & Medicaid Services (CMMS) must maintain compliance with all applicable CMMS regulations and guidance including but not limited to requirements in 42 CFR 482.42(g)(1).
- c) Except as provided in subsection (d), each hospital shall require its staff who are not fully vaccinated against COVID-19 to undergo testing for COVID-19, weekly, at a minimum. If staff who are not fully vaccinated against COVID-19 are not tested as required by this subsection, the staff shall not be permitted to enter or work at the hospital.
- 1) The COVID-19 test shall either have Emergency Use Authorization by the FDA or be operated pursuant to the Laboratory Developed Test requirements of the U.S. Centers for Medicare and Medicaid Services.
 - 2) At-home tests or self-test kits for COVID-19 are available for purchase from retail pharmacies or other outlets. Some of these tests require supervision from a health care provider through telehealth, who will then confirm the identity of the person taking the test (e.g., by showing photo ID), while others are fully self-administered. At-home or self-tests should be a last resort test option to fulfill the requirements of Executive Order 2021-22, and health care workers should use only those tests that are observed and verifiable by a health care provider.
 - 3) If a staff person tests positive for COVID-19, the hospital shall exclude the staff person from the hospital and the staff person shall be subject to all applicable isolation and quarantine rules and hospital policies.

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

- 4) Staff who are not fully vaccinated against COVID-19 may be permitted to enter or work at the hospital while they are waiting to receive the results of their most recent test.
 - 5) If the hospital has an outbreak as defined in subsection (a)(4), all staff who are not fully vaccinated against COVID-19 shall undergo testing for COVID-19 at least twice weekly, with tests administered at least three days apart. Testing at this frequency shall continue until testing identifies no new cases of COVID-19 infection among staff for a period of at least 14 days since the most recent positive result. The Department recommends PCR testing with a less than 48-hour turn-around time.
- d) If the hospital provides services to individuals who are considered immunocompromised, require high acuity health care, or are undergoing invasive procedures, it is recommended, but not required, that the hospital provide testing of staff who are not up to date on COVID-19 vaccinations more frequently than on a weekly basis.
 - e) Each hospital shall ensure that all individuals who administer the COVID-19 vaccine pursuant to this Section are qualified and trained to administer the vaccine in accordance with all applicable federal and State laws and rules.
 - f) Each hospital shall post conspicuous signage throughout the hospital notifying staff that the hospital makes available opportunities for staff to be up to date on COVID-19 vaccinations. The signs shall be on 8.5 by 11-inch white paper, with text in Calibri (body) font and 26-point type in black letters.
 - g) Each hospital shall provide its unvaccinated staff a minimum of 90 minutes of clear and accurate instruction covering vaccine education, effectiveness, benefits, risks, common reactions, hesitancy, and misinformation. Records of training shall be made available to the Department upon request. Examples of Department-approved training and educational resources include those offered for health care professionals by the:
 - 1) Illinois Department of Public Health WebEx webinar recording: Vaccine Protection: Caring Communities Working Together available at: <https://illinois.webex.com/illinois/lsr.php?RCID=45ae739d9a0b1c34e884c1608fef2fd9>
 - 2) CDC, available at <https://www.cdc.gov/vaccines/covid-19/training-education/index.html>;

EMERGENCY EFFECTIVE

FEB 14 2022

SOS-CODE DIV.

- 3) FDA, available at <https://www.fda.gov/emergency-preparedness-and-response/coronavirus-disease-2019-covid-19/covid-19-vaccines>;
 - 4) Immunization Action Coalition (IAC), available at <https://immunize.org/>;
and
 - 5) Mayo Clinic, available at <https://ce.mayo.edu/content/covid-19-online-education-resources-and-updates-0>
- h) Each hospital shall maintain a record of staff who are up to date, fully vaccinated staff, unvaccinated staff, and test results required per subsection (c).
- i) The hospital shall maintain documentation in each staff person's confidential medical file, in accordance with federal and state privacy laws, regarding all COVID-19 vaccinations and tests, including the following:
- 1) Proof of vaccination for the staff person;
 - 2) The results of COVID-19 tests for each staff person; and
 - 3) Written exemption from the vaccine.
- j) Nothing in this emergency amendment prohibits any hospital from implementing vaccination or testing requirements for staff, residents, and visitors that exceed the requirements of this Section.
- k) Any violation of this Part is subject to enforcement action by the Department to the greatest extent permitted by law.

(Source: Emergency rule added at 46 Ill. Reg. _____, effective February 14, 2022, for a maximum of 150 days)

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FEB 14 2022

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