

SECOND NOTICE CHANGES

Agency: Department on Aging

Rulemaking: Elder Rights, 270.10, 270.200, 270.205, 270.210, 270.215, 270.220, 270.225, 270.230, 270.235, 270.240, 270.241 (new), 270.245, 270.250, 270.255, 270.260, 270.265, 270.270, 270.275, 270.280, 270.285, 270.290, 270.295, and 270.300

Changes:

Table of Contents: In line 40, add “and Relevant Records” at the end of the subheader for Section 270.245. In line 66, update the source notes to reflect the expiration of the emergency amendment at 38 Ill. Reg. 2357. At the end of each rulemaking section, update source notes to reflect the appropriate issue of the *Illinois Register*.

Section 270.210: In lines 153-155, delete “Abuse” in the term “Abuse Fatality Review Team” and delete the second sentence in the definition for this term and move the remaining text to line 315 to maintain alphabetic order. In line 173, add “as defined below” after “disability” for the definition of the term “Adult with disabilities”. In line 207, add “or instrumental activities of daily living” for the definition of the term “Caregiver” before the period. In line 443, add “that is selected by the Department or” after “planning and service area” for the definition of the term “Provider agency”. In line 341, replace “adult protective services” with “APS” before “case worker”. In lines 448-452, replace the text after “planning and service area” with “that provides regional oversight and performs functions as set forth in subsection (b) of Section 3 of this Act. [320 ILCS 20/2(i)]” in the definition of the term “Regional administrative agency”. In line 533, add the following new definition: “Verified” means a determination that there is “clear and convincing evidence” that the specific injury or harm alleged was the result of abuse, neglect, or financial exploitation.”

Section 270.215: In line 561, add the following new second sentence: “The Department reserves the right to provide recommendations and direct action by regional administrative agencies on designation, approval and termination action with respect to APS provider agencies.” In line 562, add “regional administrative agencies and” before “APS provider agencies” in subsection (c). In line 564, add the following provision as the text for subsection (c)(1): “In the event the Area Agency on Aging in that planning and service area is deemed by the Department to be unwilling or unable to provide those functions, the Department may serve as the regional administrative agency or designate another qualified entity to serve as the regional administrative agency; any such designation shall be subject to terms set forth by the Department.” In lines 569-571, move the originally

proposed language for subsection (c)(1) as new replacement text for subsection (c)(2). The originally proposed language for subsection (c)(2) is to be deleted in its entirety.

Section 270.220: Replace lines 645-647 with the following text in subsection (a): “The Department shall designate an Area Agency on Aging as the regional administrative agency or, in the event the Area Agency on Aging in that planning and service area is deemed by the Department to be unwilling or unable to provide those functions, the Department may serve as the regional administrative agency or designate another qualified entity to serve as the regional administrative agency; any such designation shall be subject to terms set forth by the Department.” In line 649, add “procure and” before “designate” in subsection (b).

Section 270.225: In line 778, change “adult protective services” to “APS” before “agency” in subsection (c). In line 788, correct misspelled word by substituting “protective” in subsection (g). In line 829 and in line 867, add “and/or webinars” after “training” in subsection (j)(1)(E) and subsection (j)(2)(D), respectively. In line 838 and in line 875, add “and” at the end of subsection (j)(1)(E) and subsection (j)(2)(D), respectively.

Section 270.235: In line 957, add the following new subsection “d) “The Department on Aging and its employees and agents shall have immunity, except for intentional willful and wanton misconduct, from any liability, civil, criminal, or otherwise, for reporting information to and maintaining the Adult Protective Service Registry established under Section 7.5 of the Act.”

Section 270.240: In line 969, correct a capitalization error by substituting “regional” for “Regional” in subsection (a)(3). In line 976, change “when” to “in which” in subsection (b)(1). In lines 1048-1049, replace “adult protective services” with “APS” before “case worker” in the first sentence of subsection (g)(2). In line 1050, replace “an appropriate other individual” with “another appropriate other individual” in the first sentence of subsection (g)(2). In line 1051, replace “other” with “other” to delete this word in the second sentence of subsection (g)(2).

Section 270.241(b)(2): In line 1080-1081, correct a capitalization error by substituting “3(c-5)” in the listed citation. In line 1083, add the following new subsection: “3) *If the law enforcement agency, coroner, or medical examiner determines the reported death was caused by abuse or neglect by a caregiver, the law enforcement agency, coroner, or medical examiner shall inform the Department, and the Department shall report the caregiver’s identity on the Adult Protective Service Registry as described in Section 7.5 of this Act.*”

Section 270.245: In line 1085, add “**and Relevant Records**” at the end of the subheader. In line 1093, add the following new text as a part of subsection (a): “1) A representative of the Department or a designated APS provider agency that is actively involved in an abuse, neglect, financial exploitation, or self-neglect investigation under this Act shall be allowed access to the financial records, mental and physical health records, and other relevant evaluative records of the eligible adult which are in the possession of any individual, financial institution, health care provider, mental health provider, educational facility, or other facility if necessary to complete the investigation mandated by this Act.”

“2) The provider or facility shall provide such records to the representative upon receipt of a written request and certification from the Department or designated APS provider agency that an investigation is being conducted under this Act and the records are pertinent to the investigation.”

“3) Any records received by such representative, the confidentiality of which is protected by another law or rule, shall be maintained as confidential, except for such use as may be necessary for any administrative or other legal proceeding.”

In line 1101, add “including the refusal to provide requested records,” after the first comma at the end of the introductory clause in subsection (c).

Section 270.250: In line 1133, add “alleged” after “harm” in subsection (b)(1). In line 1161, add “for services” after “ineligible” in subsection (c)(3).

Section 270.255: In line 1238, replace “alternatives” with “alternative” in subsection (a)(1)(B). In line 1251, add “or” after “family” in subsection (a)(1)(B)(ii).

Section 270.260: In line 1387, correct a typographical error by replacing “alledged” with “alleged” in subsection (b)(1). In line 1404, replace “immediate risk of harm” with “threat of ongoing harm or another emergency that exists” in subsection (d). In line 1416, replace “either” with “have authority to” in subsection (d)(2). In line 1418, correct a capitalization error by substituting the word “contact” in subsection (d)(2)(A). In lines 1428-1429, replace “notify the Illinois Guardianship and Advocacy Commission, the Office of State Guardian, or any other appropriate agency, of the potential need for” with “seek the” in subsection (d)(2). In line 1445, add “, through its attorney,” after “provider agency” in subsection (d)(3). In lines 1462-1463, replace “a high risk of harm” with “a threat of ongoing harm” and add “that” after “emergency” in subsection (e). In line 1501, replace “*If*” at the beginning of the sentence with the following

introductory clause “In accordance with subsections (d) and (e), if” in subsection (g).

Section 270.270: In line 1565, add “contingent upon adequate funding” after “APS provider agencies” in subsection (g).

Section 270.275: In line 1614, add “who completes an authorization for release of records” after “self-neglected” in subsection (d)(4). In line 1615, add “who has current authority to act on behalf of the eligible adult” after “agent” in subsection (d)(4). In line 1659 and in line 1663, add “and its vendors” after “staff” in subsection (d)(13) and (d)(14), respectively. In line 1668, add the following new text as subsections (d)(15) and new subsection (d)(16), respectively: “15)

Hearing officers in the course of conducting an administrative hearing under this Act:

16) A caregiver who challenges placement on the Adult Protective Services Registry shall be given the statement of allegation in the abuse report and the substantiation decision in the final investigative report; and”. In line 1668, renumber the subsection by replacing “15)” as subsection “17)”. In line 1680, add “and the extent of the authority” after “current authority” in subsection (e)(1).

Section 270.285(a): In line 1745, add “to provide public awareness services to that agency or companion-type services to eligible adults” after “volunteers”.