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EXECUTIVE DEPARTMENT

APR 01 2010

SPRINGFIELD, ILLINOIS

IN THE OFFICE OF
SECRETARY OF STATE

EXECUTIVE ORDER

10-06

**EXECUTIVE ORDER TO TRANSFER FUNCTIONS FROM THE DEPARTMENT OF
HUMAN SERVICES TO THE DEPARTMENT OF PUBLIC HEALTH**

WHEREAS, the Illinois Department of Human Services (DHS) makes grants from the Diabetes Research Checkoff Fund, a special fund in the State treasury, to public or private entities in Illinois for the purpose of funding research concerning diabetes; and

WHEREAS, DHS, through its public health promotion programs and materials, directs information on diabetes, asthma, and pulmonary disorder prevention toward population groups in Illinois that are considered at high risk of developing these diseases; and

WHEREAS, DHS supports and staffs the Illinois State Diabetes Commission, which is chaired by the Secretary of DHS and whose members are appointed by the Secretary; and

WHEREAS, the Illinois Department of Public Health (DPH) has general supervision of the health and welfare of the people of Illinois; and

WHEREAS, one of the missions of DPH is to educate the general public in matters pertaining to health, by publishing and distributing materials relating to the prevention and control of diseases; and

WHEREAS, DPH has considerable experience awarding grants to public or private agencies and organizations for the development of health programs or services; and

WHEREAS, transferring the diabetes-related grant program; the diabetes, asthma, and pulmonary disorder educational prevention functions; and the Illinois State Diabetes Commission, all described above, from DHS to DPH will be beneficial to both Departments and the people of the State of Illinois; and

WHEREAS, Article V, Section 11 of the Illinois Constitution provides that the Governor, by Executive Order, may reassign functions among or reorganize executive agencies which are directly responsible to him; and

WHEREAS, Section 3.2 of Executive Reorganization Implementation Act, 15 ILCS 15/3.2, provides that "Reorganization" includes, in pertinent part, (a) the transfer of the whole or any part of any agency, or of the whole or any part of the functions thereof, to the jurisdiction and control of any other agency, and (b) the abolition of the whole or any part of any agency which does not have, or upon the taking effect of such reorganization will not have, any functions; and

WHEREAS, DHS is an executive agency directly responsible to the Governor; and

WHEREAS, DPH is an executive agency directly responsible to the Governor;

THEREFORE, pursuant to the powers vested in me by Article V, Section 11 of the Illinois

Constitution, I, Patrick J. Quinn, Governor of Illinois, hereby order:

I. TRANSFER OF PROGRAM FUNCTIONS FROM DHS TO DPH

- a. Effective July 1, 2010, all program functions performed by DHS pursuant to Sections 10-9 and 10-10 of the Department of Human Services Act, 20 ILCS 1305/1-1 *et seq.*, and Public Act 094-0788, together with all of the powers, duties, rights, and responsibilities of DHS relating to those functions are transferred from DHS to DPH.
- b. Effective July 1, 2010, DPH shall make grants from appropriations from the Diabetes Research Checkoff Fund to recognized public or private entities in Illinois for the purpose of funding research concerning the disease of diabetes. At least 50% of the grants made from the Fund shall be made to entities that conduct research for juvenile diabetes. For these purposes, the term "research" includes, without limitation, expenditures to develop and advance the understanding, techniques, and modalities effective in the detection, prevention, screening, management, and treatment of diabetes and may include clinical trials in Illinois. Moneys received for this purpose, including, without limitation, income tax checkoff receipts and gifts, grants, and awards from any public or private person or entity, shall be deposited into the Fund. Any interest earned on moneys in the Fund must be deposited into the Fund.
- c. Effective July 1, 2010, DPH shall include within its public health promotion programs and materials information to be directed toward population groups in Illinois that are considered at high risk of developing diabetes, asthma, and pulmonary disorders, such as Hispanics, people of African descent, the elderly, obese individuals, persons with high blood sugar content, and persons with a family history of diabetes. The information shall inform members of such high risk groups about the causes and prevention of diabetes, asthma, and pulmonary disorders, the types of treatment for these diseases, and how treatment may be obtained. By February 15, 2011, and each February 15 thereafter, DPH shall file a report with the General Assembly concerning its activities and accomplishments as to these educational prevention efforts during the previous calendar year.
- d. Effective July 1, 2010, the Illinois State Diabetes Commission is reconstituted within DPH.
 - i. Members. The Commission shall consist of members that are residents of this State and shall include an Executive Committee appointed by the Director of DPH. The members of the Commission shall be appointed by the Director of DPH as follows:
 - (1) The Director of DPH or the Director's designee, who shall serve as chairperson of the Commission.
 - (2) Physicians who are board certified in endocrinology, with at least one physician with expertise and experience in the treatment of childhood diabetes and at least one physician with expertise and experience in the treatment of adult onset diabetes.
 - (3) Health care professionals with expertise and experience in the prevention, treatment, and control of diabetes.
 - (4) Representatives of organizations or groups that advocate on behalf of persons suffering from diabetes.
 - (5) Representatives of voluntary health organizations or advocacy groups with an interest in the prevention, treatment, and control of diabetes.
 - (6) Members of the public who have been diagnosed with diabetes.The Director of DPH may appoint additional members deemed necessary and appropriate by the Director.
 - ii. Appointments. Members of the Commission shall be appointed within 60 days after the effective date of this Executive Order. A member shall continue to serve until his or her successor is duly appointed and qualified.
 - iii. Meetings. Meetings shall be held 3 times per year or at the call of the

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Commission chairperson.

- iv. Reimbursement. Members shall serve without compensation but shall, subject to appropriation, be reimbursed for reasonable and necessary expenses actually incurred in the performance of the member's official duties.
 - v. Department Support of Commission. DPH shall provide administrative support and current staff as necessary for the effective operation of the Commission.
 - vi. Duties. The Commission shall perform all of the following duties:
 - (1) Hold public hearings to gather information from the general public on issues pertaining to the prevention, treatment, and control of diabetes.
 - (2) Develop a strategy for the prevention, treatment, and control of diabetes in this State.
 - (3) Examine the needs of adults, children, racial and ethnic minorities, and medically underserved populations who have diabetes.
 - (4) Prepare and make available an annual report on the activities of the Commission to the Director of Public Health, the Speaker of the House of Representatives, the Minority Leader of the House of Representatives, the President of the Senate, the Minority Leader of the Senate, and the Governor by June 30 of each year, beginning on June 30, 2011.
 - vii. Funding. DPH may accept on behalf of the Commission any federal funds or gifts and donations from individuals, private organizations, and foundations and any other funds that may become available.
- e. DHS and DPH shall cooperate to ensure that the transfer of these functions is completed as soon as practical.

II. EFFECT OF TRANSFER

- a. Neither the functions transferred by this Executive Order from DHS to DPH, nor any powers, duties, rights, and responsibilities related to those functions, shall be affected by this Executive Order, except that they shall all be performed or exercised by DPH from the effective date of the transfer.
- b. The staff of DHS engaged in the performance of the transferred functions may be transferred to DPH. The status and rights of such employees under the Personnel Code shall not be affected by the transfers. The rights of the employees, the State of Illinois and its agencies under the Personnel Code and applicable collective bargaining agreements or under any pension, retirement, or annuity plan shall not be affected by this Executive Order.
- c. All books, records, papers, documents, property (real and personal), contracts, and pending business pertaining to the functions transferred by this Executive Order from DHS to DPH, including but not limited to material in electronic or magnetic format and necessary computer hardware and software, shall be transferred to DPH. The transfer of that information shall not, however, violate any applicable confidentiality constraints.
- d. All unexpended appropriation balances and other funds available to DHS for use in connection with the functions transferred by this Executive Order shall be transferred and made available to DPH for use in connection with the functions transferred by this Executive Order. Unexpended balances so transferred shall be expended only for the purpose for which the appropriations were originally made.

III. SAVINGS CLAUSE

- a. The powers, duties, rights, and responsibilities relating to the functions transferred

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from DHS to DPH by this Executive Order shall be vested in and shall be exercised by DPH. Each act done in exercise of such powers, duties, rights, and responsibilities shall have the same legal effect as if done by DHS or its divisions, officers, or employees.

- b. Every officer of DPH shall, for any offense, be subject to the same penalty or penalties, civil or criminal, as are prescribed by existing laws for the same offense by any officer whose powers or duties were transferred under this Executive Order.
- c. Whenever reports or notices are now required to be made or given or papers or documents furnished or served by any person to or upon DHS in connection with any of the functions transferred by this Executive Order, the same shall be made, given, furnished, or served in the same manner to or upon DPH.
- d. This Executive Order shall not affect any act done, ratified, or canceled, or any right occurring or established or any action or proceeding had or commenced in an administrative, civil, or criminal case regarding the functions of DHS before this Executive Order takes effect; such actions may be prosecuted or continued by DPH.
- e. Any rules of DHS that relate to the functions transferred by this Executive Order that are in full force on the effective date of this Executive Order, and that have been duly adopted by DPH, shall become the rules of DPH. This Executive Order shall not affect the legality of any such rules in the Illinois Administrative Code. Any proposed rules filed with the Secretary of State by DHS that are pending in the rulemaking process on the effective date of this Executive Order, and that pertain to the functions transferred, shall be deemed to have been filed by DPH. As soon as practicable hereafter, DPH shall revise and clarify the rules transferred to it under this Executive Order to reflect the reorganization of rights, powers, and duties affected by this Order, using the procedures for recodification of rules available under the Illinois Administrative Procedures Act, except that existing title, part, and section numbering for the affected rules may be retained. DPH, consistent with DHS' authority to do so, may propose and adopt under the Illinois Administrative Procedures Act such other rules of DHS that will now be administered by DPH. To the extent that, prior to the effective date of the transfers, the Secretary of DHS had been empowered to prescribe regulations or had other authority with respect to the transferred functions, such duties shall be exercised from and after the effective date of the transfer by the Director of DPH.
- f. For the purposes of the Successor Agency Act, DPH is declared to be the successor agency of DHS, but only with respect to the functions that are transferred to DPH by this Executive Order.
- g. Whenever a provision of law refers to DHS in connection with its performance of a function that is transferred to DPH by this Executive Order, that provision shall be deemed to refer to DPH on and after the effective date of this Executive Order.

IV. SEVERABILITY

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.



Pat Quinn
Governor

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