**Section 1001.640 Implied Consent Hearings; Medical Exception**

a) A petitioner who asserts that his/her alcohol concentration of more than 0.00 was the result of his/her ingestion of medicine that contained alcohol which was prescribed or recommended by a person licensed to prescribe or distribute medications must prove at a minimum:

1) that the medicine was ingested within a reasonably recent period of time before the issuance of the traffic citation which led to the request to submit to the chemical test and that the medicine was ingested according to the prescribed or recommended dosage. The evidence on these matters may be submitted in the form of the petitioner's self-report. However, if the medicine was prescribed or recommended to be ingested over an extended period of time, in other words, for more than two (2) days, then the evidence of the petitioner's ingestion of the medicine must be submitted in the form of written verification or testimony from at least one (1) independent source; and

2) that the medicine ingested by the petitioner was prescribed or recommended by a person properly licensed to prescribe medications; that the medicine was prescribed or recommended to the petitioner; that the medicine was prescribed or recommended to the petitioner at the time of the issuance of the traffic citation which led to the request to submit to the chemical test; the prescribed or recommended dosage for the petitioner; the alcohol content of the dosage; and the duration of the prescription and/or the time frame within which the medicine was prescribed or recommended. The evidence on these matters must be submitted in the form of written verification or testimony from the person who prescribed or recommended the medicine to the petitioner.

b) A petitioner who asserts that his/her alcohol concentration of more than 0.00 was the result of his/her ingestion of over-the-counter medicine that contained alcohol and was not prescribed or recommended by a person licensed to prescribe or distribute medications must prove:

1) why the petitioner was using the medication at the time in question; that the ingestion of the medicine was consistent with the recommended dosage stated on the packaging label and other information which is enclosed with the medicine; and that the medicine was ingested within a reasonably recent period of time before the issuance of the traffic citation which led to the request to submit to the chemical test. The evidence on these matters may be submitted in the form of the petitioner's self-report; and

2) what the recommended dosage was; and the alcohol content of the recommended dosage. The evidence on these matters must, at a minimum, be submitted in the form of copies of the packaging label and other information enclosed with the medicine at issue.

(Source: Added at 19 Ill. Reg. 6667, effective May 1, 1995)