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Joint Committee on Administrative Rules
Illinois General Assembly

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VOL. 35

December 23, 2011

Issue 52

Illinois Regulation is a summary of the weekly regulatory decisions of State agencies published in the Illinois Register and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules. Illinois Regulation is designed to inform and involve the public in changes taking place in agency administration.

New Regulations

Proposed Regulations

☞ EMERGENCY MEDICAL CARE

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515; 35 Ill Reg 10520), effective 12/9/11, to ensure consistency with current standards of care and health care practices, as well as current federal mandates for pediatric patients. Definitions are added for the pediatric facility recognition levels and for new terminology (e.g., "child life specialist" and "hospitalists"), and the definition of "pediatric trauma patient" is extended to include all pediatric patients. The composition of the Illinois Emergency Medical Services for Children (EMSC) Advisory Board reflects currently existing health care organizations and ensures consistency with State board membership as outlined in the EMSC and federal Health Resources and Services Administration (HRSA) performance measures. Equipment requirements for ambulances and alternate response vehicles address the pediatric population and assure compliance with EMSC/HRSA mandated performance measures. Pediatric facility recognition requirements include pediatric standardized courses (e.g., Advanced Pediatric Life

Support, Emergency Nursing Pediatric Course, Pediatric Advanced Life Support) used to meet continuing education requirements and must include both cognitive and practical skills evaluation. Individual waivers for physicians and nurse practitioners must be submitted each renewal cycle, as applicable; the names of specific accrediting agencies for physician assistant continuing education hours are eliminated; specific components that need to be contained in inter-facility transfer guidelines are outlined; and medical audit/quality improvement monitors are afforded the same status as outlined in the Code of Civil Procedure. Each hospital participating in pediatric facility recognition will be required to appoint a pediatric physician "champion", and the title of the Pediatric CQI liaison is changed to pediatric quality coordinator. Also, equipment requirements for the emergency department are amended to ensure consistency with the American Academy of Pediatrics joint policy statement concerning guidelines for care of children in emergency departments. Requirements governing pediatric recognition of hospital emergency departments, inpatient critical care services and facility recognition

(cont'd next page)

☞ PROPERTY REPOSSESSION

The ILLINOIS COMMERCE COMMISSION proposed a new Part titled "Collateral Recovery" (92 Ill Adm Code 1480; 35 Ill Reg 19995) implementing Public Act 97-576 that created an Act to regulate individuals and entities engaged in the business of collateral recovery (repossession of vehicles or other property subject to a security, lease, or rental agreement). (For example, a "repossession agency" may engage in the recovery of lost or stolen property, securing evidence concerning repossession and recovery to be used before a court, inventorying recovered property, or prevention of misappropriation or concealment of property or documents.) Covered topics include repossession agency and recovery manager licensure, recovery permits, personnel registration, certification programs for recovery managers and repossession agency employees, maintenance and inspections of books and records, property inventory, main and branch offices and remote storage locations, insurance, requirements governing leasing and vehicle identification, enforcement proceedings, license or permit holder probation, administra-

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NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

New Regulations

criteria for the pediatric critical care center (PCCC), and an application guide that hospitals must follow to apply for PCCC recognition are added. Changes since 1st Notice clarify several items in the list of pediatric equipment recommended for use in emergency departments, correct the definition of "hospitalist" to specify "physician" rather than "pediatrician", update an American Heart Association publication that is incorporated by reference, and add acetylcysteine (a poison-specific antidote) and topical anesthetics to the list of pediatric supplies that emergency departments should have on hand. Those affected by this rulemaking include emergency medical services entities and hospitals.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson, 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

Questions/requests for copies: Karen Alice Kloppe, DonA, One Natural Resources Way, Ste. 100, Springfield IL 62702-1271, 217/785-3346.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Pay Plan" (80 Ill Adm Code 310; 35 Ill Reg 11032), effective 12/6/11. A companion emergency rulemaking became effective 7/1/11 and expired on 11/27/11. The amendments pertain to the Fiscal Year 2012 salaries of certain State employees. The rulemaking cancels 2% raises scheduled to take effect 7/1/11, 1.25% to 2% raises scheduled to take effect 1/1/12, and various salary adjustments for employees of the following agencies: Criminal Justice Information Authority; Prisoner Review Board; Deaf and Hard of Hearing and Human Rights commissions; Historic Preservation Agency; and the departments of Corrections, Human Rights, Human Services, Juvenile Justice, Labor, Natural Resources, and Revenue. These raises and adjustments remain in effect for other agencies. According to DCMS, about 30,000 State employees will forgo raises as a result of this rulemaking. A change since 1st Notice corrects the pay rate listed for the technical manager I job title in the NR-916 collective bargaining unit for the departments of Central Management Services, Natural Resources, and Transportation.

Questions/requests for copies: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, Fax 217/524-4570, e-mail: CMS.PayPlan@Illinois.gov.

DEER & TURKEY HUNTING

The DEPARTMENT OF NATURAL RESOURCES adopted an amendment to "Special White-Tailed Deer Season For Disease Control" (17 Ill Adm Code 675; 35 Ill Reg 13049), effective 12/9/11, opening up the counties of Stephenson, Ogle, LaSalle,

JoDavies, and Grundy to the special chronic wasting disease (CWD) deer-hunting season. DNR will sell a special hunt area CWD season deer permit to resident hunters that allows the permit holder to hunt for antlerless-only deer in special hunt areas for \$17.50. Applications to hunt such special areas will be accepted from the last Tuesday in October through the fourth Monday in November, and permits will be allocated via a lottery drawing.

DNR also adopted amendments to "The Taking of Wild Turkeys - Spring Season" (17 Ill Adm Code 710; 35 Ill Reg 14595), effective 12/9/11, that amend the spring season turkey hunting dates to conform to the 2012 calendar. Hunters will no longer be required to sign in and out at Pyramid State Park. Youth turkey hunters participating in the Youth Turkey Hunt while using an apprentice hunting license must be accompanied by a non-hunting parent, grandparent, or guardian who possesses a valid Illinois hunting license. All other youth hunters participating in the Youth Turkey Hunt must be accompanied by a non-hunting, adult supervisor who possesses a valid Illinois hunting license (non-residents) or a Firearm Owner's Identification Card (Illinois residents). The non-hunting supervisor must maintain the youth under immediate control at all times, and each supervisor may accompany only one youth at a time during the hunt.

Questions/requests for copies of the 2 DNR rulemakings above: George Sisk, DNR, One Natural Resources Way, Spfld. IL 62702-1271, 217/782-1809.

COMMUNITY CARE PROGRAM

The DEPARTMENT ON AGING adopted an amendment to "Community Care Program" (89 Ill Adm Code 240; 35 Ill Reg 12993), effective 12/6/11. A companion emergency rulemaking became effective 7/28/11. The rulemaking clarifies that participants in the Community Care Program (CCP) are not permitted to be enrolled in another Home and Community-Based Service Waiver program. A Social Security number or application for one is now mandatory for eligibility in CCP. All other exceptions to the Medicaid enrollment requirement are eliminated except when the value of non-exempt assets that are owned by the applicant exceeds twice the level of the asset disregard limit for medical assistance. The rulemaking also clarifies that "a good faith effort" is not limited to those actions listed in the rule and eliminates the use of an obsolete title in favor of the current term "Care Coordinator". Participants, care coordination units, and service provider agencies receiving assistance under the Community Care Program will be affected by this rulemaking.

FORECLOSURE PREVENTION

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted a new Part by emergency rulemaking, effective 12/12/11, for a maximum of 150 days to implement Public Act 96-1419. The Authority will administer the new Foreclosure Prevention Program Fund from which grants will be awarded to community-based organizations and counseling agencies for

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"eligible users" in order to provide housing counseling and foreclosure prevention. Grants will go to both Chicago and non-Chicago entities, and Chicago will also receive funds to cover administrative expenses. Covered topics include grant applicant eligibility criteria, eligible grant uses, the application process, grant moni-

toring, and required reports. Those affected by this rulemaking include counseling agencies certified by the federal Housing Development Authority and nonprofit entities that provide pre-purchase and post-purchase home ownership counseling, education about the foreclosure process and homeowner options, and foreclo-

sure prevention programs in conjunction with the Authority or a state or federally chartered financial institution.

Questions/requests for copies: Arthur J. Murphy III, IL Housing Development Authority, 401 N. Michigan Ave., Ste. 700, Chicago IL 60601, 312/836-5200.

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tive citations, and fees. Repossession entities will be affected by this rule.

Questions/requests for copies/comments through 2/6/12: Katie Kowalska, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/524-4227, e-mail: kkowalska@icc.illinois.gov.

rently 12) after the provider's initial certification, and correction requirements and post-payment review criteria are updated. DHS adds regulations on certification suspension and reinstatement and states that certificate suspension longer than one calendar year will result in revocation. Off-site rates will be calculated to compensate service providers for necessary staff travel to off-site treatment locations, and providers must develop a system assuring compliance with all DHS client record requirements, including audit procedures. All service providers are required to perform background checks on all persons, paid or unpaid, who provide Part 132 services, and all service provider sites must be deemed accessible and in compliance with the federal Americans With Disabilities Act. The rulemaking also specifies recordkeeping requirements, updates accreditation standards, and revises criteria for completing a review of medical necessity for services. Other covered topics concern informed consent requirements, pre-service evaluations and planning, client-centered consultations, and case management. As this rulemaking is lengthy, please consult the agency person named below for further details. This rulemaking may impact Medicaid-certified, community mental health service providers.

Questions/requests for copies/comments through 2/6/12: Tracie Drew, Department of Human Services, 100 South Grand Avenue East, 3rd Floor, Springfield, Illinois 62762, 217/785-9772.

HIGHER EDUCATION

The BOARD OF HIGHER EDUCATION proposed amendments to "Approval of New Units of Instruction, Research and Public Service at Public Institutions" (23 Ill Adm Code 1050; 35 Ill Reg 19865) and "Program Review (Private Colleges and Universities)" (23 Ill Adm Code 1030; 35 Ill Reg 19824). Part 1030 requires institutions of higher learning that desire exemption from BHE oversight and approval to provide evidence that they do not offer degrees or coursework in Illinois or provide instruction for students at a physical location in Illinois. Additional BHE program approval is no longer required for institutions that are: on federal military bases and used exclusively for military personnel and their families, at clinical or practice sites related to Board-approved programs, offering dual credit courses to Illinois high school students, or offering courses inside public correctional facilities. The rulemaking includes numerous changes relating to definitions; criteria for evaluating applications to operate; the caliber and content of courses or programs; the capacity to develop, deliver, and support academic programs; credit-hour requirements for degree programs; student progression and graduation rates; student success measures; and instruction offered via distance learning. Further amendments determine minimum faculty education standards and state that faculty-to-student ratios and proportion of full-time faculty will be factors in determining whether an institution provides qualified fac-

MENTAL HEALTH SERVICES

The DEPARTMENT OF HUMAN SERVICES proposed amendments to "Medicaid Community Mental Health Services Program" (59 Ill Adm Code 132; 35 Ill Reg 20039) that update the regulations to reflect current agency practices and policies. DHS clarifies that program applicability guidelines include individuals under 21 who do not have a complete diagnosis but need early treatment to reduce the risk of mental illness and those under 21 who show symptoms of mental illness that impact role functioning across critical life areas. The rulemaking adds several new definitions (e.g., accessibility), revises some existing definitions (e.g., mental health professional), and removes obsolete references to the Department of Corrections. DHS adds provider qualifying conditions, explains the minimum contractual requirements that service providers must meet, and expands program application requirements. Also, failure to submit corrected compliance documentation to DHS within 30 days after requested will result in the provider's decertification, and the certification period is changed from one to 3 years. DHS must complete a provider review within 14 months (cur-

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ulty. The rulemaking states that 2 factors for which BHE may deny an institution's authority to operate are if the institution fails to (1) achieve accreditation or (2) demonstrate minimum student success and graduation rates. The rulemaking adds ethical standards applicable to university publications and information given to the public. Criteria for Board initiation of an institution investigation are expanded, and voluntary relinquishment of authority to operate is explained. The rulemaking also clarifies policies regarding applicant fee refunds and incorrect fee amounts. As outlined above for Part 1030, Part 1050 also states minimum standards of education for faculty and factors used in determining whether the institution is providing qualified faculty. Other similar topics concern student progression and graduation rates; institutions no longer requiring BHE approval; and the number of credit hours required at the bachelor, master's, and doctoral degree levels. Those affected by these rulemakings include private Illinois colleges and universities that seek BHE approval.

Questions/requests for copies/comments concerning the 2 BHE

rulemakings above through 2/6/12: Bob Blankenberger (217/557-7350) or Karen Helland (217/557-7358), BHE, 431 E. Adams St., 2nd Fl., Springfield IL 62701, Fax 217/782-8548.

DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to rules titled "Illinois Safety Responsibility Law" (92 Ill Adm Code 1070; 35 Ill Reg 20125) implementing Section 7-306.1 of the Illinois Vehicle Code. The rulemaking exempts certain non-residents and former Illinois residents who have met all requirements for reinstatement of their driving or registration privileges from filing proof of financial responsibility if they reside outside Illinois, have applied for a driver's license in another state, and present an affidavit of out-of-state residency to the Illinois SOS. Further amendments require an individual who was released from the financial responsibility requirement, but moves or returns to Illinois within 3 years, to present proof of insurance coverage for that time period to the SOS.

Questions/requests for copies/comments through 2/6/12: Jennifer Egizii, Office of the Secretary of State, 2701 South Dirksen Parkway, Springfield, Illinois 62723, 217/557-4462.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to "Pay Plan" (80 Ill Adm Code 310; 35 Ill Reg 19885) updating various job titles and pay rates to reflect earlier rulemakings and to reflect a pay freeze imposed upon employees of certain State agencies who are represented by collective bargaining units. The rulemaking changes the job titles of "pharmacist" technician and lead technician to "pharmacy" and changes their numerical code classifications. Further amendments add pay rates for the public service administrator (PSA) option 8L job title, senior public service administrator (SPSA) option 7 job titles at the Department of Revenue and Illinois Gaming Board, and certain SPSA option 7 job titles of the Illinois State Police to negotiated pay rates affected by the Fiscal Year 2012 pay freeze. According to DCMS, these amendments apply changes made in earlier rulemakings to portions of the Part that had not been updated.

Questions/requests for copies/comments through 2/6/12: Jason Doggett at the DCMS address and telephone number above.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's January 10, 2012 meeting.

STATE BOARD OF EDUCATION

"Certification" (23 Ill Adm Code 25) proposed 10/14/11 (35 Ill Reg 16443)

"Student Records" (23 Ill Adm Code 375) proposed 10/14/11 (35 Ill Reg 16473)

"Voluntary Registration and Recognition of Nonpublic Schools" (23 Ill Adm Code 425) proposed 10/14/11 (35 Ill Reg 16495)

BOARD OF HIGHER EDUCATION

"Approval of Noninstructional Capital Projects" (23 Ill Adm Code 1040) proposed 10/28/11 (35 Ill Reg 17173)

POLLUTION CONTROL BOARD

"Effluent Standards" (35 Ill Adm Code 304) proposed 7/29/11 (35 Ill Reg 12634)

Second Notices (cont.)

DEPARTMENT OF PUBLIC HEALTH

"Loan Repayment Assistance for Dentists" (77 Ill Adm Code 580) proposed 10/14/11 (35 Ill Reg 16381)

"Loan Repayment Assistance for Physicians" (77 Ill Adm Code 581) proposed 10/14/11 (35 Ill Reg 16399)

"Allied Health Care Professional Assistance Law" (77 Ill Adm Code 598) proposed 10/14/11 (35 Ill Reg 16413)

"AIDS Drug Assistance Program" (77 Ill Adm Code 692) proposed 10/7/11 (35 Ill Reg 15976)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Rights and Responsibilities" (89 Ill Adm Code 102) proposed 7/15/11 (35 Ill Reg 11094)

"Application Process" (89 Ill Adm Code 110) proposed 7/15/11 (35 Ill Reg 11101)

"Medical Assistance Programs" (89 Ill Adm Code 120) proposed 7/15/11 (35 Ill Reg 11108)

"Medical Payment" (89 Ill Adm Code 140) proposed 7/29/11 (35 Ill Reg 12600)

JCAR Meeting Action

At its December 13, 2011 meeting, the Joint Committee on Administrative Rules voted the Objection and related Recommendation summarized below. Also, the Committee extended the following 3 rulemakings, and they will be considered at JCAR's January 10, 2012 meeting: (1) Secretary of State's "Procedures and Standards" (92 Ill Adm Code 1001; 35 Ill Reg 14916); (2) Department of Transportation's "Prequalification of Contractors, Authorization to Bid, and Subcontractor Registration" (44 Ill Adm Code 650; 35 Ill Reg 15454); and (3) Office of the State Fire Marshal's "Administrative Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and other Regulated Substances" (41 Ill Adm Code 176; 35 Ill Reg 14895).

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

The Joint Committee on Administrative Rules objects to Section 1240.535(c)(7) of the rulemaking titled "Private Detective, Private Alarm, Private Security, and Locksmith Act of 2004" (68 Ill Adm Code 1240; 35 Ill Reg 6687) because that subsection requires fingerprint vendors to submit, as part of the fingerprint file, a photograph of the individual being fingerprinted. Statute does not allow DFPR to require photographs, but does authorize the Department of State Police to require other identifying information, which could include a photograph. The proper channel for ISP to require photos is to exercise its statutory authority to do so within its own rules. If ISP chooses to adopt such a requirement, then DFPR would be able to reflect it in DFPR rules.

DEPARTMENT OF STATE POLICE

Concerning the DFPR rulemaking above, JCAR also recommends that, if the Department of State Police believes that a photograph of a person being fingerprinted for a criminal background check is necessary, it adopt amendments to require those photographs, as allowed by Section 8A of the Illinois Uniform Conviction Information Act [20 ILCS 2635/8A].

NOTICE TO READER: Beginning with issue 1 of 2012, *The Flinn Report* will be available only on the internet at www.ilga.gov/commission/jcar/ rather than through bulk mail. This change is necessitated by budget reductions throughout State government.

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