

*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

### ☞ UNDERGROUND STORAGE TANKS

The OFFICE OF THE STATE FIRE MARSHAL adopted amendments to "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), effective 2/15/12, implementing federal requirements creating 3 classes of operators for underground storage tank facilities (USTs) and specifying their responsibilities, minimum training requirements, examinations, fees, and continuing education. Class A and B operators must be trained within 30 days after assuming operation of the facility, and Class C operators must complete training before assuming responsibility for emergency responses. The training programs must be OSFM-approved and may include in-class, online, or hands-on training. A facility may not operate after 8/8/12 unless Class A, B, and C operators have been designated and trained for each UST operated at each facility, and a Class A, B, or C operator must be onsite at a manned facility at all times. Unmanned facilities must post the emergency contact information for the Class A, B,

and C operators. If a facility fails to remain in compliance with these rules, OSFM may prohibit any further operation of the facility until it is compliant. Additionally, the rulemaking outlines recordkeeping requirements for each facility, retraining for out-of-compliance personnel following a notice of violation, inspection procedures, and maintenance plans. Since 1<sup>st</sup> Notice, the regular inspection schedule has been changed from monthly to quarterly; the requirement that no Class B operator be assigned to more than 50 facilities at the same time has been removed; and additional information has been required on testing certificates. OSFM has also clarified that trained operators may be assigned to more than one facility at a time as long as other operator training requirements are met and an operator is on site at all times at manned facilities. This rulemaking may affect small businesses, small municipalities, and not-for-profit entities that have UST's on their property.

Questions/requests for copies: Shelly Bradley, OSFM, 1035 Stevenson Dr., Springfield IL 62703-4259, 217/557-3131, Fax 217/524-9284.

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### ☞ WORKERS' COMPENSATION

The ILLINOIS WORKERS' COMPENSATION COMMISSION proposed amendments to "Miscellaneous" (50 Ill Adm Code 7110; 36 Ill. Reg. 3164) implementing Public Act 97-18, a significant revision of the Workers' Compensation Act, with regard to medical fee schedules in Section 8.2 of the Act. Effective 9/1/11, payment rates for procedures, services, and treatments in the IWCC's Medical Fee Schedule are reduced 30% (to 70% of the fee currently listed), and the fee amounts will be adjusted annually based upon the Consumer Price Index. Beginning 1/1/12, payment rates for non-hospital fees will be determined by 4 geographic regions: Cook County; DuPage, Kane, Lake, and Will counties; 11 counties in or near the St. Louis Metro East area; and all other counties. For hospital fees, 14 regions will be used. Effective 6/28/11, out-of-State medical providers shall be paid either the amount listed in their state's fee schedule or the amount specified for the region where the employee resides, whichever is less. For procedures, treatments and services rendered on or after 9/1/11 that are not listed in the fee schedule, the

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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

## EMERGENCY MEDICAL SERVICES

The DEPARTMENT OF PUBLIC HEALTH adopted an amendment to "Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515; 35 Ill Reg 18565), effective 2/15/12, that makes an emergency medical technician's failure to disclose all felony convictions on an application grounds for license denial or revocation. For applicants with Class X, 1 or 2 felonies or an out-of-state equivalent offense, DPH is authorized to require a law enforcement agency criminal history report at the applicant's cost. The rulemaking prescribes factors to consider in determining the degree to which the applicant's criminal history suggests that the applicant may present a risk to patients. Applications must be denied when the applicant fails or refuses to provide additional relevant information requested. This rulemaking may affect emergency medical services providers.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761-0001, 217/785-9128, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).

## STATE LIBRARY

The SECRETARY OF STATE adopted amendments to "Illinois State Library, Library Services Division" (23 Ill Adm Code 3010; 35 Ill Reg 15424), effective 2/16/12, to add the Illinois Interlibrary Loan Code (2008 version), approved by the Illinois State Library Advisory Committee and adopted by the Library, as an exhibit at the end of this Part and apply it to libraries that are in the Illinois Library and Information Network (ILLINET). Key provisions provide that interlibrary loan activities are an adjunct to, not a substitute for, collection efforts in individual libraries, and libraries should place their holdings in electronic databases, ensure the user's confidentiality, comply with applicable copyright laws, identify a library that owns requested material, and avoid charging fees among interlibrary loan parties. Procedures governing violations

of the Illinois Interlibrary Loan Code up to and including suspension of a library's privileges are prescribed, also. Other covered topics specific to the Illinois State Library in Springfield include access to the stacks, various material fees (e.g., computer printouts, photocopies, scanning), wireless internet services, researchers' use of USB portable storage devices, and use of public areas.

SOS also adopted amendments to "Illinois State Library, Government Documents Section" (23 Ill Adm Code 3020; 35 Ill. Reg. 19127), effective 2/16/12, to reduce the number of copies of most official documents sent to the Library's Government Documents section from 35 to 2, with 26 hard copies sent of documents on the section's core list (documents designated for storage in a "tangible format"). University publication submissions are reduced from three copies to two. The rulemaking also repeals SOS policies regarding inspection of depository libraries. Since 1<sup>st</sup> Notice, the date for determining the status of depository libraries has been changed from 12/31/11 to 3/1/12.

Questions/requests for copies of the 2 SOS rulemakings above: Joe Natale, Illinois State Library, Gwendolyn Brooks Bldg., Springfield IL 62701-1796, 217/558-4185, [jnatale@ilsos.net](mailto:jnatale@ilsos.net)

## STATE TREASURER

The STATE TREASURER repealed the Part titled "Access to Information" (2 Ill Adm Code 651; 36 Ill. Reg. 3259) and adopted a new Part titled "Access to Records of the Office of the Illinois State Treasurer" (2 Ill Adm Code 651; 36 Ill. Reg. 3261) by means of the required rulemaking process in Section 5-15 of the Illinois Administrative Procedure Act, under which agency organizational rules may be adopted without the public notice and comment process required for regular rulemaking. The new Part outlines the office's Freedom of Information Act (FOIA) procedures, including the process by which record requests may be

made (in writing, emailed, or by fax). Requestors must include their names, addresses and phone numbers; state the format and manner in which the material is to be provided; indicate whether certification of records is needed; and indicate whether the request is for a commercial purpose. Other topics covered in this rulemaking include timelines for agency response to a request, the appeal process when a request is denied, handling of requests for electronic records, and procedures for review and inspection of records maintained by the Treasurer. Copying costs are stated in the rule, with up to 50 copies of records provided free of charge. This rulemaking affects small businesses and other entities that request records from the Treasurer.

Questions/requests for copies: Bradley Rightnowar, Office of the Treasurer, One West Old State Capitol Plaza, Ste. 400, Springfield IL 62701, 217/785-6998, Fax: 217/557-9365.

## HORSE RACING MEDICATION

The ILLINOIS RACING BOARD adopted emergency amendments to "Medication" (11 Ill Adm Code 603; 36 Ill Reg 3290), effective 2/15/12, for a maximum of 150 days, that update incorporations by reference to Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances. An identical proposed rulemaking appears in this issue of the *Illinois Register* at 36 Ill Reg 3162. The amendments reflect updated threshold levels and guidelines for the use by veterinarians of foreign substances of accepted therapeutic value; penalties for detection of the presence of benzoyllecgonine (a cocaine metabolite), at or above 150 ng/ml; and penalties for Class 4 drug violations.

Questions/requests for copies/comments on the proposed rulemaking through 4/16/12: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

# Proposed Regulations

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reimbursement rate shall be 53.2% of actual charge (currently, 76% of actual charge), with exceptions specified elsewhere in rule for specific charges that are reimbursed at 65% of the provider's normal rates. Other procedures, treatments and services formerly reimbursed at 76% of actual charge (e.g., dental services, emergency room, professional services performed in conjunction with hospital services, hospital outpatient radiology, hospital pathology and laboratory services) shall be reimbursed at 53.2%. For cost outliers (unusually costly procedures) the maximum reimbursement will be the fee schedule amount plus 53.2%. Implants will be reimbursed at 25% above the net manufacturer's invoice price, less rebates, plus shipping charges. Charges for outpatient surgery may be accepted from any accredited outpatient surgery facility (instead of only from ambulatory surgical treatment centers licensed by the Department of Public Health). Those affected by this rulemaking include physicians, clinics, and hospitals that treat work-related injuries and conditions.

Questions/requests for copies/com-

ments through 4/16/12: Kimberly Janas, IWCC, 100 W. Randolph St., Ste. 8-200, Chicago IL 60601, 312/814-6559, Fax: 312/814-3520, email: [kimberly.janas@illinois.gov](mailto:kimberly.janas@illinois.gov)

## STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to "Conditions of Employment" (80 Ill Adm Code 303; 36 Ill. Reg. 3153) implementing the Family Military Leave Act (FMLA) and the Civil Air Patrol Leave Act. The amendments grant State employees who have been employed at least 12 months and worked at least 1,250 hours up to 30 days unpaid leave under either act if they apply at least 14 days in advance. Family military leave applicants (those requesting leave due to military deployment of a spouse, civil union partner, or adult child) must have exhausted vacation, personal, and compensatory time and all other forms of paid leave except sick and disability leave. Other unpaid leave under the FMLA need not be exhausted. Persons requesting leave for Civil Air Patrol missions are not required to exhaust vacation or

personal time or any other form of leave. Time utilized under either type of leave continues to count toward an employee's creditable service, continued service, vacation accrual and seniority dates.

Questions/requests for copies/comments through 4/16/12: Mary Matheny, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/557-5404.

## DPH RULES WITHDRAWN

The DEPARTMENT OF PUBLIC HEALTH withdrew proposed amendments to rules titled "Sheltered Care Facilities Code" (77 Ill Adm Code 330; 35 Ill Reg 9957) and "Illinois Veterans' Homes Code" (77 Ill Adm Code 340; 35 Ill Reg 9979), both of which were published in the 6/24/11 *Illinois Register*. The withdrawn rulemakings concerned protocols for obtaining or refusing informed consent to the administration of psychotropic medications. DPH received numerous objections to the proposed rules during the public comment period and rather than attempt to revise these rulemakings will propose re-drafted language at a later date.

## Second Notice

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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 March 6, 2012 meeting.

### DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Reimbursement for Nursing Costs for Geriatric Facilities" (89 Ill Adm Code 147) proposed 11/18/11 (35 Ill Reg 19015)

"Medical Payment" (89 Ill Adm Code 140) proposed 7/22/11 (35 Ill Reg 12202)

### SECRETARY OF STATE

"Illinois Safety Responsibility Law" (92 Ill Adm Code 1070) proposed 12/23/11 (35 Ill Reg 1)

### DEPARTMENT OF STATE POLICE

"Sample Collection for Genetic Marker Indexing" (20 Ill Adm Code 1285) proposed 1/6/12 (36 Ill Reg 19392)

### DEPARTMENT OF CHILDREN AND FAMILY SERVICES

"Americans With Disabilities Act Grievance Procedure" (4 Ill Adm Code 425) proposed 10/14/11 (35 Ill Reg. 16162)