

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

ETHICS RULES

EXECUTIVE ETHICS COMMISSION (EEC) adopted amendments to "Organization, Information, Rulemaking and Hearings" (2 Ill Adm Code; 36 Ill. Reg. 2618), effective 8/21/12. The rulemaking lists standards to be used in determining the amount of a fine for an ethics violation, including the nature and scope of the violation; whether premeditation was present; the use of one's title or position and the extent of the use of State resources, time or funds; and prior disciplinary record. Concerning the revolving door prohibition (which forbids former State employees that participated in contract or regulatory decisions from accepting employment with firms affected by those decisions for 1 year after their departure from State employment), the rulemaking clarifies how self-employed individuals fulfill their duty to notify former State employers of potential conflicts of interest. In such cases, notification to the employee's appropriate Executive Inspector General (EIG) shall include a list of known clients which the employee or his or her business intends to contact. The list is to be updated with the former employee's agency Ethics Officer, and the appro-

priate Inspector General and agency ethics officers must notify the appropriate EIG of contacts the employee had with any companies that had regulatory, licensing or contractual activity with the agency. Any employee subject to the revolving door prohibition who accepts non-State employment in violation of the prohibition, or that does not provide a required notice to the appropriate Inspector General, shall be subject to a fine. Additional information that must be reported includes a description of the positions held by an employee, the title of the non-State government position, the name and ownership of the prospective employer, and potential clients. A new Subpart lists procedures for the removal and disciplining of Chief Procurement Officers (CPOs), State Purchasing Officers (SPOs), Procurement Compliance Monitors (PCMs) and Chief Internal Auditors that are appointed to 5 year terms and who are subject to discipline only after a hearing by the EEC. Complaints against CPOs may be filed by the Governor or the director of an agency responsible to the Governor; against SPOs and PCMs, by the CPO or the executive officer of an agency housing the SPO or PCM; and against

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EMERGENCY PSYCHIATRIC TREATMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Hospital Services" (89 Ill Adm Code 148; 36 Ill Reg 13780) implementing an emergency psychiatric demonstration program for hospitals, to be known as Community Connect (CC). The program, effective 10/1/12 through 6/30/15, will enable the State to receive federal Medicaid matching funds for emergency hospital treatment of patients ages 21 to 64 (normally excluded from Medicaid coverage of institutional mental health treatment) who present with suicidal or homicidal thoughts or gestures, or are determined to be dangerous to themselves or others. The matching funds will be provided under federal law (Emergency Medical Treatment and Active Labor Act) that requires Medicare and Medicaid-certified hospitals to provide emergency room treatment to any patient. To participate in Community Connect, hospitals designated as Institutions for Mental Disease (IMDs) must partner with general acute care hospitals to accept patients referred for psychiatric emergencies, and must insure such

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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.

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Chief Internal Auditors, by the chief executive officer of one of the designated State agencies listed in the Fiscal Control and Internal Auditing Act. Other provisions in this rulemaking include procedures for service of process after a complaint has been filed, rules for conduct of hearings, grounds for qualification and disqualification of an Administrative Law Judge (ALJ), and the authority and powers of the ALJ. Since 1st Notice, EEC has amended its list of factors for determining fines to specify that only a warning or minimal fine is warranted when failure to report a conflict of interest involves "incidental" business or employment matters, or matters not directly related to prior State employment, entailing monetary amounts of less than \$5,000. The extent of an employee's intent or knowledge may also be considered in setting the fine for any violation (originally, only for violations not requiring a finding of knowledge or intent). Also, self-employed persons bound by the revolving door prohibition must notify the appropriate IG of any clients with which they intend to contract (instead of notifying the IG after a contract is made). Those affected by this rulemaking include small businesses or non-profits that employ or do business with former State employees subject to the revolving door prohibition.

Questions/requests for copies: Chad Fornoff, EEC, 401 S. Spring St., 401 Stratton Bldg., Springfield IL 62706, 217/558-1393.

CURRENCY EXCHANGES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to "Currency Exchange Act" (38 Ill. Adm Code 120; 36 Ill. Reg. 3591), effective 9/7/12. The amendments implement statutory changes from Public Act 97-315. Definitions of ambulatory (serving only employees of a particular business) and community currency exchanges are added, and exchanges are required to keep daily cash sheets on

premises for 90 days. Stored value cards must be maintained, as well as any transmittal document made for the benefit of a third party. Payment for all third party bills (e.g., utility or phone bills) must be remitted to the third party by the end of the next business day. Exchanges that maintain electronic copies of all checks, drafts, and money orders are exempt from certain requirements regarding maintenance of printed documents such as check registers. Logs must be kept of all returned checks, drafts, or money orders. The log must include the name of the person writing the check; the check number, date of instrument, reason for return and date of return; and any efforts to collect or fees charged by the exchange. Exchange licensees shall comply with all applicable federal regulations regarding distribution of Supplemental Nutrition Assistance Program benefits and any successor program. Possible enforcement actions, such as license suspension or revocation, or issuance of a cease and desist order, are stated in the rulemaking, along with administrative hearing procedures. This rulemaking will affect currency exchanges.

VETERINARIANS

Also, DFPR adopted amendments to "Veterinary Medicine and Surgery Practice Act of 1994" (68 Ill Adm Code 1500; 36 Ill Reg 6178) and "Certified Veterinary Technicians" (68 Ill Adm Code 1505; 36 Ill Reg 6188), effective 9/7/12. Part 1500 amendments remove provisions granting a temporary permit. Veterinarian licensure restoration applicants whose license has been expired or inactive for more than 5 years are required to provide proof of completion of 40 approved continuing education (CE) credits, including proof of completion of 20 hours of approved CE for each year the license was expired or inactive during the 2 years preceding the restoration licensure application in addition to the required 40 hours of CE credit. Part 1505 amendments require veterinary technician licensure restoration appli-

cants whose license has been expired or inactive for more than 5 years are required to provide proof of completion of 15 approved CE credit, including proof of completion of 8 hours of approved CE for each year the license was expired or inactive during the 2 years preceding the restoration licensure application in addition to the required 15 hrs of CE credit. Both rulemakings increase the licensure restoration fee from \$20 to \$50 plus all lapsed renewal fees and add the US Department of Agriculture or any organization approved by USDA to offer its USDA Recertification Course to the list of approved CE providers. Since 1st Notice, DFPR has repealed temporary permit provisions in their entirety instead of amending them to remove only the provisions for veterinarians licensed in another jurisdiction. Veterinarians and technicians employed by them are affected by this rulemaking.

Questions/requests for copies of the 3 DFPR rulemakings above: Craig Cellini, DFPR, 320W. Washington, 3rd Fl., Springfield IL 62767-0001, 217/785-0813.

SUPPORTIVE LIVING FACILITIES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment to "Specialized Health Care Delivery Systems" (89 Ill Adm Code 146; 36 Ill Reg 6208) effective 8/27/12. An identical emergency amendment effective 4/12/12 appeared in the *Illinois Register* at 36 Ill Reg 2751. The amendment sets Medicaid reimbursement rates for supportive living facilities (SLFs) at the level in effect on 4/30/11. Existing rule provides for SLFs to be paid 60% of the average rate paid to nursing homes in the same geographic area. DHFS is de-linking the SLF rate from the nursing home rate because nursing home rates effective 5/1/11 include funding from a long-term care assessment that does not apply to SLFs. Supportive living facilities operated by small businesses or non-profits are among those affected by this rulemaking.

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Questions/requests for copies: Jeanette Badrov, DHFS, 201 S. Grand Avenue East, 3rd Fl., Springfield IL 627630002, 217/782-1233.

affected by this rulemaking include small businesses that generate or accept construction or demolition debris.

amendments change the name of the Part to "Golden Apple Scholars of Illinois Program". Eligibility requires enrollment as an upperclassman at a four year institution to gain teacher certification, a GPA of 2.5 or more on a 4.0 scale, participation in all required programs, and adherence to the guidelines and standards of the Golden Apple Foundation for Excellence in Teaching. Each year the Foundation will designate those eligible to receive assistance under this Part, and 30% of program recipients must reside in a county having a population of less than 500,000. If the recipient does not meet conditions for the grant, it will be converted into a loan and must be paid back within 10 years unless the recipient qualifies for an extension. Recipients may receive up to 4 semesters or 6 quarters of assistance. The scholarship amount will be the lesser of: the actual cost, the actual cost and a cost of living allowance, or an amount not to exceed \$10,000. Under certain conditions a recipient may be eligible to qualify for up to \$15,000. Students receiving assistance through the IFTC program will continue to receive assistance under rules in effect at the time their scholarship was awarded. Those affected by this rulemaking include colleges and universities.

Requests for copies: Marie Tipsord, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-4925, e-mail: tipsordm@ipcb.state.il.us. Please reference docket R12-09.

SOS PERSONNEL

The SECRETARY OF STATE adopted amendments to "Department of Personnel" (80 Ill. Adm Code 420; 36 Ill. Reg. 6998), effective 9/1/12, providing that the SOS will retain an original test score for an applicant, if upon retest, he scores worse. Also, hours for "intermittent" status employees, which currently cannot vary more than 10% from the original in-hire work schedule, cannot vary more than 10% from the current work schedule in any 12 month period unless approved by the Director of SOS Personnel.

Questions/requests for copies: Steve Roth, SOS, Rm. 197 Howlett Bldg., Springfield IL 62578, 217/782-1750.

STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted amendments to "Illinois Future Teacher Corps (IFTC) Program" (23 Ill Adm Code 2764; 36 Ill Reg 6509), effective 9/1/12, to consolidate the Illinois Future Teacher Corps program into the Golden Apple Scholars of Illinois Program. The

Questions/requests for copies: Lynn Hynes, ISAC, 1755 Lake Cook Rd, Deerfield IL 60015, 847/948-8500, ext. 2216, e-mail: lhynes@isac.org.

CONSTRUCTION DEBRIS

The POLLUTION CONTROL BOARD adopted amendments to "Clean Construction or Demolition Debris Fill Operations" (35 Ill Adm Code 1100; 36 Ill Reg 2801), effective 8/27/12, that allow for use of uncontaminated clean construction or demolition debris (CCDD) and uncontaminated soil as fill at quarries, mines and other excavations. The rulemaking also sets standards for levels of constituents in uncontaminated soil, requires certifications for soil and details registration for soil fill sites. Since 1st Notice, the name of the Part has been changed to "Clean Construction or Demolition Debris Fill Operations and Uncontaminated Soil Fill Operations", and the following changes have been made: CCDD sites may not accept uncontaminated soil with a pH below 6.25 or over 9.0, and soil must be tested for pH (acidity or alkalinity) before it can be used as fill. Other changes specify information that must be included in certification documents; require at least one year of post-closure maintenance of a closed CCDD site unless a shorter period is approved; allow averaging of multiple soil samples under certain conditions if the samples come from a site not likely to have been contaminated; and incorporate additional environmental standards by reference. Those

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patients have a discharge plan with appropriate services in place prior to release. Participating hospitals will initially be paid for services at 80% of the psychiatric hospital rate. They may receive the remaining 20% if the patient remains stable in the community with no repeat psychiatric hospitalization for at least 45 days. The

program will also designate certain community mental health providers as targeted case management agencies that will respond to crises, determine appropriate levels of care, and coordinate care for CC patients. The rulemaking also includes criteria for medication management, stabilization and discharge practices, and pro-

gram reporting. Hospitals and mental health treatment providers will be affected by this rulemaking.

Questions/requests for copies/comments through 10/22/12: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233

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LIFE INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to "Construction and Filing of Life Insurance and Annuity Forms" (50 Ill Adm Code 1405; 36 Ill. Reg. 13797) to implement statutory changes made to required standard insurance policy provisions in the Illinois Insurance Code. A policy may require that proof of death of an insured shall consist of a certified copy of the death certificate of the insured, or other lawful evidence providing equivalent information, as well as proof of the claimant's interest in the proceeds of the policy. Insurance companies will also be required to include a consumer assistance telephone number on the policy form.

Questions/requests for copies/comments through 10/22/12: James Rundblom (217/785-8559) or Susan Anders (217/785-8220), DOI, 320 W. Washington, 4th Fl. Springfield IL 62767-0001, Fax 217/524-9033.

ATM machines or services shall be obtained in accordance with the Illinois Procurement Code and the Treasurer's procurement rules. The Treasurer may also enter into an agreement for the provision of banking services at the State Capitol. Any payments or proceeds received by the Treasurer shall be deposited in the Treasurer's Rental fee Fund, with administrative expenses for this program paid from that same fund. Any existing currency exchange or credit union that was operating on 7/1/95 is not subject to this Part. Those affected by this rulemaking include banks, credit unions, and vendors or concessionaires on State property.

Questions/requests for copies through 10/22/12: Bradley Rightnowar, Office of the Treasurer, 1 West Old State Capitol Plaza, Ste. 400, Springfield IL 62701, 217/557-9360.

PUBLIC MEETINGS

The CIVIL SERVICE COMMISSION proposed amendments to "Civil Service Commission" (80 Ill Adm Code 1; 36 Ill. Reg. 13743) to permit public comment at the Commission's meetings. A transcript of any proceedings before the Commission is deemed complete upon the filing of the court reporter's transcript of the final day of hearing or the last filed written closing statement, whichever is later.

Questions/requests for copies through 10/22/12: Andrew Barris, Civil Service Commission, 400 West Monroe, Suite 306, Spfld., IL 62704, 217/558-0554.

TELECOMMUNICATIONS

The ILLINOIS COMMERCE COMMISSION proposed amendments to "Telephone Assistance Programs" (83 Ill Adm Code 757; 36 Ill Reg 13749) to conform the Part to changes in federal requirements and to changes in federal telephone assistance programs. The changes eliminated federal Linkup assistance (provides eligible low income customers with discounted service installation) and eliminated Life-

line (discounted monthly phone service charges for such persons) customer eligibility requirements since the FCC has established uniform nationwide requirements.

Questions/requests for copies/comments through 10/22/12: Elizabeth Rolando, Chief Clerk, ICC, 527 E. Capitol Ave., Spfld., IL 62701, 217/782-7434.

HORSE RACING

The ILLINOIS RACING BOARD proposed amendments to "Concessionaire Rules" (11 Ill Adm Code 402; 36 Ill Reg 13812) to allow concessionaires to sell at off-track betting parlors. This rulemaking also reduces the number of copies of a concessionaire application that must be submitted to the IRB from 10 to 1 and reduces the number of days for filing an application from 60 to 30. IRB is also repealing sections that require concessionaires to submit financial statements (because these statements are part of the license application) and set rules for approval of concession prices (since IRB no longer approves these prices).

Questions/requests for copies/comments through 10/22/12: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

BANKING RULE WITHDRAWN

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION withdrew a proposed new Part titled "Foreign Banking Corporations" (38 Ill Adm Code 400; 35 Ill Reg 16933) that was published in the 10/21/11 Illinois Register. The proposed rule implemented the Foreign Banking Office Act by establishing requirements for the ratio of assets to liabilities and the amount of securities set aside to protect depositors that non-U.S. banking corporations doing business in Illinois would be obligated to maintain.

Questions/requests for copies: Craig Cellini, DFPR, 320 W. Washington, 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

ATM SERVICES

The TREASURER proposed a new Part titled "Banking and Automated Teller Machine Services" (74 Ill Adm Code 600; 36 Ill. Reg. 13819) governing State procurement of ATM services on State property. The rulemaking defines such terms as "ATM services", "banking services" and "State property" (which includes properties under the jurisdiction of the Department of Natural Resources, State historical sites, and nature preserves owned or leased by a State agency for Illinois citizens). No State agency can procure services related to ATMs at any State office building, property or the State Fairgrounds without the approval of the Treasurer's Office. The Treasurer may enter into agreements with a State agency having jurisdiction over State property outlining the quantity and location of ATM machines or services, allocation of responsibility for payment of the expenses incurred in locating the machine or service, and other terms deemed necessary by the Treasurer.

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 September 11, 2012 meeting.

ILLINOIS WORKERS' COMPENSATION COMMISSION

"Miscellaneous" (50 Ill Adm Code 7110) proposed 3/2/12 (36 Ill Reg 3164)

"Alcohol and Drug Sample Collection and Testing" (50 Ill Adm Code 9140) proposed 6/15/12 (36 Ill Reg 8626)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Maggie Crotty

Representative Lou Lang

Senator Don Harmon

Representative Don Moffitt

Senator John O. Jones

Representative Rosemary Mulligan

Senator Dale A. Righter

Representative Angelo "Skip" Saviano

Senator Ira Silverstein

Representative Andre Thapedi

**Vicki Thomas
Executive Director**