

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

☞ SMART ACT EMERGENCY RULES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to "Medical Payment" (89 Ill Adm Code 140; 36 Ill Reg 14820) and "Hospital Services" (89 Ill Adm Code 148; 36 Ill Reg 14849), both effective 9/21/12 through 6/30/13 in accordance with Public Act 97-689, the Save Medicaid Access and Resources Together (SMART) Act. These emergency rules revise some provisions of earlier emergency amendments implementing the SMART Act. Amendments to Part 140 remove antibiotics from a list of medications that do not require prior approval if a prescription places a medical assistance recipient over the SMART Act's limit of 4 prescriptions per month (antibiotics were not included among the exempt medications listed in the Act). Other amendments exempt Intermediate Care Facilities for the Developmentally Disabled from the Act's 14-day supply limit on prescriptions to residents of nursing homes, and set the dispensing fee paid to pharmacists for dispensing generic drugs at \$5.50 (formerly \$5.35) per prescription. Amendments to Part 148 remove provisions charging copayments for "Emergency Level II" services provided

in a hospital emergency room (the copayment now applies only to non-emergency or screening level services provided in an ER). Payment rates for hospital-based physical therapy that were in effect on 6/30/12 are reinstated, subject to a 3.5% reduction in payment for hospital services established in the Act. The rate cut does not apply to Safety Net and Critical Access Hospitals, which are exempted under the Act. Also, billing and payment for hospital-based physical therapy will be made through HFS' non-institutional provider system. Hospitals, pharmacies, long-term care facilities, and other medical providers are affected by these rules.

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

☞ MEAT & POULTRY INSPECTION

The DEPARTMENT OF AGRICULTURE adopted amendments to rules titled "Meat and Poultry Inspection Act" (8 Ill Adm Code 125; 36 Ill Reg 9005), effective 10/1/12, incorporating by reference recent USDA regulations concerning labeling of meat and poul-

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Proposed Regulations

DHS RESIDENTIAL SCHOOLS

The DEPARTMENT OF HUMAN SERVICES proposed amendments to "Definition of Terms" (89 Ill Adm Code 751; 36 Ill Reg 14546), "Special Education Program and Services" (89 Ill Adm Code 765; 36 Ill Reg 14553) and "Identification, Evaluation, and Placement of Students" (89 Ill Adm Code 795; 36 Ill Reg 14572) that revise Department residential schools rules' terminology and program practices for consistency between rules. Part 751 amendments revise definitions and add new definitions for use throughout all DHS educational facilities rules. Part 765 amendments clarify that a student's eligibility for special education services in Department schools continues until the last day before his or her 22nd birthday. This rulemaking also adds the Health Insurance Portability and Accountability Act (HIPAA) to the list of laws and policies to which a school must adhere. School personnel standards are clarified to reflect that teachers must be considered highly qualified, as defined by the federal No Child Left Behind Act of 2001. Speech and language clinicians are limited to a caseload of 60 (currently 80). Clients will be provided

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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

try products. The federal regulations incorporated in this rulemaking were published in the *Federal Register* at 76 FR 82077, effective 12/30/11; and at 76 FR 68058, effective 1/1/14. They include updates to USDA Food Safety and Inspection Service (FSIS) regulations for reviewing and listing ingredients and sources of radiation approved for use in meat and poultry processing. Also, FSIS is amending definitions and standards for various classes of poultry (e.g., roasters, Cornish game hens) to reflect current labeling practices. Meat and poultry processors, packers, and retailers will be affected by this rulemaking.

ETHANOL

DOA also adopted an amendment to rules titled "Motor Fuel and Petroleum Standards Act" (8 Ill Adm Code 850; 36 Ill Reg 6873), effective 9/24/12. An identical emergency amendment appeared in the *Illinois Register* at 36 Ill Reg 7318, effective 5/1/12. The amendment delays enforcement of ethanol fuel blend standards adopted by the National Institutes of Standards and Technology (NIST) until 5/1/13. Rules delaying enforcement of the new standards were also adopted in 2010 and 2011 due to petroleum marketers' and refiners' concerns about the cost and availability of compliant fuel. Businesses which process or sell motor fuel products containing ethanol are affected by this rulemaking.

Questions/requests for copies of the 2 DOA rulemakings above: Linda Rhodes, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/524-9050, fax 217/785-4505.

ACCOUNTANTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to rules titled "Illinois Public Accounting Act" (68 Ill Adm Code 1420; 36 Ill Reg 8579), effective 10/5/12, broadening continuing education (CE) classifications by recognizing different methods for attaining formal and informal CE. DFPR

raised the licensure restoration fee from \$20 to \$50 plus all lapsed renewal fees, not to exceed \$260. The rulemaking recognizes persons, firms, associations, corporations of other groups that are members of NASBA's National Registry of CPE Sponsors or Quality Assurance Service Program as DFPR recognized educational/professional sponsors. DFPR provides an updated list of acceptable professional development activities, verifiable (formal) activities and unverifiable (informal) activities that count as CE. The rulemaking limits each non-verifiable activity to 10 CE hours during a renewal period, not to exceed 60 hours total for non-verifiable activities. Accountants and firms that employ accountants will be affected.

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

HUNTING AND TRAPPING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to hunting and trapping rules titled "Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting" (17 Ill Adm Code 530; 36 Ill Reg 8187), effective 9/21/12. The rulemaking makes site specific changes at 12 DNR properties and increases the pheasant fee/permits at 5 others. Since 1st Notice, the non-resident pheasant hunting fee at 4 sites, which was formerly \$38, has been reduced to \$35 for consistency with non-resident fees at other sites. Also, possible dates for youth pheasant hunting at Pere Marquette State Park/Mississippi River Area have been added, with final dates to be listed on the DNR website when determined.

Questions/requests for copies: George Sisk, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

TEMPORARY REGISTRATION

The SECRETARY OF STATE adopted

an amendment to "Certificates of Title, Registration of Vehicles" (92 Ill Adm Code 1010; 36 Ill Reg 7520), effective 7/24/12, that changes the length of time that a temporary registration permit is valid from 5 days to 7 days. The rulemaking also revises circumstances under which a seven day permit will be issued to include driving a homemade trailer to an SOS facility for inspection, driving a vehicle that has a registration renewal hold due to failure to comply with emissions requirements, and driving a vehicle to an authorized inspection site for inspection of a rebuilt vehicle or safety test inspection.

Questions/requests for copies: Cynthia Grant, SOS, 298 Howlett Building, Springfield IL 62756, 217/785-3094, email: cgrant@ilsos.net.

DRIVER'S LICENSES

SOS also adopted amendments to "Issuance of Licenses" (92 Ill Adm Code 1030; 36 Ill Reg 8227), effective 9/18/12, that exclude medical examiner's certificate holders seeking duplicate or corrected CDL or CDL permits from completing a self-certification. The rulemaking clarifies the resubmission procedure in the event that SOS receives an incomplete medical examiner's certificate from the driver. Failure of the CDL holder to resubmit the medical examiner's certificate within 30 days after notification will result in cancellation of CDL privileges. With regard to drivers license written examinations, the current maximum of 35 questions is changed to a minimum of 35 questions. SOS is also removing a fee waiver for duplicate licenses or permits to any individual over 60 who presents SOS with a police report showing his or her license was stolen. The rulemaking also specifies which questions on the duplicate or corrected license application form a CDL and Non-CDL holder must complete.

Questions/requests for copies: Jennifer Egizii, SOS, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/557-4462.

New Regulations

TEACHING CERTIFICATES

The STATE BOARD OF EDUCATION adopted new rules titled "Contested Cases and Other Formal Hearings" (23 Ill. Adm. Code 475; 36 Ill. Reg. 3803), repealed an existing Part with the same title and Part number (36 Ill. Reg. 3782), and also repealed another Part titled "Appeal Proceedings before the State Teacher Certification Board" (23 Ill. Adm. Code 485; 36 Ill. Reg. 3831), all effective 9/21/12. These rulemakings implement Public Act 96-431 and provisions from PA 97-607. PA 96-431 removed the regional superintendent's authority to initiate and hear certificate suspensions of up to one year and the State Superintendent's authority to hear certificate suspensions of up to 5 years so SBE is repealing the Part that was based on the previous statute. The Board is also repealing its old hearing rules and incorporating changes from both the Public Acts. The new Part 475 separates hearing procedures specific to certification suspension and revocation appeals heard by the State Educator Preparation Licensure Board (SEPLB) (formerly the State Teacher Certification Board) in Subpart A from other hearings of contested cases heard by the State Superintendent or the Illinois State Board of Education (outlined in Subpart B). The new SEPLB hearing rules include progression of an appeal from a notice of opportunity for hearing through final SEPLB orders and reporting of the decision and sanction to the National Association of State Directors of Teacher Education and Certification Clearinghouse. Changes to Subpart B set out rules for all other hearings before the State Superintendent or SBE and streamline some procedures (e.g., limiting parties to one hour for presentation of their cases, unless the

hearing officer deems otherwise). Since 1st Notice, SBE added and deleted language in order to clarify how witnesses will be deposed.

CHARTER SCHOOLS

SBE also adopted amendments to its rules titled "Charter Schools" (23 Ill. Adm. Code 650; 36 Ill. Reg. 8063), effective 9/20/12, to implement some provisions from Public Act 97-152 that created the State Charter School Commission, appointed by SBE, as an independent State agency with chartering jurisdiction and authority. SBE retains rulemaking authority for the Commission and responsibility for certifying a charter school. The Commission is responsible for considering appeals from charter school applicants whose applications were denied by their local school boards or whose school boards did not act upon the application in a timely manner and from charter schools whose renewal applications have been rejected or whose charters have been revoked by their local school boards. The proposed rules establish procedures for SBE review of local approvals separate from those of the Commission, for closing a charter school, for a charter school to appeal to or request consideration by the Commission, and for Commission review of those appeals or requests for consideration. Changes since 1st Notice authorize the State Superintendent, rather than SBE, to certify revisions or renewals of school charters; require 60 days (originally 14 days) notice of a charter school's closure, except in emergencies; clarify asset disposal procedures for locally chartered and State-chartered schools; and allow the Commission to request additional material from parties requesting consideration of a charter proposal that a local

school board has failed to act upon.

Questions/requests for copies of the 4 SBE rulemakings above: Jessica Riddick for Parts 475 and 485 and Jen Saba for Part 650, SBE, 100 W. Randolph, Suite 14-500, Chicago IL 60601, 312/814-2223.

DOMESTIC VIOLENCE PROGRAMS

The ATTORNEY GENERAL adopted amendments to "Domestic Violence Grants" (89 Ill Adm Code 1110; 36 Ill Reg 7745), effective 9/20/12, implementing Public Act 97-4. The rulemaking changes the name of the Part, formerly titled "Married Families Domestic Violence Grants"; changes the name of the grant fund to "Domestic Violence Fund"; and adds new definitions of "spouse" (party to a marriage or civil union), "domestic violence", and "domestic violence program". Non-profit entities that apply for grants will be affected.

Questions/requests for copies: Cynthia Hora, Office of the Attorney General, 100 W. Randolph, 13th Fl., Chicago IL 60601, 312/814-1427.

DOT RULE CORRECTION

The CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF TRANSPORTATION adopted an expedited correction to a rulemaking titled "Chief Procurement Officer for the Department of Transportation -- Standard Procurement" (44 Ill Adm Code 6) at 36 Ill Reg 14881. The correction applies to a rulemaking adopted at 36 Ill Reg 230, effective 12/21/11. The rulemaking has been corrected to include changes to the Part's table of contents, subpart headings, and cross references from an earlier adopted rulemaking.

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additional services or arranged for by the school after a DHS eligibility review has determined the need for those services. This rulemaking also states that community work experience may occur during the school day or outside of the school day and which school personnel may supervise those activities. Part 795 amendments clarify that special education program and student rights information will be provided to the parent or guardian in the child's native language in a format accessible for use. This rulemaking changes all references to case study evaluation and multidisciplinary evaluation to eligibility review. Finally, all three rulemakings make significant non-substantive, technical changes for consistency.

Questions/requests for copies/comments concerning the 3 DHS rulemakings above through 11/19/12: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

SPECIAL WASTE HAULING

The POLLUTION CONTROL BOARD proposed an amendment to "Solid Waste and Special Waste Hauling" (35 Ill Adm Code 809; 36 Ill Reg 14600) that implements Public Act 97-1081 extending the 1 year special waste hauling permit to 3 years. The \$250 annual fee and the \$20/vehicle fee, initially imposed in 1988, will not be increased but will be collected, beginning 1/1/13, on a triennial rather than an annual basis. Public hearings have been scheduled for 10/18/12 at 12:00 p.m. at the PCB Conference Room in the James R. Thompson Center (11-512 100 W. Randolph, Ste. 11-500, Chicago) and 11/15/12 at the PCB Conference Room at Illinois EPA headquarters (1st Floor, 1021 N. Grand Ave. E., (North Entrance), Springfield.

Requests for copies/comments through 11/19/12: John Therriault, PCB, 312/814-3620 or download copies at www.ipcb.state.il.us. For more information: Tim Fox at the same address, 312/

814-6085, e-mail: foxt@ipcb.state.il.us. Please reference docket R13-8.

PHYSICAL FITNESS FACILITIES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Physical Fitness Facility Medical Emergency Preparedness Code" (77 Ill Adm Code 527; 36 Ill Reg 14608) that implements a provision of Public Act 96-748 which requires each physical fitness facility to have a trained Automated External Defibrillator (AED) user present during staffed business hours rather than during all physical fitness activities. The rulemaking also makes technical corrections to the rulemaking such as updating cross-references to DPH hearing rules and DPH's Division of Emergency Medical Services and Highway Safety mailing address. This rulemaking may impact owners and/or operators of physical fitness facilities.

Questions/requests for copies/comments through 11/19/12: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL, 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

TEACHER PREPARATION

The STATE BOARD OF EDUCATION proposed amendments to "Standards for All Illinois Teachers" (23 Ill. Adm. Code 24; 36 Ill Reg 14612). This rulemaking concerns deadlines for teacher preparation (TP) programs to meet new Illinois Professional Teaching Standards effective 7/1/13. The rulemaking requires applications for new TP programs (or new courses of study within TP programs) to comply with new standards by 2/1/13 (was 11/1/10) and extends the deadline for Assessment of Professional Teaching to match new standards by one year to 9/1/14 (was 9/1/13) in order to provide more time for teacher licensure candidates to adjust to and prepare for new standards. The rulemaking also makes minor technical changes (replacing "Certification" with "Licensure" and "an initial Teaching Certificate" to "a professional educator li-

cense endorsed in a teaching field").

Questions/requests for copies/comments through 10/15/12: Shelley Helton, Agency Rules Coordinator, Illinois State Board of Education, 100 North First Street, S-493, Springfield, Illinois 62777-0001, 217/782-5270. Comments may also be e-mailed to: rules@isbe.net.

TURKEY HUNTING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to "The Taking of Wild Turkeys—Spring Season" (17 Ill Adm Code 710; 36 Ill Reg 14585) that conform the hunting dates to the 2013 calendar. The rulemaking opens the counties of Douglas, Ford, Kane and Lake to spring turkey hunting and requires hunters to display windshield cards at Mautino State Fish and Wildlife Area, Pyramid State Park, Pyramid State Park-East Conant Unit and Winston Tunnel State Natural Area.

Questions/requests for copies/comments through 11/19/12: Nick San Diego, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

PRISONS

The DEPARTMENT OF CORRECTIONS proposed amendments to "Impact Incarceration Program" (20 Ill. Adm. Code 460, 36 Ill Reg 14536) and "Rights and Privileges" (20 Ill. Adm. Code 525, 36 Ill Reg 14540). The Part 460 amendment allows DOC to recommend electronic monitoring to the Prisoner Review Board as a condition of mandatory supervised release. The Part 525 amendment allows inmates to make collect calls where billable instead of only within the continental United States and Puerto Rico.

Questions/requests for copies/comments on the 2 DOC rulemakings through 11/19/12: Echo Beekman, DOC, 1301 Concordia Court, P.O. Box 19277, Springfield, IL 62794-9277, 217/558-2200.

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 October 16, 2012 meeting.

DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY

"Enterprise Zone and High Impact Business Programs" (14 Ill Adm Code 520)
proposed 3/3/12 (36 Ill Reg 12181)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

Repeal of "Radiological Protection" (29 Ill Adm Code 320) proposed 7/27/12 (36 Ill
Reg 11738)

"Administrative Hearings" (32 Ill Adm Code 200) proposed 7/27/12 (36 Ill Reg 11772)

POLLUTION CONTROL BOARD

"Proceedings Pursuant to Specific Rules or Statutory Provisions" (35 Ill Adm Code
106) proposed 7/13/12 (36 Ill Reg 9924)

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**