

*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

### SENTENCE CREDIT

The DEPARTMENT OF CORRECTIONS adopted amendments to "Records of Committed Persons" (20 Ill Adm Code 107, 36 Ill Reg 14928), effective 2/1/13, implementing changes in required documents, sentence credits and record distribution and changing the name of the Part to "Records of Offenders". DOC updates and clarifies documents that are required when an offender is admitted and adds day for day credit, program sentence credit, statutory good time, statutory sentence credit and supplemental sentence credit as options to lessen incarceration time. Dates of incarceration (corresponding to the effective dates of various Public Acts affecting sentence credit) to which sentence credits apply are specified. The rulemaking allows an offender who committed a crime under the Sex Offender Registration Act and who successfully completes or participates in a sex offender treatment program to receive credit at the DOC Director's discretion. If the offender is on a waiting list or cannot participate because of a lack of Department resources, the Director may award credit. DOC adds behavior modification programs, life skills courses and re-entry planning as

programs that are eligible to be counted towards sentence credit. Credit for program sentence credit will be in increments of .5 per day subject to the specified requirements, including a minimum number of participation hours. Offenders who pass the General Educational Development test will receive 60 days of sentence credit. Goal periods are updated to include new programs. Supplemental sentence credit and program sentence credit may be revoked in accordance with sentence credit revocation. The Director may revoke or restore credit up to 30 days in any one year. The Director has the ability to award between 90-180 days of credit in accordance with the Unified Code of Corrections and must follow the specified criteria laid out in this rulemaking. DOC is required to create an annual report detailing supplemental sentence credit that must be submitted to the Governor and the General Assembly and must be posted in DOC's website within 2 days of submission. Since 1<sup>st</sup> Notice DOC has reinstated language applying certain provisions to the Department of Juvenile Justice (since DJJ does not currently have its own rules). The rulemaking also updates the criteria for releasing de-

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### PROCUREMENT

The CHIEF PROCUREMENT OFFICER FOR THE DEPARTMENT OF TRANSPORTATION (CPO-DOT) proposed amendments to "Chief Procurement Officer for the Department of Transportation-Contract Procurement" (44 Ill Adm Code 6; 37 Ill Reg 1365). The rulemaking makes numerous changes to implement further Procurement Code changes mandated by Public Act 97-895. Small business set-aside provisions are being altered to conform to US DOT requirements, including a provision allowing firms located outside of Illinois to be categorized as small businesses. Electronic signatures for bids will be accepted in accordance with protocols adopted by the Department of Central Management Services. Bids will no longer be required to be read publicly, but instead will be made public in the manner specified in the Invitation for Bids. This rulemaking will affect small businesses that seek contracts with DOT.

Questions/requests for copies/comments through 3/25/13: Bill Grunloh, IDOT, 2300 S. Dirksen Pkwy, Rm. 200, Springfield IL 62764, 217/558-5434

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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

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ceased offenders' medical records.

## PRISONS

DOC also adopted 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), both effective 2/1/13. 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 of the 3 DOC rulemakings above: Echo Beekman, DOC, 1301 Concordia Court, P.O. Box 19277, Springfield, IL 62794-9277, 217/558-2200.

## SCHOOL TRANSPORTATION

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "Special Transportation" (89 Ill Adm Code 815; 36 Ill Reg 11884), effective 1/23/13, clarifying that transportation costs for trips home for children attending State Schools (DHS funded schools) will be included in the child's Individualized Education Program (IEP) by agreement between DHS and the local school district. The local school district is responsible for these costs. The State School will send a reconciliation statement and bill to each local school district for payment at the end of the year or when the child withdraws from the School. The rulemaking also makes technical changes for consistency. Local school districts may be impacted by this rulemaking.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## PCB MEETINGS

The POLLUTION CONTROL BOARD adopted an amendment to "General Rules" (35 Ill Adm Code 101; 36 Ill Reg

14971), effective 1/28/13, reflecting Public Act 93-509 that reduced the Board's membership from 7 to 5 and stipulated that 4 members constitute a quorum if there is no vacancy on the Board. Otherwise, a majority of members (3 out of 5) will constitute a quorum. The Board believes that a recent vacancy, reducing the Board's membership to 4 members, has created potential for public confusion and adopted this amendment.

## AIR POLLUTION

PCB also adopted amendments to "Definitions and General Provisions" (35 Ill Reg 211; 36 Ill Reg 6913), "Organic Material Emission Standards and Limitations" (35 Ill Adm 215; 36 Ill Reg 3934), "Organic Material Emission Standards and Limitations for the Chicago Area" (35 Ill Adm Code 218; 36 Ill Reg 6950) and "Organic Material Emission Standards and Limitations for the Metro East Area" (35 Ill Adm Code 219; 36 Ill Reg 6975), all effective 1/28/13. The rulemakings eliminate State gasoline volatility standards that have now been replaced by federal reformulation gas standards in ozone attainment areas, and also update incorporations by reference to ASTM standards.

Requests for copies of the 5 PCB rulemakings above: Kathleen Crowley, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6929 or download copies at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Please reference docket R13-09 for the Part 101 rulemaking and R12-24 for the Part 211, 215, 218, and 219 rulemakings.

## ABORTION DATA REPORTS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Pregnancy Termination Report Code" (77 Ill Adm Code 505; 36 Ill Reg 14129), effective 1/23/13, clarifying the process of reporting pregnancy termination information to the Department, defining "complications" and making numerous technical changes such as updating statutory citations.

Each abortion performed must be reported to DPH, but the patient will be identified only by an individual number noted in the physician's permanent file. DPH also replaced its former single form for reporting induced terminations of pregnancy with 2 new forms, one for reporting induced pregnancy terminations and the other for reporting subsequent complications. Other provisions establish timelines and procedures for completion of the second form, which must be submitted to DPH within 10 days after a physician diagnosis of abortion-related complications. Information supplied via these forms is confidential and will not be released outside of the Department.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson, 5<sup>th</sup> Floor, Springfield IL 62761, 217/782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).

## LICENSE PLATE TAMPERING

The SECRETARY OF STATE adopted amendments to "Cancellation, Revocation or Suspension of Licenses or Permits" (92 Ill Adm Code 1040; 36 Ill Reg 15189), effective 1/25/13, implementing Public Act 97-743, which declares modification of a rear license plate in order to conceal the registration sticker a class A misdemeanor. A person convicted of this violation will receive a 6-month suspension of driving privileges for the 1<sup>st</sup> conviction and a 12-month suspension for the 2<sup>nd</sup> conviction. Driving privileges will be revoked upon a 3<sup>rd</sup> or subsequent conviction, or upon a 1<sup>st</sup> or 2<sup>nd</sup> conviction if another open or pending revocation is in effect at the time.

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

## MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 1774), effective 1/28/13, that cor-

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rects an error in an earlier emergency rule at 37 Ill Reg 253, effective 1/1/13. The original rule permits federally qualified health centers (FQHCs) and rural health clinics (RHCs) to submit fee for service billings for implantable contraceptive devices (e.g., IUDs) if the devices are purchased through the federal 340B Drug Pricing Program. The new emergency rule corrects references to RHCs in provisions that were meant to apply to FQHCs. Federally qualified health centers, rural health clinics, and practitioners employed by them are affected by this rule.

Questions/requests for copies: Jeanette

Badrov, DHFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233.

## ISAC MEETINGS

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted amendments to "Public Information, Rulemaking and Organization" (2 Ill Adm Code 5375; 37 Ill Reg 1768), effective 2/1/13, implementing provisions of the Open Meetings Act that affect special or emergency meetings and Commission members' attendance at meetings by audio or video conference. At least 48 hours' public notice must be given of a special Commission meet-

ing and action must be limited to the matters described in the notice. Any action taken at a meeting convened without sufficient notice must be ratified at the Commission's next regular meeting. Members unable to physically attend a Commission meeting may participate by audio or video conference provided a quorum is physically present at the meeting site and the physically present members approve such participation.

Questions/requests for copies: Lynn Hynes, ISAC, 1755 Lake Cook Rd., Deerfield IL 60015, 847/948-8500 ext. 2305, e-mail: [lynn.hynes@isac.illinois.gov](mailto:lynn.hynes@isac.illinois.gov).

# Proposed Regulations

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## ☞ MEDICAID COVERED SERVICES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 1390), implementing Public Act 97-689 (SMART Act), that impose a general reduction of 2.7%, with listed exceptions, to reimbursement rates for non-hospital providers. Companion emergency rules were adopted at 36 Ill Reg 11329, effective 7/1/12 through 6/30/13; at 36 Ill Reg 14820, effective 9/21/12 through 6/30/13; and at 37 Ill Reg 1130, effective 1/15/13 through 6/30/13. The rulemaking removes non-emergency adult dental care, adult chiropractic treatment, and podiatry for non-diabetics from the list of covered services. Physical, occupational and speech therapy coverage for adults is limited to 20 visits per year for each type of therapy. Other services (e.g., bariatric surgery, hospice, vision services) are subject to new limitations. Medical assistance recipients are limited to 4 covered prescriptions per month (of which no more than 3 may be brand name prescriptions) unless prior approval is obtained from DHFS. References to medical services formerly covered under General Assis-

tance or the State Transitional Program are removed. Bed reserve payments (payments made to a facility while a resident is temporarily absent, e.g., due to hospitalization) for residents of nursing homes and specialized mental health facilities are abolished. Facilities for the developmentally disabled and pediatric skilled nursing facilities may receive bed reserve payments only for residents under 21 years of age. All newly enrolled vendors are subject to 1 year of provisional enrollment during which the Department may disenroll them for any reason. Providers eligible for the federal 340B Drug Pricing Program must enroll in that program (the effective date of this requirement is 10/1/12, 1/1/13 or 7/1/13 depending on the type of provider) and cannot charge DHFS more than their actual acquisition cost for covered drugs. Effective 2/1/13, a dispensing fee of \$12 per prescription may be paid to providers who dispense drugs purchased through the 340B Program. Definitions of "abuse", "harm", "fraud" and "waste" applicable to this Part and to Part 104 are added, but diagnostic or therapeutic measures (e.g., additional tests) prescribed as a safeguard against possible liability are excluded

from these definitions. Vendors are subject to additional oversight including criminal background checks and fingerprinting. Provisions and criteria for DHFS actions against vendors and alternate payees are outlined. Provider claims must be submitted within 180 days (formerly 12 months) with some exceptions. The current hospital assessment program is extended through 12/31/14. The rulemaking institutes copayments of \$2 for generic drugs and \$3.65 (the current federal maximum) for office visits (except those for psychiatric services), brand name drugs, and encounters billed by specified types of clinics (excluding behavioral services). Copayments are applied to over the counter drugs, and drugs for HIV/AIDS and cancer treatment are no longer exempt from prior approval. The dispensing fee paid to pharmacies is set at \$5.50 for generic drugs and \$2.40 for brand name drugs. Brand name prescription drugs in pill form must be dispensed in no more than 14-day supplies to residents of long term care facilities (other than facilities for the developmentally disabled), but only one dispensing fee will be paid for each 30-day supply. The benchmark price paid to pharmacies for all prescription drugs is whole-

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sale acquisition cost (WAC). A State upper limit may be imposed for drugs prescribed by non-pharmacy providers. Those affected by this rulemaking include medical and dental providers, hospitals, long term care facilities, pharmacies, therapists, and other medical vendors.

Questions/requests for copies/comments through 3/25/13: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233.

## ABANDONED HOUSING

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY proposed a new Part titled "Abandoned Residential Property Municipality Relief Program" (47 Ill Adm Code 381; 37 Ill Reg 1537) that concerns grants to local governments to cover the costs of dealing with abandoned housing. This rulemaking incorporates revisions from pending legislation (Senate Bill 16) which expands the program to include counties and funds the program by requiring financial institutions who initiate a high number of foreclosures to pay an extra foreclosure filing fee. The rulemaking includes application procedures for program funds, establish criteria for declaring a property abandoned, and list the appropriate uses for grant funds issued under this program.

Questions/requests for copies/comments through 3/25/13: Kristi S. Poskus, Esq., Deputy General Counsel, Illinois Housing Development Authority, 401 N. Michigan Avenue, Suite 700, Chicago, Illinois 60611; 312/836-7416.

## STUDENT RECORDS

The STATE BOARD OF EDUCATION proposed amendments to "Student Records" (23 IAC 375) which require districts to issue student athletes and their parents a copy of the district's concussion policy; include in students' records any information received from law enforcement regarding students' arrests and any video or audio record-

ings received from law enforcement or created by school officials; and allow parents to request in writing the removal of any college entry examination scores from their child's academic transcript.

## TEACHER CREDENTIALS

SBE also proposed amendments to four other Parts: "Mentoring Program for New Principals" (23 Ill Adm Code 35; 37 Ill Reg 1550); "Payments to Certain Facilities under Section 14-7.05 of the School Code" (23 Ill Adm Code 405; 37 Ill Reg 1569); "Contested Cases and Other Formal Hearings" (23 Ill Adm Code 475; 37 Ill Reg 1575); and "Class Size Reduction Grants" (23 Ill Adm Code 565; 37 Ill Reg 1580). The amendments implement PA 97-607 by changing references to teacher "certification" to "licensure".

Questions/requests for copies/comments on the 5 SBE rulemakings through 3/25/13: 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 emailed to [rules@isbe.net](mailto:rules@isbe.net).

## ☞ POLICE PHOTOS & DOCUMENTS

The DEPARTMENT OF STATE POLICE proposed amendments to "Imaging Products" (20 Ill Adm Code 1298; 37 Ill Reg 1585) concerning procedures and fees for requesting copies of photos, documents, data collection files and other items produced by State Police personnel. Imaging request forms must be used within 30 calendar days after they are sent to the requester; if not used within that period, the request is invalidated and a new request must be submitted. All imaging products except for photographs (whether digital or non-digital) shall be provided in either a printed or digital format. Photographs shall be provided in the form of 4 x 6-inch prints and an accompanying CD-ROM or DVD containing copies of the printed digital images. Images that will no longer be pro-

vided include 8 x 10-inch photographs and 8 ½ x 11-inch diagrams, illustrations, or color index pages. The rulemaking defines "graphic images" as those which depict nude, deceased, or severely injured human bodies in a manner that could reasonably be considered an unwarranted invasion of personal privacy if made public. Graphic images shall be redacted from any requests made without a subpoena. A fee of \$5 to \$50, depending on the size of the case file requested, shall be charged for redacting graphic images from a case file. A fee of \$20 for a request of "total station electronic data" is also added. Those affected by this rulemaking include local police agencies, private investigators, news media or others who may request data or documents from the State Police.

Questions/requests for copies/comments through 3/25/13: Suzanne L.Y. Bond, DSP, 801 S. 7<sup>th</sup> St., Suite 1000-S, Springfield IL 62703, 217/782-9356.

## MIA/POW SCHOLARSHIPS

The DEPARTMENT OF VETERANS' AFFAIRS proposed amendments to the Part titled "MIA/POW Scholarship" (95 Ill Adm Code 116; 37 Ill Reg 1591) concerning a scholarship program for veterans that were declared Prisoners of War or Missing in Action by the federal government during their military service, or who are permanently 100% disabled due to service-related causes. The rulemaking extends eligibility, until 7/1/14, to MIA/POW veterans who became Illinois residents within 6 months after leaving military service and can establish at least 30 years continuous residency in Illinois. (Currently, the veteran must have been an Illinois resident upon entering military service or have become a resident within 6 months after enlistment.) The rulemaking also lists documents that may be used to establish residency for the required period if the applicant's DD-214 separation document does not indicate Illinois residency at the time of enlistment or discharge (e.g., income tax returns,

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property records, voter registration, driving records).

Questions/requests for copies/comments through 3/25/13: Jaime Martinez,

DVA, 100 W. Randolph St., Suite 5-570, Chicago IL 60601-3219, 312/814-5391.

## JCAR Meeting Action

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At its 2/6/13 meeting, the Joint Committee on Administrative Rules issued objections to 3 proposed rules and two emergency rules. The Committee also voted to extend for an additional 45 days the Second Notice period for the Health Services and Facilities Planning Board rulemaking titled "Health Facilities Planning Procedural Rules" (77 Ill Adm Code 1130; 36 Ill Reg 6210).

### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

JCAR objects to the DCMS rulemaking titled "Organ Donor Leave" (80 Ill Adm Code 332; 36 Ill Reg 16800) because the Department lacks statutory authority to grant leaves for donating red blood cells. Section 20 of the Organ Donor Leave Act [5 ILCS 327] sets policy for donation of blood and platelets, but not a different policy for red blood cell donations.

### DEPARTMENT OF HUMAN SERVICES

JCAR objects to the DHS rulemaking titled "Maternal and Child Health Advisory Board" (77 Ill Adm Code 2260; 36 Ill Reg 15319) because of DHS' failure to adhere to the statutory requirement that it adopt these rules by 8/2/06.

JCAR objects to DHS' proposed repeal of the Part titled "Lekoteks" (89 Ill Adm Code 899; 36 Ill Reg 11888) because Section 3c of the Disabled Persons Rehabilitation Act [20 ILCS 2405] continues to require DHS to administer the Lekotek program. The agency proposed repeal of the rules because the program had not been funded.

### DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JCAR objects to the DHFS emergency rulemakings titled "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 253) and "Hospital Reimbursement Changes" (89 Ill Adm Code 152; 37 Ill Reg 282) because DHFS established an effective date for these rules that was outside the 9-day window allowed by Section 5-45 of the Illinois Administrative Procedure Act. The IAPA states that an emergency rule can become effective immediately upon filing or on a stated date less than 10 days thereafter. HFS filed both emergency rules with the Secretary of State more than 9 days prior to their effective date.

## **Second Notices**

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The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The rulemakings will be considered at JCAR's March 12, 2013 meeting.

### **ILLINOIS STUDENT ASSISTANCE COMMISSION**

"Administrative Wage Garnishment" (23 Ill Adm Code 2722) proposed 10/12/12 (36 Ill Reg 14978)

### **ILLINOIS CIVIL SERVICE COMMISSION**

"Civil Service Commission" (80 Ill Adm Code 1) proposed 9/7/12 (36 Ill Reg 13743)

### **CENTRAL MANAGEMENT SERVICES**

"Pay Plan" (80 Ill Adm Code 310) proposed 12/14/12 (36 Ill Reg 17198)

### **SECRETARY OF STATE**

"Certificates of Title, Registration of Vehicles" (92 Ill Adm Code 1010) proposed 12/14/12 (36 Ill Reg 17374)

"Illinois State Library Grant Programs" (23 Ill Adm Code 3035) proposed 12/7/12 (36 Ill Reg 16997)

### **ILLINOIS RACING BOARD**

"Medication" (11 Ill Adm Code 603) proposed 12/14/13 (36 Ill Reg 17367)

### **DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION**

"Illinois Orthotics, Prosthetics and Pedorthics Practice Act" (68 Ill Adm Code 1325) proposed 4/27/12 (36 Ill Reg 6118)

## ***Joint Committee on Administrative Rules***

**Senator Pamela Althoff**

**Representative Greg Harris**

**Senator Don Harmon**

**Representative Lou Lang**

**Senator Tony Munoz**

**Representative David Leitch**

**Senator Sue Rezin**

**Representative Don Moffitt**

**Senator Dale A. Righter**

**Representative Tim Schmitz**

**Senator Ira Silverstein**

**Representative Andre Thapedi**

**Vicki Thomas  
Executive Director**