

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

ENTERPRISE ZONES

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted emergency amendments to the Part titled "Enterprise Zone and High Impact Business Programs" (14 Ill Adm Code 520; 37 Ill Reg 5006) effective 3/28/13 for a maximum of 150 days. A companion proposed rulemaking appears in this week's *Illinois Register* at 37 Ill Reg 4411. The rulemakings, which implement Public Act 97-905, require proposed enterprise zones to meet at least 3 of 10 criteria (formerly, 1 of 6 criteria). New criteria include the presence of an abandoned coal mine, brownfield or federal disaster area; large scale business closings affecting at least 50 workers in the last 5 years; a high number of vacant buildings; and significantly lower than average equalized assessed valuations for industrial and commercial properties. Criteria that have been removed include population loss, median household income thresholds, and the presence of a closed military base. The rulemakings also add definitions, set timelines for establishing new enterprise zones or renewing existing zones, establish a point system for ranking applications, and set requirements for membership

on the DCEO Enterprise Zone Board. Those affected by these rulemakings include units of local government seeking to create new enterprise zones or renew existing zones and small businesses in existing or potential enterprise zones.

Questions/requests for copies/comments concerning the proposed rulemaking through 5/28/13: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, 217/557-1820 or 217/524-3701, e-mail: jolene.clarke@illinois.gov.

MEDICAID COPAYMENTS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to "Children's Health Insurance Program" (89 Ill Adm Code 125; 37 Ill Reg 5049), "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 5058) and "Hospital Services" (89 Ill Adm Code 148; 37 Ill Reg 5082), all effective 4/1/13 through 6/30/13 in accordance with the SMART Act (Public Act 97-689). Companion proposed amendments, currently scheduled to take effect 7/1/13, appear in this issue of the *Illinois Register* at 37 Ill Reg 4420, 4429, and 4455. These

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MASSAGE THERAPY LICENSING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled "Massage Licensing Act" 68 Ill Adm Code 1284; 37 Ill Reg 4413), implementing a provision of Public Act 97-514 increasing the number of supervised classroom and hands-on instruction clock hours for applicants from 500 hours to 600 hours effective 1/1/14. Additionally, the Division can require an applicant to complete additional coursework if he or she does not meet the required number of hours. Finally, the rulemaking clarifies that out-of-State massage therapy programs must have similar criteria to Illinois for an applicant's credentials to be accepted in Illinois. This rulemaking will affect massage therapy programs and those who are enrolled in those programs on or after 1/1/14.

Questions/requests for copies/comments through 5/28/13: Craig Cellini, 320 W. Washington, 3rd Floor, Springfield IL 62786, 217/785-0813.

FETAL BURIALS

The DEPARTMENT OF PUBLIC
(cont'd page 4)

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

rulemakings incorporate by reference the federal Medicaid copayment (\$3.90 for fiscal year 2013) for specified medical services to All Kids insurance program enrollees (Part 125) and persons enrolled in other medical assistance programs (Parts 140 and 148). These rules also institute a \$2 copay for generic and over the counter drugs and require DHFS to post the current copayment amounts on its website. In Part 125, the federal Medicaid copayment is applied to each day of an inpatient hospital stay and to each outpatient hospital encounter for All Kids Share enrollees (income 133% to 150% of FPL). For All Kids Premium enrollees (151% to 200% of FPL) DHFS establishes a copay of \$5 per day for hospitalization, \$5 for outpatient and emergency room visits, and \$3 for generic prescription or over the counter drugs. Amendments to Part 140 apply the federal Medicaid copayment to practitioner office visits, brand name drug prescriptions, and billed patient encounters at federally qualified health centers (FQHCs), rural health clinics (RHCs), or encounter rate clinics (ERCs). The emergency rulemaking also exempts behavioral health services rendered by FQHCs, RHCs or ERCs from copayments. Proposed amendments to Part 140 clarify that the following classes of medical assistance recipients are exempt from copayments: those residing in long term care facilities to which they pay their entire income except for a designated personal allowance; American Indians; Alaskan Natives; and persons enrolled in the Breast and Cervical Cancer program. Federal definitions of emergency services and family planning services (for which no copayment may be charged) are also incorporated by reference in the proposed rule. The Part 148 amendments apply the federal copayment to each day of an inpatient hospital stay and to non-emergency or screening level services rendered in a hospital emergency room. Medical providers serving All Kids patients or other medical assistance recipients are affected by these rulemakings.

Questions/requests for copies/comments on the 3 proposed DHFS rulemakings through 5/28/13: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to "Pay Plan" (80 Ill Adm Code 310; 36 Ill Reg 17198), effective 4/1/13, changing Merit Compensation System (MS) pay rates assigned to 96 job titles. Other changes assign MS pay rates to the Cancer Registrar and Educator Trainee titles; assign Public Service Administrator (PSA) Option 6 positions to new bargaining units; update the list of PSA Options; and add certain PSA options to a list of bargaining unit pay rates affected by a fiscal year 2012 pay freeze. Also, the rulemaking removes two titles from a list of those represented by the Sheet Metal Workers International Association in accordance with the results of a bargaining unit election.

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.

POLYGRAPH TESTING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to "Detection of Deception Examiners Act" (68 Ill Adm Code 1230, 36 Ill Reg 18075), effective 4/1/13, implementing Public Act 97-168, which removes the photograph requirement for polygraph examiners and trainees. The fee for a detection of deception examiner trainee application is set at \$50. The restoration fee for other than inactive status is raised from \$20 to \$50 up to \$675 (the current limit is \$500). Polygraph examiners are affected.

ORTHOTICS

DFPR also adopted amendments to

rules titled " Orthotics, Prosthetics, and Pedorthics Practice Act" (68 Ill Adm Code 1325; 36 Ill Reg 6077), effective 4/1/13, implementing provisions of Public Act 96-682, the sunset reauthorization of the act. The rulemaking reflects the integration of the Board of Certification in Pedorthics into the American Board for Certification in Orthotics, Prosthetics and Pedorthics. (These fields of medical practice concern use of devices such as braces, inserts and artificial limbs or other body parts.) DFPR revises direct supervision requirements for pedorthist clinical experience requirements and increases a pedorthist's qualified work experience hours from 80 to 1000. Licensure restoration fees increase from \$20 to \$50 plus all lapsed renewal fees. The rulemaking clarifies licensure restoration procedures in the event that the applicant cannot submit proof of meeting continuing education requirements. Other changes include updated incorporations by reference and internal cross-references, removal of obsolete grandfathering clauses for initial licensure applicants, and removal of complete work history submission requirements. Since 1st Notice, DFPR has clarified that completion of an 18-month dual residency in orthotics and prosthetics will allow an applicant to receive a license in both without additional clinical training. Those affected include specialists in the orthotic, prosthetic, or pedorthic medical fields.

FUNERAL DIRECTORS

DFPR adopted amendments to rules titled "Funeral Directors and Embalmers Licensing Code" (68 Ill Adm Code 1250; 36 Ill Reg 8557) effective 4/1/13. The amendments remove the requirement of a complete work history from criteria for internship and initial licensure application. DFPR also lifted a moratorium on issuance of new funeral director or embalmer licenses, and clarified that licensure applicants for both are subject to examination. The rulemaking clarifies that individuals practicing on a lapsed or inactive license are in violation of the Code.

New Regulations

The fees for continuing education (CE) sponsors are \$500 for the initial application and \$125 per year for renewal. The fee for restoration of a license is raised from \$20 to \$50 plus all lapsed renewal fees, not to exceed \$260. A new Section details how to determine the representative of the licensee (funeral director) at the cemetery. Other provisions clarify how the 24 hours of required CE is broken down, provide requirements for approving CE sponsors, and revise the process by which a licensee may seek exemption from licensure regulation. Changes since 1st Notice include addition of criteria for demonstrating fitness and competence when an applicant seeks license restoration and clarification of CE requirements for license renewal in 2015, 2017, and in 2019 and beyond. Funeral directors are affected by this rulemaking.

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

VIDEO GAMING

The ILLINOIS GAMING BOARD adopted amendments to "Video Gaming (General)" (11 Ill Adm Code 1800, 36 Ill Reg 18081), effective 4/1/13, establishing penalties for terminal operators who are overdue on remitting taxes. The penalty for terminal operators the first time they are more than 48 hours late paying taxes because of insufficient funds is to have all video gaming terminals turned off until all overdue taxes are paid by certified funds including the penalty amount. The penalty for additional offenses within one year is to have all video gaming terminals shut down until all overdue taxes are paid, including the penalty amount, and the terminal operator posts a bond or cash deposit of certified funds to guarantee future payment. Terminal operators may be subject to discipline. Overdue remittance caused by an error on the part of financial institutions is not subject to these rules. Busi-

nesses operating video gaming terminals are affected.

Questions/requests for copies: Emily Mattison, IGB, 160 N. LaSalle St., Chicago, IL 60601, 312/814-4700.

HOUSING APPEALS BOARD

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted a new Part titled "State Housing Appeals Board" (47 Ill Adm Code 395; 36 Ill Reg 14050), effective 3/29/13, establishing a State Housing Appeals Board to hear appeals from developers whose applications to build affordable housing developments are denied, or approved under conditions a developer deems unreasonable, by local governments. The appeal process does not apply to municipalities with fewer than 1,000 people or local governments with at least 10% of their total year-round housing units classified as affordable housing. The proposed rule also establishes procedures for hearings before the Board. Since 1st Notice, IHDA has removed provisions for extending the 120-day deadline for the Board to render a final decision and has also removed references to payment of attorneys' fees. This rule will affect municipalities and developers of affordable housing.

Questions/requests for copies: Kristi S. Poskus, Deputy General Counsel, IHDA, 401 N. Michigan Avenue, Suite 700, Chicago, Illinois 60611, 312/836-7416.

ZIP LINES

The DEPARTMENT OF LABOR adopted amendments to "Carnival and Amusement Ride Safety Act" (56 Ill Adm Code 6000, 36 Ill Reg 18130), effective 3/27/13, providing standards and guidelines for zip lines. A substantially similar emergency rulemaking effective 6/1/12 appeared in the 6/15/12 edition of the *Illinois Register* at 36 Ill Reg 8979 and expired on 10/28/12. The rulemaking sets standards for site plans, equipment design and construction, including considerations for various weather conditions, that must

be met prior to issuance of an operating permit. Inspection by a third party inspector must be performed at least annually and any time a major component is modified. DOL outlines general compliance criteria for equipment; arrival point, protection and braking; and the takeoff platform. The information that must be included in the site operation manual is outlined and includes a site plan, job descriptions, and testing procedures and recording. Each site must have an emergency plan and a medium first aid kit as well as lighting and a plan for inclement weather. Finally, DOL's approval must not be used in any advertising. Operators of zip lines are affected.

Questions/requests for copies: Ryan Culton, DOL, 900 S. Spring St., Springfield, IL 62704, 217/558-7194.

LONG TERM CARE

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Skilled Nursing and Intermediate Care Facilities Code" (77 Ill Adm Code 300; 36 Ill Reg 12209), "Sheltered Care Facilities Code" (77 Ill Adm Code 330; 36 Ill Reg 12225), and "Illinois Veterans' Homes Code" (77 Ill Adm Code 340; 36 Ill Reg 12238), all effective 3/29/13, that implement Public Act 96-389. PA 96-389 requires facilities to draft a policy that identifies, assesses and develops strategies for controlling the risk of injury to residents and nurses when transferring or moving residents. The rulemakings require facilities to draft such a policy in compliance with State law. The rulemaking provides criteria that must be addressed in the policy and defines "health care worker" and "nurse". These rulemakings may impact the above named facilities.

Questions/requests for copies of the 3 DPH rulemakings above: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL, 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

New Regulations

HORSE RACING

The ILLINOIS RACING BOARD adopted amendments to "Medication" (11 Ill Adm Code 603; 36 Ill Reg 17367), effective 4/1/13, that update

an incorporation by reference to Association of Racing Commissioners International Uniform Classification Guidelines for Foreign Substances to reflect penalties for Class 4 and 5 drug violations. An identical emergency

rulemaking was adopted at 36 Ill Reg 17131, effective 11/28/12.

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

Proposed Regulations

HEALTH proposed amendments to "Illinois Vital Records Code" (77 Ill Adm Code 500; 37 Ill Reg 4466) implementing Public Act 96-338. The rulemaking allows permits for group burial or cremation of fetuses of less than 20 weeks gestation to be issued without completion of a fetal death certificate if the cause of death was natural and does not require investigation by a coroner or medical examiner. Those affected by this rulemaking include hospitals, funeral homes, crematories, and cemeteries.

ease cases to DPH. Also, communicable disease cases occurring aboard aircraft, ships, trains, or buses must be reported by the pilot, captain, or other person in charge of the vehicle or vessel. Other provisions of this rulemaking concern precautions to be taken by food handlers, health care workers, and others against the spread of disease; testing and collection of specimens; electronic reporting; protection of confidential healthcare information; and collection of data by DPH regarding unusual disease or symptom occurrences (syndromic data). Those affected by this rulemaking include health care providers and workers, food handlers, and employees of schools and day care facilities.

Fields" (23 Ill Adm Code 27; 37 Ill Reg 4710). The Part 25 rulemaking establishes new endorsements in elementary education (grades 1-6), middle grades (grades 5-8), and gifted education, while the amendments to Parts 20, 21, and 27 establish standards and criteria for earning these endorsements. Amendments to Part 26 make non-substantive technical changes. Teachers, teaching candidates, and teacher preparation programs are affected by these rulemakings.

Questions/requests for copies/comments concerning the 2 DPH rulemakings above through 5/28/13: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

SPECIAL EDUCATION

SBE also proposed amendments to the Part titled "Special Education" (23 Ill Adm Code 226; 37 Ill Reg 4735) that define the medical review conducted as part of an Individualized Education Plan (IEP) for a student with a disability and specify who can perform medical reviews for IEP purposes. The rulemaking extends until 7/1/15 (currently, 7/1/13) the grace period for qualified doctors and nurses who are not certified in school nursing to perform these reviews, and creates exceptions for school districts who are unable to hire certified school nurses due to a shortage of certified applicants. Medical professionals who participate in IEP reviews are affected by this rulemaking.

Questions/requests for copies/comments on the 6 SBE rulemakings above through 5/28/13: Shelly Helton, SBE, 100 N. First St., S-493, Springfield IL 62777-0001, 217/782-5270, e-mail: rules@isbe.net.

☞ DISEASE REPORTING

DPH also proposed amendments to "Control of Communicable Diseases Code" (77 Ill Adm Code 690; 37 Ill Reg 4479) updating its list of communicable diseases that must be reported, measures to prevent the spread of disease, and persons or entities required to report communicable disease cases. Diseases that must be reported to a local health department, and by the local department to DPH, within 3 hours of a case being identified or suspected now include polio, diphtheria, and any disease attributable to an "infectious agent of urgent public health significance". Diseases that must be reported within 24 hours include influenza cases where the patient has been admitted to an intensive care unit and animal rabies cases. Illnesses due to extensively drug resistant organisms of public health importance (e.g., MRSA) must be reported within 7 days. Funeral directors, morticians, and researchers are added to the list of persons who must report communicable dis-

☞ TEACHER PREPARATION

The STATE BOARD OF EDUCATION proposed amendments to "Standards for Endorsements in Elementary Education" (23 Ill Adm Code 20; 37 Ill Reg 4606), "Standards for Endorsements in the Middle Grades" (23 Ill Adm Code 21; 37 Ill Reg 4633), "Certification" (23 Ill Adm Code 25; 37 Ill Reg 4671), "Standards for Certification in Early Childhood Education and Elementary Education" (23 Ill Adm Code 26; 37 Ill Reg 4705) and "Standards for Certification in Specific Teaching

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The 20 Ill Adm Code 1265 rulemaking will be considered at JCAR's April 16, 2013 meeting. The remaining rulemakings will be considered at JCAR's May 14, 2013 meeting.

DEPARTMENT OF STATE POLICE

"Electronic Transmission of Fingerprints" (20 Ill Adm Code 1265) proposed 4/20/12
(36 Ill Reg 5966)

"Imaging Products" (20 Ill Adm Code 1298) proposed 2/8/13 (37 Ill Reg 1585)

STATE UNIVERSITIES RETIREMENT SYSTEM

"Universities Retirement" (80 Ill Adm Code 1600) proposed 1/25/13 (37 Ill Reg 763)

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
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