

*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

### ☞ MASSAGE THERAPY LICENSING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled "Massage Licensing Act" 68 Ill Adm Code 1284; 37 Ill Reg 4413), effective 1/1/14, 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: Craig Cellini, 320 W. Washington, 3<sup>rd</sup> Floor, Springfield IL 62786, 217/785-0813.

### ☞ BOILER SAFETY

The OFFICE OF THE STATE FIRE MARSHAL adopted amendments to

"Boiler and Pressure Vessel Safety Act" (41 Ill Adm Code 120; 34 Ill Reg 5279), effective 8/1/13, that update numerous national standards and re-structure the State boiler serial number system. The rulemaking also gives inspectors up to 90 days after a boiler inspection certificate expires to conduct an inspection; the previous inspection certificate will remain valid until re-inspection is completed. This rulemaking may affect small businesses, municipalities or not-for-profit corporations who operate boilers.

Questions/requests for copies: Clayton Novak, OSFM, 100 W. Randolph St., Suite 4-600, Chicago IL 60601, 312/814-2343.

### ☞ UNDERGROUND FUEL TANKS

OSFM also adopted an amendment to the Part titled "Technical Requirements for Underground Storage Tanks and the Storage, Transportation, Sale and Use of Petroleum and Other Regulated Substances" (41 Ill Adm Code 175; 37 Ill Reg 5131), effective 8/1/13. A companion emergency amendment appeared in the *Illinois Register* at 37 Ill Reg 5195, effective 4/4/13. The amendment requires owners and op-

(cont'd next page)

### ☞ DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to "Issuance of Licenses" (92 Ill. Adm. Code 1030; 37 Ill Reg 13339) implementing Public Act 97-1157 that provides for temporary visitor driver's licenses (TVDL) and instruction permits to be issued to undocumented immigrants. The rulemaking places all provisions for TVDLs into separate Sections, one outlining procedures for foreign nationals legally residing in the U.S. (who are eligible for TVDLs under existing rules) and the other outlining procedures for undocumented immigrants. To apply for a TVDL, an undocumented immigrant must make an appointment at a designated SOS facility and present a valid passport or unexpired consular identification document from his or her country of origin (rather than the U.S.-government-issued photo identification required of legal immigrants). Applicants also must submit acceptable documents verifying their written signature, name and date of birth, current Illinois residence address, and Illinois residency of more than 1 year. Examples of acceptable and unacceptable documents are listed. A verification of residency form

(cont'd next page)

*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

---

erators of underground storage tanks (USTs) that supply fuel to emergency power generators to use a local alarm to alert them of fuel line leaks instead of using an automatic shutoff or flow restriction device (which OSFM requires for other UST systems). Existing automatic shutoff devices in UST systems serving emergency power generators must be deactivated. Those affected by these rulemakings include small businesses and municipalities with UST systems that supply emergency generators.

Questions/requests for copies: Fred Schneller, OSFM, 1035 Stevenson Dr., Springfield IL 62703-4259, 217/557-3131, fax 217-524-9284.

## NEWBORN SCREENING

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Newborn Metabolic Screening and Treatment Code" (77 Ill Adm Code 661; 36 Ill Reg 16738), effective 7/31/13, that implement Public Act 97-532. PA 97-532 adds Mucopolysaccharidosis Types I and II to the list of disorders included in the Lysosomal Storage Disorders category. The rulemaking amends the definition of Lysosomal Storage Disorders (inherited metabolic disorders that block absorption of certain nutrients) to reflect this statutory amendment, removes obsolete terminology and makes technical changes for consistency throughout DPH's rules. Hospitals with maternity/obstetrical services are affected by this rulemaking.

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

## PUBLIC UTILITIES

The ILLINOIS COMMERCE COMMISSION adopted a new Part by emergency rulemaking titled "Qualifying Infrastructure Plant Surcharge" (83 Ill Adm Code 556; 37 Ill Reg 13567), effective 8/5/13 for a maximum of 150 days. The companion proposed Part appears in this week's *Illinois Register* at 37 Ill Reg 12950. The rule implements a provision of Public Act 98-57 that requires ICC to adopt emergency rules authorizing the agency to approve tariffs that allow natural gas utilities that serve more than 700,000 customers to recover the costs of specified infrastructure improvements without seeking a general rate increase. Covered topics include defined terms, qualifying infrastructure plant (QIP), recoverable costs, determination of, application for, approval/withdrawal of, and amendment of the QIP surcharge, annual reconciliations and audits, gas utility commitments, and annual QIP plan updates.

Questions/requests for copies/comments on the proposed rulemaking through 9/30/13: Brian Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/558-2387, fax: 217/524-8928.

## HOSPITAL READMISSIONS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to the Part titled "Hospital Reimbursement Changes" (89 Ill Adm Code 152; 37 Ill Reg 13589), effective 8/1/13 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 37 Ill Reg 13043. The rulemakings implement potentially preventable readmission

(PPR) policies applicable to Illinois hospitals for State fiscal year 2014. The rulemakings establish State fiscal year 2010 as the base year against which current fiscal year readmission rates will be compared. DHFS will determine a targeted readmission rate for each hospital using mathematical formulas and factors included in the rule as well as specific annual editions of widely used PPR software programs created by the 3M Corporation. Hospitals that fail to meet their targeted rates may be subject to payment penalties based on various factors (also outlined in these rulemakings). Admissions of patients under age 19 with a primary diagnosis in the behavioral health category do not count toward a hospital's PPR calculations, and the number of pediatric and behavioral health admissions will be considered in calculating a hospital's PPR rate. Transfers from one acute care hospital to another also are not counted. Other provisions of these rulemakings include an explanation of PPR chains (one or more admissions that are clinically related to an initial admission, e.g., readmission for treatment of a post-surgical infection) and measures that hospitals may take to reduce PPR payment penalties by up to 50%. PPR payment penalties remaining after all exemptions and cost avoidance measures are applied are to be paid in 12 equal monthly installments beginning on 7/1 of the next fiscal year. Hospitals are affected by these rulemakings.

Questions/requests for copies/comments on the proposed rulemaking through 9/30/13: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233, e-mail: [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov).

# Proposed Regulations

---

and a letter from the Social Security Administration verifying the applicant's ineligibility for a Social Security number are also required. All TVDLs must include the license holder's picture

and will be mailed to the applicant directly from SOS instead of being issued at driver's services facilities. Applicants for TVDLs or temporary visitor's instruction permits are sub-

ject to the same testing requirements as other driver's license or permit applicants. Unmarried applicants under age 18 are subject to general requirements for parental consent, instruc-

# Proposed Regulations

tional permits and behind-the-wheel instruction prior to receiving a license. Male TVDL applicants ages 18-25 are not exempt from the general requirement of registration with the Selective Service system. TVDLs expire 3 years from the date of issuance (sooner for applicants age 81 and older) and are not renewable; upon expiration, TVDL holders must reapply for new licenses and submit all necessary documents again. Those affected by this rulemaking include undocumented immigrants seeking driver's licenses and businesses who employ them in duties that involve driving.

Questions/requests for copies/comments through 9/30/13: Brenda Glahn, SOS, 298 Howlett Building, Springfield IL 62756, e-mail: [TVDLrules@ilsos.net](mailto:TVDLrules@ilsos.net).

## **MENTAL HEALTH**

The DEPARTMENT OF HUMAN SERVICES (DHS) proposed amendments to "Medicaid Community Mental Health Services Program" (59 Ill Adm Code 132; 37 Ill Reg 13045) that update certification, compliance review, and corrective actions applicable to Medicaid community mental health providers. Providers are prohibited from subcontracting a client's services. Providers who cannot provide service must refer the client to another certified provider that can provide the service. The provider directly providing service must bill and may only bill the public payer funding that service. The rulemaking clarifies provider application submission, certifying agency certificate issuance, notice of deficiency and reapplication requirements. DHS outlines the certification review cycle. Within 14 months after a provider's certification application is approved, the certifying State agency must complete an initial on-site certification review. Utilizing information collected during on-site certification reviews, certifying State agencies evaluate the provider's compliance with Program requirements and classify them in the following categories: Level 1 Compliant (90-100% compliance); Level 2 Substantially Compliant

(75-89% compliant); Level 3 Minimally Compliant (50-74% compliant); and Level 4 Unsatisfactorily Compliant (Under 50% compliant). The rulemaking provides applicable actions to be undertaken by providers classified as Levels 2 through 4 through a plan of correction. Within 12 months after a provider's plan of correction is approved, the certifying State agency must conduct an initial certification focus review to evaluate a provider's progress implementing its plan of correction. The rulemaking continues to detail the procedure for conducting the review and provider requirements. Certifying state agencies will conduct full provider reviews every 3 years. DHS lists provider certification requirements for new sites of services. The rulemaking revises post-payment review, post-payment review finding appeal, certification suspension, suspended certification reinstatement, certification revocation, and certification decision appeal provisions. The rulemaking also makes technical changes throughout for consistency. Community mental health service providers may be impacted by this rulemaking.

Questions/requests for copies/comments through 9/30/13: Tracie Drew, DHS, 100 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## **RADIATION SAFETY**

The ILLINOIS EMERGENCY MANAGEMENT proposed amendments to "Standards for Protection Against Laser Radiation" (32 Ill Adm Code 315, 37 Ill Reg 13013) and "Certification of Individuals to Perform Industrial Radiography" (32 Ill Adm Code 405; 37 Ill Reg 13038). Amendments to Part 315 impose an annual registration fee of \$50 on laser installations and change references from "Department" to "Agency" to reflect the 2003 merger of the Department of Nuclear Safety with IEMA. Amendments to Part 405 increase the fees for industrial radiography exam applications and certification from \$100 to \$150 for the exam application and from \$100 to \$125 for

certification as a radiographer or radiographer trainee to reflect the cost of providing the exam and certification. Persons or entities that use lasers or employ radiographers are affected.

Questions/requests for copies/comments through 9/30/13: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860, TDD 217/782-6133.

## **PROPERTY REPOSSESSION**

The ILLINOIS COMMERCE COMMISSION proposed amendments to "Collateral Recovery" (92 Ill Adm Code 1480; 37 Ill Reg 12953) that update the Part; clarify current administrative and enforcement practices; simplify the application process; remove unnecessary requirements; ensure that the rules are consistent with statute; and establish additional administrative and enforcement procedures for repossession of vehicles or other property subject to a security, lease, or rental agreement. These amendments are too detailed to describe in their entirety. For further information contact the agency individual noted below.

Questions/requests for copies/comments through 9/30/13: Katarzyna Kowalska, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/524-4227, e-mail: [kkowalska@icc.illinois.gov](mailto:kkowalska@icc.illinois.gov).

## **INSURANCE**

The DEPARTMENT OF INSURANCE proposed amendments to the Part titled "The Minimum Mortality Standard for Valuation of Annuity and Pure Endowment Contracts" (50 Ill Adm Code 935; 37 Ill Reg 13094) to update an annuity mortality table not revised since 1999. The revisions will include the 2012 Individual Annuity Reserving Table which was adopted by the American Academy of Actuaries and the Society of Actuaries. The new table will be used for determining the minimum standard of valuation for any individual annuity or pure endowment

# Proposed Regulations

---

contract issued after 1/1/14. Another 1983 table currently in use is to be employed solely when a contract is based on life contingencies and is issued to fund periodic benefits arising from settlements of various claims pertaining to court settlements or out of court settlements; settlements involving similar actions, such as workers' compensation claims; or settlements of long term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments. Appendices to this Part include the new table, as well as a formula for its use.

DOI also proposed amendments to "Long-Term Care Insurance" (50 Ill Adm Code 2012; 37 Ill Reg 13018). The rulemaking repeats a revised statutory definition of long-term care insurance (insurance for a minimum of 12 months health care coverage, which may be insurance of group and individual annuities, but excluding insurance policies to provide basic Medicare supplement coverage, basic hospital or medical-surgical expense coverage, or disability income, among others). Qualified long-term care insurance partnership policy is defined as a policy that meets requirements, such as compliance with the model regulations and requirements of the National Association of Insurance Commissioners, and varying levels of inflation protection set out in the rulemaking, depending on the purchaser's age at the time of purchase. Ongoing continuing education requirements are clarified: prior to each license renewal, there must be 4 hours of training, with allowance to complete the 4 hour training requirement within one year of license renewal. Insurers are required to offer current policyholders an opportunity to exchange their existing long-term coverage for coverage that is intended to qualify under the Illinois Long-Term Care Partnership Program. A long-term care insurance partnership disclosure notice required of insurers and an application for certification as long-term care insurance partnership are included as appendices to this

Part.

Questions/requests for copies/comments concerning the 2 DOI proposed rulemakings through 9/30/13: Susan Anders IDOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

## HUNTING AND TRAPPING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to nine Parts titled "Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver and Woodchuck (Groundhog) Trapping" (17 Ill Adm Code 570; 37 Ill Reg 13133); "Duck, Goose and Coot Hunting" (17 Ill Adm Code 590; 37 Ill Reg 13148); "Youth Hunting Seasons" (17 Ill Adm Code 685; 37 Ill Reg 13219); "Squirrel Hunting" (17 Ill Adm Code 690; 37 Ill Reg 13226); "The Taking of Wild Turkeys - Spring Season" (17 Ill Adm Code 710; 37 Ill Reg 13240); "The Taking of Wild Turkeys - Fall Gun Season" (17 Ill Adm Code 715; 37 Ill Reg 13270); "The Taking of Wild Turkeys - Fall Archery Season" (17 Ill Adm Code 720; 37 Ill Reg 13284); "Dove Hunting" (17 Ill Adm Code 730; 37 Ill Reg 13304); and "Crow, Woodcock, Snipe, Rail and Teal Hunting" (17 Ill Adm Code 740; 37 Ill Reg 13322). These rulemakings include numerous site specific changes related to the use of windshield cards at DNR sites. In Part 570, procedures related to the taking of river otters are clarified and approximately 100 site specific changes are made. In Part 590, individuals exempt from possessing a hunting license or waterfowl stamp are required to have a valid driver's license or FOID. The rulemaking also opens up Jim Edgar Panther Creek State Fish and Wildlife Area to waterfowl hunting and makes specific changes at approximately 34 sites. In Part 685, DNR is making one site specific change. In Part 690, there are approximately 74 site specific changes. In Parts 710, 715 and 720, generally, the counties open to turkey hunting are increased, upcoming hunting dates

are changed, clarifications are made regarding aspects of landowner/tenant permits, technical clarifications are made regarding archery equipment allowed to be used and numerous site specific changes are made, mostly in regard to use of windshield cards. Site specific changes made in Parts 730 and 740 are again mostly related to the use of windshield cards.

Questions/requests for copies/comments for the 9 DNR rulemakings through 9/30/13: for Parts 570-685, George Sisk; for Parts 690-720, Shelly Knuppel; for Parts 730 and 740, Julia Lawrence, all DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## OSFM RULE WITHDRAWAL

The OFFICE OF THE STATE FIRE MARSHAL has withdrawn proposed amendments to the Part titled "Fire Prevention and Safety" (41 Ill Adm Code 100; 37 Ill Reg 8191) that were published in the 6/28/13 *Illinois Register*. The amendments were withdrawn in response to substantial public comment. The rulemaking would have implemented new fire code requirements including mandatory installation of sprinkler systems in newly constructed homes and in high-rise buildings of 4 stories or more.

## IPA RULE CORRECTIONS

The JOINT COMMITTEE ON ADMINISTRATIVE RULES has issued Notices of Correction to Notice Only for recent Illinois Power Agency proposed rulemakings titled "Fee Assessment and Collection for Regular Procurement Events, Special Procurement Events and Other Services" (83 Ill Adm Code 1200; 37 Ill Reg 8353) and "Uniform System of Accounts" (83 Ill Adm Code 1220; 37 Ill Reg 8367), both published in the 6/28/13 *Illinois Register*. The name of the rulemaking agency was incorrectly listed as the Illinois Commerce Commission when it should have been the Illinois Power Agency. JCAR regrets these errors.

# JCAR Meeting Action

---

At its 8/13/13 meeting, the Joint Committee on Administrative Rules objected to one proposed rulemaking and withdrew a filing prohibition against another proposed rule.

## DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

With regard to the rulemaking titled "Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities" (44 Ill Adm Code 10; 37 Ill Reg 3460), JCAR objects to this rulemaking because it fails to adhere to the policy established in Section 8b of the Business Enterprise for Minorities, Females and Persons with Disabilities Act that the Minority Business Enterprise Council shall, if it determines there has been discrimination, establish a sheltered market. Instead the rulemaking changes the Council's function to recommending establishment of a sheltered market, followed by a CMS report that shall determine whether the only remedy is sheltered market remedial action. JCAR also recommends that the Department pursue legislation revising the Act for consistency with the Procurement Code and to more clearly delineate the roles of the Council, the Chief Procurement Officers and the Department.

## DEPARTMENT OF INSURANCE

Pursuant to Section 5-115 of the Illinois Administrative Procedure Act, JCAR has withdrawn the prohibition against the filing of the DOI rulemaking titled "Health Maintenance Organization" (50 Ill Adm Code 5421; 36 Ill Reg 12957) contingent upon and effective with the Department's adoption of a modification of Section 5421.110(i)(3) that eliminates the 50% cap on copayments and deductibles. The modified rule will state that no combination of deductibles and copayments for the receipt of basic health care services may exceed the annual maximum out-of-pocket expenses of a high deductible health plan as defined in 26 USC 223. The Committee originally issued this filing prohibition at its 7/9/13 meeting.

# Second Notices

---

## DEPARTMENT OF PUBLIC HEALTH

"Illinois Water Well Construction Code" (77 Ill Adm Code 920) proposed 12/14/12 (36 Ill Reg 17308)

"Hearing Instrument Consumer Protection Code" (77 Ill Adm Code 682) proposed 6/7/13 (37 Ill Reg 7713)

## DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

"Interior Design Profession Title Act" (68 Ill Adm Code 1255) proposed 6/21/13 (37 Ill Reg 8089)

"The Illinois Landscape Architecture Act of 1989" (68 Ill Adm Code 1275) proposed 6/21/13 (37 Ill Reg 8103)

## DEPARTMENT OF NATURAL RESOURCES

"Grant Review and Processing Fees" (17 Ill Adm Code 3000) proposed 3/15/13 (37 Ill Reg 2843)