

*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

### HEALTH FACILITIES

The HEALTH FACILITIES AND SERVICES REVIEW BOARD adopted amendments to "Processing, Classification Policies and Review Criteria" (77 Ill Adm Code 1110; 37 Ill Reg 3982), effective 4/15/14. The rulemaking clarifies non-substantive review and substantive review classifications for project permit application status. The list of information required for submission is expanded to include safety net impact statements. Applicant background information provision has been removed from the general information requirements Section and has been integrated into each specific category of services as a review criterion. The rulemaking adds a new Section addressing information requirements for safety net impact statements in compliance with statute. HFSRB also added a new Section establishing that certain ambulatory surgical treatment center (ASTC) services (which are identified and verified) are recognized by HFSRB as having existed prior to the effective date of this Section. Recognition of identified and verified non-hospital based ASTC services exempts the facility from the requirement of obtain-

ing a permit for establishment of a health care facility and establishment of the identified and verified ASTC services. However, any additional ASTC services the facility wishes to add, or any expansion of an existing ASTC service, would require a permit. The rulemaking makes numerous additional changes that cannot be adequately addressed in this summary. For further information, contact the agency individual noted below. Changes since 1<sup>st</sup> Notice include the following: A transition period has been added for multi-specialty ASTCs adding new services that were previously permitted, but not offered. These ASTCs will not have to apply for a new certificate of need (CON) for the additional services until 1/1/18, unless otherwise agreed at the time of CON permit issuance. A 1/1/14 effective date was added to other provisions. Other changes clarify that documentation of an applicant's background is required only once per application even if multiple service category permits are being sought; that expunged records need not be produced; and that pregnancy termination specialty centers are exempt from CON review. Entities affected by this rulemaking

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### IMMUNIZATIONS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Child Health Examination Code" (77 Ill Adm Code 665; 38 Ill Reg 8726) and "Immunization Code" (77 Ill Adm Code 695; 38 Ill Reg 8740) that implement Public Act 98-480 (effective 8/16/13). The Act requires students, upon entering the 6<sup>th</sup> and 12<sup>th</sup> grade of any public, private or parochial school, to receive an immunization containing meningococcal conjugate vaccine. The rulemakings adds meningococcal disease to the lists of diseases children must be immunized against and/or show proof of immunity against.

### PLUMBING CODE

Also, DPH proposed amendments to "Plumbers Licensing Code" (68 Ill Adm Code 750; 38 Ill Reg 8700), "Lawn Irrigation Contractor and Lawn Sprinkler System Registration Code" (77 Ill Adm Code 892; 38 Ill Reg 8756) and "Plumbing Contractor Registration Code" (77 Ill Adm Code 894; 38 Ill Reg 8772) implementing changes recommended by the Plumbing Code Advisory Council. The most notable

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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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include hospitals, long term care facilities, and ambulatory surgical treatment centers.

Questions/requests for copies: Claire Burman, HFSRB, 122 S. Michigan Ave., 7<sup>th</sup> Flr., Chicago IL 60603, 312/814-8814, e-mail: [Claire.Burman@illinois.gov](mailto:Claire.Burman@illinois.gov).

(Formerly, 120 hours were required for all EMTs.) CE hours include EMS System-approved in-services, DPH-recognized college health care courses, and online continuing education courses. For honorably discharged military veterans, emergency medical instruction, training and clinical experience received in the military must be recognized in the licensure and testing process. Emergency vehicle service provider licenses will remain valid for 4 years (currently, 1 year) if, following annual inspection, all fee requirements are paid and the provider is in compliance with DPH rules. If a vehicle service provider is found not to be in full compliance, DPH has the option of issuing a license for a shorter interval. Vehicle service providers may not advertise themselves as "critical care transport" providers unless they participate in an approved EMS System critical care transport plan for a Tier II or higher level of care. The rulemaking also requires EMS System participants seeking temporary waivers from DPH requirements or standards to state their reasons for non-compliance and a specific timetable for achieving compliance. A written statement in support of or opposition to the waiver request from the Medical Director of the EMS System (EMS MD) must be included. (Formerly, DPH could presume, in the absence of such a statement, that an EMS MD was not opposed to a waiver request.) Fees for EMT examinations, licensure and license renewal may be waived for members of the Illinois National Guard, Illinois State Troopers, and volunteers for units of local government or non-profit organizations serving areas with a population of less than 5,000. Paramedics, EMTs, ambulance providers, local fire departments and rescue squads, hospitals and other EMS System participants are affected by this rulemaking.

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

## ALL KIDS INSURANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to the Part titled "Children's Health Insurance Program" (89 Ill Adm Code 125; 38 Ill Reg 9110), effective 4/15/14 for a maximum of 150 days. Companion proposed amendments also appear in this week's *Illinois Register* at 38 Ill Reg 8698. The rulemakings establish a 10/1/13 effective date for use of Modified Adjusted Gross Income (MAGI) methodology to determine financial eligibility for All Kids Share and All Kids Premium Level 1 in accordance with the federal Affordable Care Act. Applicable federal regulations are also cited. The emergency rule replaces a previous emergency rule effective 1/10/14 that was repealed in last week's Register.

Questions/requests for copies/comments on the proposed rulemaking through 6/9/14: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov).

## RACING

The ILLINOIS RACING BOARD adopted an emergency amendment to "Medication" (11 Ill Adm Code 603; 38 Ill Reg 9121), effective 4/10/14, for a maximum of 150 days, and filed an identical proposed rulemaking (38 Ill Reg 8783) removing allowances of oxyphenylbutazone and treating any level of that medication as a Class 4 drug as defined in ACRI's Uniform Classification Guidelines for Foreign Substances. The rule also adds O-desmethyl pyrilamine less than 50 ng/ml as an allowable level and updates the incorporation by reference to the most recent edition of ACRI's Uniform Classification Guidelines for Foreign Substances.

Questions/requests for copies/comments on the proposed rulemaking through 6/9/14: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL

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## COMMERCIAL FISHING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to the Part titled "Commercial Fishing and Musseling in Certain Waters of the State" (17 Ill Adm Code 830; 38 Ill Reg 2713), effective 4/14/14, identical to a previously adopted emergency rule effective 12/2/13 at 37 Ill Reg 19912. The amendments increase the number of special use commercial fishing permits available for the following bodies of water: Rend Lake and Carlyle Lake (increased from 10 to 25 permits); Mississippi River Fish and Wildlife Area, Sangamon River, and Anderson Lake (from 5 to 15 permits); Kaskaskia River (10 to 20 permits); Saline River (3 to 6 permits); and Big Muddy River (3 to 10 permits). DNR states that the additional permits are necessary to facilitate removal of Asian carp and buffalo fish populations. This rule affects persons engaged in commercial fishing on the listed bodies of water.

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

## EMERGENCY MEDICAL SERVICES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Emergency Medical Services, Trauma Center, Primary Stroke Center and Emergent Stroke Ready Hospital Code" (77 Ill Adm Code 515; 37 Ill Reg 20601), effective 4/9/14, implementing provisions of several Public Acts. The rulemaking sets minimum continuing education requirements of 100 hours for paramedics, 80 hours for EMT-Intermediate and Advanced EMTs, and 60 hours for EMT-Basic.

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changes include increasing examination and licensure fees (Part 750) and annual registration fees (Parts 892 and 894). All three Parts also add a new Section containing referenced materials. Part 892 amendments also provide requirements for lawn sprinkler design and installation course providers to have their curriculum and organization approved by DPH to provide courses. Plumbers, landscapers and others who install lawn sprinklers are affected.

Questions/requests for copies/comments concerning the 5 DPH rulemakings above through 6/9/14: Susan Meister, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Spfld IL, 62761, 217/782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov).

## JAILS

The DEPARTMENT OF CORRECTIONS proposed amendments to "County Jail Standards" (20 Ill Adm Code 701; 38 Ill Reg 8511) requiring county jail officers who have contact with juveniles to have extra training. Requirements for records that must be kept in extraordinary or unusual circumstances are being updated. The use of restraints on pregnant detainees in a county of more than 3,000,000 must be in accordance with the Counties Code. The use of restraints is prohibited on a detainee who is in labor during transport. Leg restraints, shackles or wrist restraints are prohibited when the detainee is in labor. Numerous other changes have been made to update this Part in accordance with current statute. Those who may be interested in this rulemaking include persons who work in county detention centers. Additionally, DOC is repealing the Part titled "Secure Residential Youth Care Facilities" (20 Ill Adm Code 801; 28 Ill Reg 8574) because the underlying statute was found to be unconstitutional under the Single Subject Rule (*People v. Cervantes*, 189 Ill.2d 80 (1999)).

Questions/requests for copies/comments on the 2 DOC rulemakings through 6/9/14: Echo Beekman, DOC,

1301 Concordia Court, P.O. Box 19277, Spgfld, IL 62794-9277, 217/558-2200.

## SALES TAXES

The DEPARTMENT OF REVENUE proposed amendments to "Retailers' Occupation Tax" (86 Ill Adm Code 130; 38 Ill Reg 8785) reinstating the exemption from sales tax for equipment and materials used in coal and aggregate exploration, mining, off highway hauling, processing, maintenance and reclamation. New language is added to reflect the addition of equipment used in newer technologies and is updated to reflect recent letter rulings exempting additional equipment. Roof bolts used on mines are specifically mentioned. A statutory provision is added prohibiting the approval of claims or refunds for tax paid during the period 7/1/03-8/16/13. Finally, language was added forbidding purchasers claiming the aggregate or coal exemption from claiming the Manufacturer's Purchase Credit.

Questions / requests for copies/comments through 6/9/14: Debra Boggess, DOR Legal Services, 101 W. Jefferson St, Springfield IL 62794, 217/782-2844.

## EVALUATION OF EDUCATORS

The STATE BOARD OF EDUCATION proposed amendments to "Evaluation of Certified Employees under Articles 24A and 34 of the School Code" (23 Ill Adm Code 50; 38 Ill Reg 8682) that would: add the requirement that districts receiving Race to the Top funds implement a performance evaluation plan for teachers (in addition to the districts receiving Title I school improvement grants); use the average composite State assessment results from 2011 through 2013 to determine districts' student performance rankings (currently, only results from the Spring 2014 administration of these assessments), and make several technical changes necessary to reflect the shift from teacher certification to educator licensure.

Questions/requests for copies/com-

ments through 6/9/14: Shelley Helton, SBE, 100 North First Street, S-493, Springfield, Illinois 62777-0001, 217/782-5270, [rules@isbe.net](mailto:rules@isbe.net).

## TORTURE INQUIRY COMMISSION

The TORTURE INQUIRY AND RELIEF COMMISSION proposed amendments to the Parts titled "Policy, Hearings and Forms" (20 Ill Adm Code 2000; 38 Ill Reg 8840) and "Organization, Public Information, Procedures, and Rulemaking" (2 Ill Adm Code 3500; 38 Ill Reg 8822). The Part 2000 amendments, in accordance with statute, specify that a "claim of torture" that the Commission has authority to investigate is related to allegations of torture committed by former Chicago Police Commander Jon Burge or by any officer under Burge's supervision. Criteria for documenting such claims are also specified. A definition of "tortured confession" is also added (any incriminating statement, vocalization or gesture made by a convicted person as a result of torture). The rulemaking also describes the duties and powers of the Commission, its procedures for issuing and serving subpoenas, available relief for complainants, procedures for review of Commission decisions, and examples of a staff confidentiality form. Appendices containing examples of other forms are removed from the Part. The Part 3500 amendments add waiver forms to the official record, allow the Commission to waive copying fees, offer victims the right to present their views before the Commission, require a separate administrative record to facilitate judicial review, and require 5 affirmative votes to refer cases to circuit court. Priority is given to claims made by prisoners whose torture occurred under Burge's supervision. For claims involving police officers not under Burge's supervision, the Commission will notify the claimant that it cannot take further action until the Commission is determined to have jurisdiction over such cases. At least 4 votes are required to accept the Director's recommendation to deny,

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60601, 312/814-5017.

## STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted an emergency amendment to "Pay Plan" (80 Ill Adm Code 310; 38 Ill Reg 9080), effective 4/11/14 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 38 Ill Reg 8507. These rulemakings revoke bargaining unit certification for the Senior Public Service Administrator (SPSA) Option 8E (professional engineer) title, in accordance with a recent decision by the Illinois Labor Relations Board. This title is removed from an AFSCME bargaining unit and placed in the Merit Compensation

System, with no actual change in pay.

DCMS also adopted peremptory amendments to the same Part (80 Ill Adm Code 310; 38 Ill Reg 9136), effective 4/11/14, implementing collective bargaining agreements with 12 bargaining units. The agreements institute a \$50 per month maximum security adjustment to monthly wages for all Department of Corrections employees with 7 or more years continuous service, while they are employed at a maximum security DOC facility. Other provisions stipulate that the State shall supply each bargaining unit with a prioritized list of vacancies by 6/1/14; if the State fails to engage in good faith discussions with any affected union regarding prioritized

filling of vacancies, the affected union may opt out of the new employee hire rate from 12/1/14 through 6/30/15, and the State must then retroactively pay 4% above the prevailing rate to new employees. The peremptory rule also updates prevailing wage rates for boiler safety specialists in the northern and southern regions, in accordance with an existing collective bargaining agreement.

Questions/requests for copies of the emergency and peremptory rules, and comments on the proposed rulemaking through 6/9/14: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, fax 217/524-4570, [CMS.PayPlan@illinois.gov](mailto:CMS.PayPlan@illinois.gov).

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terminate, dismiss or approve a claim. The rulemaking also gives the Director authority to issue subpoenas, sets out notification procedures and factors considered in decisions, and repeals summary referral provisions.

Questions/requests for copies/comments on the 2 rulemakings above through 6/9/14: Rob Olmstead, TIRC, 100 W. Randolph, Ste. 5-100, Chicago

IL 60601, 312/814-1094.

## DNR CORRECTION

The DEPARTMENT OF NATURAL RESOURCES published a Notice of Correction to Notice Only for the proposed rulemaking titled "Allocation of Water from Lake Michigan" (17 Ill Adm Code 3730; 38 Ill Reg 5754), published in the 3/7/14 *Illinois Register*.

The Notice states that written public comments on this rulemaking will be accepted through 5/12/14 at the address below.

Questions/requests for copies/comments through 5/12/14: Robert G. Mool, DNR, One Natural Resources Way, Spfld IL 62702-1271, 217/782-1809.

# 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 May 20, 2014 meeting.

## SECRETARY OF STATE

"Commercial Driver Training Schools" (92 Ill Adm Code 1060) proposed 2/21/14 (38 Ill Reg 5214)

"Online Only Adult Driver Education Course Provider Certification" (92 Ill Adm Code 1066) proposed 2/21/14 (37 Ill Reg 5228)

"Issuance of Licenses" (92 Ill Adm Code 1030) proposed 2/21/14 (38 Ill Reg 5163)