

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

CHILD ABUSE

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted an amendment to the Part titled "Reports of Child Abuse and Neglect" (89 Ill Adm Code 300; 38 Ill Reg 608), effective 6/11/14. An identical emergency rulemaking effective 1/1/14 appeared in the *Illinois Register* at 38 Ill Reg 1100. The rule implements a recent Illinois Supreme Court decision and Public Act 97-803 by reinstating and clarifying the criteria for alleging that a caregiver has placed a child at substantial risk of physical injury or in an "environment injurious to health and welfare". Since 1st Notice, DCFS has made revisions clarifying the difference between "substantial risk of physical injury" and "environment injurious to health and welfare".

Questions/requests for copies: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983, e-mail: cfpolicy@idcfs.state.il.us.

AFFORDABLE CARE ACT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Parts titled "Specialized Health Care Delivery Systems" (89 Ill Adm Code 146; 37 Ill Reg 18951) and "Hospital Services" (89 Ill Adm Code 148; 37 Ill Reg 18959), both effective 6/11/14, that implement provisions of Public Act 98-104 and of the federal Affordable Care Act (ACA). The rulemakings require participants in the State-funded hemophilia treatment program (Part 146) and in the chronic renal disease program (Part 148) to obtain and provide proof of health insurance coverage as a condition of eligibility. These programs supplement Medicare or private insurance coverage for hemophilia and kidney patients who do not qualify for medical assistance.

Questions/requests for copies of the 2 DHFS rulemakings: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233, e-mail: HFS.Rules@illinois.gov.

SALES TAXES

The DEPARTMENT OF REVENUE proposed amendments to the Parts titled "Retailers' Occupation Tax" (86 Ill Adm Code 130; 38 Ill Reg 13161), "Use Tax" (86 Ill Adm Code 150; 38 Ill Reg 13186) and "Service Use Tax" (86 Ill Adm Code 160; 38 Ill Reg 13198) to strike language inconsistent with a recent Illinois Supreme Court ruling (*Hartney vs. Hamer*). The amendments to Part 130 repeal 2 Sections and delete language in a third Section that declares immaterial, for purposes of determining sales tax jurisdiction, the locations at which title to property passes to the purchaser, the contract of sale is negotiated and executed, or the purchaser resides. Amendments to Parts 150 and 160 strike language stating that the seller's acceptance of a purchase offer or other contracting action in making a sale is the single most important factor in determining where a sale took place (an interpretation rejected by the Court). Retailers subject to local sales taxes are affected by these rulemakings.

(cont. next page)

(cont. page 3)

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

HOSPITAL LICENSING

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Hospital Licensing Requirements" (77 Ill Adm Code 250; 37 Ill Reg 11128), effective 6/10/14, that implement provisions of Public Act 97-485, which provides minimum requirements for discrimination grievance procedures and a new requirement for hospitals to post an anti-discrimination notice in emergency rooms. Requirements for telemedicine services are added. A provision of Public Act 97-667 is added exempting long-term acute care hospitals from the requirement that each hospital provide emergency services. The rulemaking is also amended to implement statutory language from provisions of Public Act 97-122 enhancing existing safe patient handling standards by establishing minimum requirements for protecting patient dignity, self-determination, and choice. Since 1st Notice, DPH has clarified when a change in ownership of a licensed entity or a change in a partnership requires an application for a new license. Statute reflecting infant feeding policies is added. Definitions are added and incorporations by reference are updated.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761-0001, 217/782-2043, e-mail: dph.rules@illinois.gov.

STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted amendments to: "General Provisions" (23 Ill Adm Code 2700; 38 Ill Reg 3522), "Federal Family Educational Loan Program"

(23 Ill Adm Code 2720; 38 Ill Reg 3541), "Grant Program for Dependents of Correctional Officers" (23 Ill Adm Code 2731; 38 Ill Reg 3557), "Grant Program for Dependents of Police or Fire Officers" (23 Ill Adm Code 2732; 38 Ill Reg 3557), and "Illinois Special Education Teacher Tuition Waiver (SETTW)" (23 Ill Adm Code 2765; 38 Ill Reg 3569), all effective 7/1/14. In Part 2700, rules concerning the confidentiality, security and use of personal information are being rewritten, with a specific exemption for announcement of the Illinois State Scholars. The rulemaking amends the definitions of independent student and endorser and clarifies that the federal government is the guarantor of the loan, not ISAC. In Part 2520, ISAC is repealing the language related to educational lender eligibility in lieu of a reference to federal regulations and language regarding ISAC issuing loan guarantees. Additionally, the rulemaking clarifies that federal default fees will be charged for loans between 7/1/06 and 7/2/10. In Parts 2731 and 2732, ISAC is adding an eligibility chart for determination of eligibility units remaining versus usage in either semester or quarter systems. In Part 2765, the rulemaking clarifies that waiver recipients who are required to repay any portion of a tuition waiver awarded prior to 7/1/14, shall complete the repayment within 5 years or the waiver converts to a loan. After 7/1/14, the repayment shall be completed within 10 years. The repayment period exemption language is restructured to allow for either the 5 or 10 year period.

Questions/requests for copies of the 5 ISAC rulemakings: Lynn Hynes, ISAC, 1755 Lake Cook Rd, Deerfield IL 60015, 847/948-8500, ext. 2216, e-mail:

lhynes@isac.org.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted preemptory amendments to "Pay Plan" (80 Ill Adm Code 310; 38 Ill Reg 13416), effective 6/11/14, implementing a memorandum of understanding (MOU) with the American Federation of State, County and Municipal Employees (AFSCME) assigning the Human Resources Trainee title at the Department of Revenue to an AFSCME bargaining unit and pay grade. One DOR employee is affected, according to DCMS.

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.

DSP RULE MODIFICATION

The DEPARTMENT OF STATE POLICE has issued a Notice of Modification to Emergency Amendments for the Part titled "Firearm Concealed Carry Act Procedures" (20 Ill Adm Code 1231; 38 Ill Reg 13410), effective 6/10/14, for the remainder of the 150-day term of the original emergency rulemaking, which was effective 4/16/14 and published at 38 Ill Reg 9703. The modification, filed in response to a JCAR Objection, corrects and clarifies provisions concerning approval of non-Illinois residents as concealed carry instructors and record-keeping requirements for all instructors. Concealed carry instructors are affected by this emergency rule.

Proposed Regulations

Questions/requests for copies/comments on the 3 DOR rulemakings through 8/11/14: Paul Berks, DOR, 100 W. Randolph St., 7th Fl., Chicago IL 60601, 312/814-4680, fax 312/814-4344.

CREDIT UNIONS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled "Illinois Credit Union Act" (38 Ill Adm Code 190; 38 Ill Reg 13122) implementing House Bill 5342, which amended Section 9 of the Credit Union Act to require the Secretary of DFPR to adopt rules to assure consistency and due process in the examination of credit unions, as well as issue guidelines clarifying the scope of examinations. The rulemaking states DFPR "shall make every reasonable effort to adhere to standards of performance stated in the rulemaking in conducting its examinations, and to supplement the rulemaking, DFPR may establish guidelines that define the scope of the examination process and clarify the manner in which the examination items shall be resolved." Such guidelines may be relied upon by credit unions, while DFPR reserves the right to change these guidelines, it will provide reasonable notice when any change to the guidelines occurs. Unless criminal or unsafe activity is suspected, DFPR shall make a reasonable effort to provide prior written notification of an examination to the management and board of directors of a credit union, and to the management of all joint conferences and the exit meeting. Protocols for DFPR examination meetings with credit union staff and issuance of reports are prescribed. Possible DFPR enforcement actions that may be taken include: Document of Resolution (DOR, an identified problem in the Examination Report and a corrective action plan to resolve the problem); Letters of Understanding and Agreement (LUAs, an enforcement action presented to a credit union by DFPR to initiate a corrective action of identified material deficiencies or weaknesses in the credit union's administration or op-

erations, structured as an agreement, by which the credit union agrees to the terms specified in the LUA); Cease and Desist Orders; Orders of Removal; and Civil Penalty Orders. Regarding any examination finding or action, resolution of an issue is encouraged at the lowest operational level, such as between the credit union and, in successive steps; the examiner; the Assistant or Supervisor of the Credit Union Section of DFPR; the Director of the Division of Financial Institutions; a possible Departmental Internal Review Committee or Director of DFPR, or a formal hearing. Credit unions are affected by this rulemaking.

Questions/requests for copies/comments through 8/11/14: Craig Cellini, DFPR, 320W. Washington, 3rd Fl., Springfield IL 62786, 217/785-0813 Fax: 217/557-4451.

CASUALTY INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to "Filing Policy and Endorsements Form" (50 Ill Adm Code 753; 38 Ill Reg 13131) directing casualty insurance providers to file documents with DOI using an electronic rate and form filing system captioned as SERFF. Some existing document and form filing requirements are also being altered. A copy of a declaration page and policy jacket must be filed; filings can be through a third party filer acting with a company's authorization; and companies under the same ownership or general management are no longer required to make separate company filings. Filings must be made between 8 a.m. and 5 p.m. Central Time, Monday through Friday, excluding holidays. Exhibit A of this Part, regarding Authorization to Accept Filings by Reference (Form RF-1), is being repealed.

WORKERS' COMPENSATION

DOI also proposed amendments to "Workers' Compensation Rate and Manual Filing" (50 Ill Adm Code 2902; 38 Ill Reg 13139), similar to Part 753

rules described above, to require electronic filing of workers' compensation filings and rate information using the SERFF system. Loss cost multipliers and dividend plan information must also be filed using SERFF. All company rate filings must include the Company Rate Information (formerly, Form RF-3, which is being repealed with this rulemaking. Company rate information shall include: the overall percentage rate change; the overall percentage impact (meaning the number of policyholders affected by the overall percentage rate impact); the minimum and maximum percentage change; the number of policyholders affected for this program (meaning the Statewide change in written premium based on the proposed overall percentage rate impact for each company); among others.

INSURANCE ADJUSTORS

DOI proposed amendments to "Licensing of Public Adjustors" (50 Ill Adm Code 3118; 38 Ill Reg 13149) to implement elements of Public Act 96-1332 (effective 1/1/11), which made substantive changes to the law regarding public insurance adjustors. Adjustors must now be licensed in accordance with the Public Act and be fingerprinted. Prior adjustor licensure grandfather provisions are being repealed. Twenty-four hours of continuing education is required prior to requesting an extension of a public adjustor license. New requirements are added to the longstanding requirement that adjustors must obtain DOI approval of contracts before they are used in Illinois, such as: adjustor(s) license numbers must be furnished; submitted contracts must have the full name of the person signing the contract (as specified in DOI records); the form number and edition of the contract form must appear in the lower left hand of the contract; the effective date of use must be submitted; the adjustor must attest he if fully bonded pursuant to State law; space must be provided for the insured's full name, address, insurance company and

(cont. page 4)

Proposed Regulations (cont.)

policy number if known; descriptions of the loss and its location as well as the services to be provided to the insured; and disclosure of the full salary, fee, commission, or other consideration the adjustor is to receive, among others. Existing prescribed rate schedule of charges filing provisions

with DOI are being streamlined. Adjustors must file written disclosures regarding financial interests and claim processes, as well as a consumer rights notice, prior to the insured signing a contract. Sample notices are provided on DOI's website.

Questions/requests for copies/comments concerning the 3 DOI rulemakings through 8/11/14: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

Second Notices

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 July 15, 2014 meeting.

DEPARTMENT OF NATURAL RESOURCES

"Revocation Procedures for Conservation Offenses" (17 Ill Adm Code 2530) proposed 4/4/14 (38 Ill Reg 7450)

DEPARTMENT OF REVENUE

"Retailers' Occupation Tax" (89 Ill Adm 130) proposed 4/25/14 (38 Ill Reg 8785)

ILLINOIS ENVIRONMENTAL PROTECTION AGENCY

"Accreditation of Environmental Laboratories" (35 Ill Adm 186) proposed 4/11/14 (38 Ill Reg 7695)