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**Joint Committee on Administrative Rules**  
Illinois General Assembly

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*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

### PRESCRIPTION TAMPERING

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to "Medical Payment" (89 Ill Adm Code 140; 32 Ill Reg 18121), effective 6/15/09, implementing changes in federal law requiring all non-electronic prescriptions to be written on tamper-resistant prescription pads in order to be eligible for reimbursement under Medicaid. The form must include one of the following items identifying the prescriber: Drug Enforcement Administration number, national provider identifier, Medical Assistance Program provider number, or Illinois license number. (Non-electronic prescriptions are prescriptions not transmitted from the prescriber to the pharmacy by fax, telephone, electronic prescribing mechanism, or other electronic means.) To be considered tamper-resistant, a prescription form must contain one or more industry-recognized features designed to prevent unauthorized copying of a completed form, prevent erasure or modification of information written on the prescription by the prescriber, and prevent the use of counterfeit forms. A prescription written on a non-tamper-resistant form but verified by the prescriber or the prescriber's agent to the

pharmacist via telephone, fax, or other electronic means is considered an electronic prescription. Nonverified prescriptions may be filled if, in the pharmacist's judgment, not filling the prescription poses a health risk. The amendments also clarify that if DHFS determines that a brand-name product is more cost-effective than the generic drug, reimbursement will be made at the brand-name rate. Also, vitamin B-12, liver extract, and infant formula are removed from the list of prescribed items that are not covered by the program in certain instances. Changes since 1<sup>st</sup> Notice allow an agent of the prescriber to verify prescriptions electronically and add citations for federal and State laws regarding controlled substances. Physicians and pharmacists will be affected by this rulemaking.

### CHILD SUPPORT

DHFS also adopted amendments to "Child Support Enforcement" (89 Ill Adm Code 160; 33 Ill Reg 3030), effective 6/15/09, changing the title of "family support specialist" to the more general "child support worker" within the Division of Child Support Enforcement. The title "family support specialist" no longer exists within the De-

(cont'd next page)

### STATE POLICE

The DEPARTMENT OF STATE POLICE proposed a new Part titled "Bait Car Procedures" (20 Ill Adm Code 1297; 33 Ill Reg 8900) implementing the exemption from eavesdropping prosecution for conversations recorded near a "bait car" surveillance vehicle. (Bait cars are any motor vehicles that are not occupied by law enforcement officers and are used by a law enforcement agency to deter, detect, identify, and assist in the apprehension of an auto theft suspect in the act of stealing a motor vehicle.) Interception and recording standards and equipment specifications are detailed. Small municipalities may be affected by this rulemaking.

Questions/requests for copies/comments through 8/10/09: John M. Hosteny, ISP, 801 S. 7<sup>th</sup> St., Ste. 1000-S, Springfield IL 62794-9461, 217/782-7658.

### MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Medical Assistance Programs" (89 Ill Adm 120; 33 Ill Reg 8808) and "Veterans' Health Insurance Program" (89 Ill Adm Code 128; 33 Ill. Reg. 8820) exempting income earned by temporary census workers from consideration when determining eligibility for Medicaid or the Veterans' Health Insurance Program.

(cont'd 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

partment of Central Management Services personnel rules.

Questions/requests for copies of the 2 DHFS rulemakings above: Tamara Tanzillo Hoffman, DHFS, 201 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/557-7157.

## MEDICARE INSURANCE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to "Minimum Standards for Individual and Group Medicare Supplement Insurance" (50 Ill Adm Code 2008; 33 Ill Reg 2876), effective 6/10/09, implementing changes to Medicare supplemental insurance policies required by the federal Medicare Improvements for Patients and Providers Act (MIPPA) and the Genetic Information Nondiscrimination Act of 2008 (GINA). Provisions implementing MIPPA become effective 6/1/10, while those implementing GINA became effective 6/1/09. The rulemaking requires Medicare supplemental policies issued after 6/1/10 to include the following conditions: no exclusion or limitation of benefits for losses incurred more than 6 months after the effective date of coverage due to a preexisting condition; automatic changes in policy terms to match applicable changes in the deductible, copayment, and co-insurance amounts; terms and conditions for guaranteed renewability; and provisions for suspending or reinstating a policy at the policyholder's request. Minimum "core" standards and limitations for Medicare supplemental policies are prescribed for the various levels of coverage (e.g., Part A, Part B). Additional amendments bar issuers of Medicare supplemental policies from denying or pricing coverage based on an individual's genetic information apart from an actual disease or disorder. An insurer cannot require or request that an individual undergo genetic testing, nor can an insurer attempt to obtain genetic information for underwriting purposes. Interim provisions and forms for policies issued

before 6/1/10 are also included in the rulemaking. Nonsubstantive, technical changes and corrections have been made since 1<sup>st</sup> Notice.

Questions/requests for copies: William McAndrew, DFPR, 320 W. Washington St., Springfield IL 62767-0001, 217/782-4395.

## ☞ NUCLEAR ACCIDENT RESPONSE

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments to "Compensation of Local Governments for Emergency Planning and Participation in Nuclear Emergency Response Exercises" (32 Ill Adm Code 501; 33 Ill Reg 1), effective 6/11/09. The rulemaking expands permissible uses of grant funds and changes the yearly deadline for grant applications from April 30<sup>th</sup> to March 15<sup>th</sup>. The January 1<sup>st</sup> deadline for submitting "special requests" for "specialty items" is stricken, and such requests may be submitted to IEMA at any time. Grantees under this program are local governments seeking IEMA funds to implement emergency preparedness activities in order to deal with nuclear accidents that may occur at nuclear power stations in their vicinity. Additional amendments reflect the consolidation of the Department of Nuclear Safety with IEMA in 2003 by changing agency name references from DNS to IEMA. Changes since 1<sup>st</sup> Notice add a definition of "claim" (forms used by grantees to document expenditures); add examples of specialty items that can be paid for with grant funds (e.g., radios, computers, training course fees); clarify that grant applications turned in after the deadline may be rejected if all available funds have been allocated to other grants; and cite the FEMA schedule of equipment rates as the standard for determining compensation for equipment use. Local governments seeking grants will be affected by this rulemaking.

Questions/requests for copies: Louise Michels, IEMA, 1035 Outer Park Dr., Springfield IL 62704, 217/785-9876.

## ☞ UNIFORM PARTNERSHIPS

The SECRETARY OF STATE (Business Services Department) adopted amendments to "Uniform Partnership Act (1997)" (UPA) (14 Ill Adm Code 166; 33 Ill Reg 3956), effective 7/6/09. References to "registered" limited liability partnerships are stricken, with simply the common terminology, "limited liability partnerships", used instead. Various forms employed by the department to administer the Act are revised. Also, nonsubstantive corrections are made. Changes since 1<sup>st</sup> Notice remove proposed text stating that SOS is authorized to accept electronically-submitted UPA documents and correspondence. This rulemaking will affect small businesses that are uniform partnerships.

Questions/requests for copies: Anthony Gordon, SOS, 100 W. Randolph, Ste. 5-400, Chicago IL 60601, 312/814-9509, Fax 312/814-5958, e-mail: [tgordon1@ilsos.net](mailto:tgordon1@ilsos.net)

## STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments, effective 6/12/09, to "Pay Plan" (80 Ill Adm Code 310; 33 Ill Reg 9138) implementing 4 memoranda of understanding (MOU). In the first MOU, employees represented by an American Federation of State, County and Municipal Employees (AFSCME) bargaining unit who accumulated unused equivalent earned time (EET, also known as "comp time") prior to joining the union must have their EET restored to them no later than 7/1/09 provided their positions were certified by AFSCME effective 7/1/07. Time may be taken in 15 minute increments after the initial use of one-half hour. EET may be substituted for sick leave in accordance with sick leave policies and procedures. The second MOU gives each meat poultry inspector and trainee represented by the Illinois Federation of Public Employees a one-time cash payment of \$850 creditable

## New Regulations

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to the State Employee Retirement System on the employee's behalf and sets salary rates for Fiscal Year 2010. The final two MOUs assign employees with fire protection specialist I and

rehabilitation workshop supervisor III titles to AFSCME bargaining units.

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](mailto:CMS.PayPlan@Illinois.gov)

## Proposed Regulations

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Questions/requests for copies/comments concerning the 2 rulemakings above through 8/10/09: Tamara Tanzillo Hoffman at the DHFS address and telephone number above.

### HOSPITALS

The HEALTH FACILITIES PLANNING BOARD proposed amendments to "Narrative and Planning Policies" (77 Ill Adm Code 1100; 33 Ill Reg 8825). The rulemaking consolidates category of service definitions that were contained in Part 1110 and adds definitions for "quality of care" and "rapid population growth rate". Further amendments strike requirements that correction plans for patient rooms and patient care units that are not in compliance with hospital licensure requirements be approved by the Department of Public Health and allow hospitals with a total bed count of less than 50 beds to have up to a total of 5 reserve beds. The 3 age groups used in determining the number of medical-surgical and pediatric beds needed to serve the residents of a planning area are expanded to 5 groups. Additionally, the existing 10-year projection for determining needed in-center hemodialysis or end-stage renal disease services is changed to a 5-year, short-term assessment; a 10-year need assessment for long-range planning purposes for such services is added. The amendments also provide basic planning parameters for the long-term acute care hospital category of service, including plan-

ning areas, age groups, occupancy targets, bed capacity, and need determination. Finally, an obsolete appendix listing applicable codes and standards used in this Part and Part 1110 is repealed.

Questions/requests for copies/comments through 8/10/09: Claire Burman, HFPB, 122 S. Michigan Ave., 7<sup>th</sup> Fl., Chicago IL 60603 312/814-2565, e-mail: [Claire.Burman@illinois.gov](mailto:Claire.Burman@illinois.gov). A public hearing on this rulemaking is scheduled for 7/9/09, 10:00 a.m. to noon, 100 W. Randolph, Conference Rm. 031, 9<sup>th</sup> Fl. in Chicago.

### MOTORCYCLE LICENSES

The SECRETARY OF STATE proposed an amendment to "Issuance of Licenses" (92 Ill Adm Code 1030; 33 Ill Reg 8890) that allows individuals holding a Class L (any motor-driven cycle with less than 150 cc displacement) or Class M (any motorcycle or motor-driven cycle) driver's license to operate a motorcycle or motor-driven cycle with a rear wheel extension that maintains a single front wheel (e.g., trike motorcycle).

Questions/requests for copies/comments through 8/10/09: Arlene Pulley, SOS, 2701 S. Dirksen Pkwy. Springfield IL 62723, 217/557-4462.

### NITROGEN OXIDE TRADING

The POLLUTION CONTROL BOARD proposed an amendment to "Nitro-

gen Oxide Emissions" (NO<sub>x</sub>) (35 Ill Adm Code 217; 33 Ill Reg 8880) that sunsets the provisions of the NO<sub>x</sub> trading program beginning with the 2009 ozone control season (5/1 – 9/30/09). However, trading program provisions will remain in effect for violations that occurred in control periods prior to 2009. Due to a federal court ruling concerning the federal Clean Air Interstate Rule (CAIR), the federal Environmental Protection Agency must take additional action on its rules. It has provided that states such as Illinois, which have approved CAIR programs, may revise their implementation plans for ozone so that the trading program will not apply to affected electrical generating units (EGUs). PCB notes that EGUs must comply with rules in Part 225. Any small businesses, small municipalities, and nonprofits that own affected EGUs will be affected by this rulemaking.

Requests for copies/comments through 8/10/09: John Therriault, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-3620. For more information: Kathleen Crowley at the same address, 312/814-6929; e-mail: [crowlek@ipcb.state.il.us](mailto:crowlek@ipcb.state.il.us). Please reference docket R09-20. PCB has scheduled a public hearing for the proposed rulemaking on 7/23/09 at 1:00 p.m. at the Illinois Environmental Protection Agency, Room 1244N, First Floor, 1021 North Grand Avenue East in Springfield.

# The Flinn Report

# Illinois Regulation

*Illinois General Assembly*

Joint Committee on Administrative Rules  
700 Stratton Building Springfield IL 62706

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## 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 14, 2009 meeting.

### SECRETARY OF STATE

"Issuance of Licenses" (92 Ill Adm Code 1030) proposed 5/1/09 (33 Ill Reg 6243)

### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"State of Illinois Medical Care Assistance Plan" (80 Ill Adm Code 2120) proposed 4/24/09 (33 Ill Reg 5988)

### DEPARTMENT OF HUMAN SERVICES

"Food Stamps" (89 Ill Adm Code 121) proposed 3/27/09 (33 Ill Reg 4537)

"General Administrative Provisions" (89 Ill Adm Code 10) proposed 3/27/09 (33 Ill Reg 4500)

"Food Stamps" (89 Ill Adm Code 121) proposed 4/3/09 (33 Ill Reg 4811)

### DEPARTMENT OF HUMAN RIGHTS

"Procedures of the Department of Human Rights" (56 Ill Adm Code 2520) proposed 5/1/09 (33 Ill Reg 6236)