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Joint Committee on Administrative Rules
Illinois General Assembly

700 Stratton Office Bldg., Springfield IL 62706
217/785-2254 ilga.gov/commission/jcar

VOL. 33

October 9, 2009

Issue 41

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

HEALTH CENTERS

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled "Community Health Center Expansion" (77 Ill Adm Code 975; 33 Ill Reg 3940), effective 9/25/09, that implements Public Act 92-88 (Community Health Center Expansion Act), which created this Part's grant program; P.A. 93-700, which added ovarian cancer treatment to the list of preventive health services; and P.A. 95-96, which provided for sustaining funds for grantees who can demonstrate continued financial need. Covered topics include eligibility for grants to expand not-for-profit, federally-qualified, health center programs; grant award criteria; acceptable grant money expenditures; application evaluation procedures; required grantee reporting; and public comment procedures. Health centers that desire to apply for expansion grants will be affected by this rulemaking.

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

PODIATRIST LICENSURE

The DEPARTMENT OF FINANCIAL

AND PROFESSIONAL REGULATION adopted an amendment to rules titled "Podiatric Medical Practice Act of 1987" (68 Ill Adm Code 1360; 33 Ill Reg 9225), effective 9/28/09, implementing a provision of Public Act 95-235, which increases the annual continuing education (CE) hours required for podiatry licensure renewal from 25 to 50. Each licensure period is 24 months, in which a licensure renewal applicant is required to accrue 100 CE hours. Podiatrists with their own practice or small businesses employing podiatrists may be impacted by this rulemaking.

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

FOOD STAMPS

The DEPARTMENT OF HUMAN SERVICES adopted amendments to "Food Stamps" (89 Ill Adm Code 121; 33 Ill Reg 4062), effective 9/22/09. A companion emergency rulemaking became effective 2/24/09 and expired 7/23/09. The rulemaking implements provisions in the federal Food, Conservation and Energy Act of 2008 (FCEA) (Public Law 110-246) by re-

(cont'd next page)

Proposed Regulations

RADIOACTIVE WASTE DISPOSAL

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed repealing "Licensing Requirements for Land Disposal of Radioactive Waste" (32 Ill Adm Code 601; 33 Ill Reg 13976) and "Requirements for the Disposal of Low-Level Radioactive Waste Away from the Point of Generation" (32 Ill Adm Code 606; 33 Ill Reg 14039) and proposed updating and merging the subject matter of the two repealed Parts into a new Part titled "Licensing Requirements for a Low-Level Radioactive Waste Disposal Facility" (32 Ill Adm Code 601; 33 Ill Reg 14006). Topics covered include application and licensure requirements; site, facility, and unit design; construction and operation requirements; facility closure; and license termination requirements. IEMA states that the only major difference between the repealed Parts and the new text is the proposed elimination of the requirement that the facility be operated so that no person outside the disposal facility boundary receives a radiation dose of one millirem per year to the whole body as a result of the facility operations.

Questions/requests for copies/comments through 11/23/09: Louise Michels, IEMA, 1035 Outer Park Dr., Springfield IL 62704, 217/785-9876, TDD 217/782-6133. A public hearing is scheduled for the 3 rulemakings above

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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.

New Regulations

moving obsolete rules and references to food stamp coupons because federal law voided such coupons as legal tender and prohibited states from issuing coupons after 6/18/2008. An additional change reflects the food stamp statute's new title, which is the Food and Nutrition Act of 2008.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

IEMA HEARINGS

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments to "Administrative Hearings" (32 Ill Adm Code 200; 33 Ill Reg 6592), effective 9/28/09, to reflect Executive Order 12's transfer of the Department of Nuclear Safety to IEMA in 2003 by changing agency name references from DNS to IEMA. The amendments further stipulate that, upon notice from IEMA that a respondent in a hearing concerning matters raised in a preliminary order or licensure denial is required to have an attorney, the attorney has 30 days to enter an appearance. If no appearance is filed, the hearing request will be considered withdrawn and the preliminary order or licensure denial will be a final and

binding administrative determination. Finally, the amendments reflect the statutory provision that the IEMA director's final decision will be considered to be a final and binding administrative order subject to the Administrative Review Law.

Questions/requests for copies: Louise Michels, IEMA, 1035 Outer Park Dr., Springfield IL 62704, 217/785-9876, TDD 217/782-6133.

INCOME TAX

The DEPARTMENT OF REVENUE adopted an amendment to "Income Tax" (86 Ill Adm Code 100; 33 Ill Reg 7570), effective 9/28/09, requiring payroll service providers who are required to file federal withholding tax returns electronically to also file Illinois withholding tax returns for calendar year 2010 and thereafter in the same electronic format. (Those filing returns on behalf of fewer than 250 employers must file Form IL-941.) The same electronic filing requirement also applies to the payroll providers filing W-2 information beginning after calendar year 2007 and to all employers providing W-2 information after 2008. A change since 1st Notice combines two separately proposed rulemakings (one

concerning filing withholding tax returns and one concerning W-2 filings) into this week's one adopted rulemaking. Payroll service providers who file at least 250 federal withholding returns annually and provide withholding tax services for Illinois employers will be affected by this rulemaking.

Questions/requests for copies: Paul Caselton, DOR, Legal Services Office, 101 W. Jefferson, Springfield IL 62794, 217/782-7055.

MOTORCYCLE LICENSES

The SECRETARY OF STATE adopted an amendment to "Issuance of Licenses" (92 Ill Adm Code 1030; 33 Ill Reg 8890), effective 9/28/09, 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: Arlene J. Pulley, SOS, 2701 S. Dirksen Pkwy. Springfield IL 62723, 217/557-4462.

Proposed Regulations

on Tuesday, 11/17/09, 1:00 – 4:00 p.m. at IEMA's Springfield office. A Notice of Publication Error and Notice of Public Hearing will appear in next week's *Illinois Register* to correct a misprint of the hearing date published for one of these 3 rulemakings in this week's Register.

tain oral pharmaceutical agents if they receive training in the use of such agents. DFPR initially reflected this change in rules adopted in February, and this week's proposed amendments further implement this policy by revising licensure by endorsement provisions for applicants who were licensed outside of Illinois in order to grandfather in individuals who graduated from a DFPR-approved optometry program between 1/1/94 and 12/31/07. Affected applicants must submit proof of completion of a DFPR-approved optometry program and evidence that the applicant has practiced optometry for at least 5 years using oral ocular pharmaceutical agents or has completed a course in ocular pharma-

ceutical agents. (Ocular pharmaceutical agents include, but are not limited to, topically applied medicines such as anesthetics and anti-glaucoma agents and also non-narcotic oral analgesic agents.) This rulemaking may impact optometrists seeking licensure in Illinois by endorsement.

Questions/requests for copies/comments through 11/23/09: Craig Cellini at the DFPR address and telephone number above.

OPTOMETRISTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to rules titled "Optometric Practice Act of 1987" (68 Ill Adm Code 1320; 33 Ill Reg 13966), which implement Public Act 95-242. This statutory change authorizes optometrists to utilize and prescribe cer-

PUBLIC PENSIONS

The DEPARTMENT OF INSURANCE proposed two new Parts titled "IRS Qualification Status for Article 3 Po-

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lice Pension Funds" (50 Ill Adm Code 4440; 33 Ill Reg 14067) and "IRS Qualification Status for Article 4 Firefighter Pension Funds" (50 Ill Adm Code 4445; 33 Ill Reg 14089). The new provisions permit the pension funds to confirm Internal Revenue Service qualified plan status for purposes of obtaining federal tax benefits under the Internal Revenue Code. Federal law requires that the pension plan document, State law, or rule must incorporate federal statutory provisions. The rules establish rollover provisions whereby amounts may be transferred to another eligible retirement plan (e.g., an IRA, individual retirement annuity, qualified trust, or deferred compensation plan as permitted by federal Internal Revenue Code provisions). Minimum required distribution provisions are prescribed (such as those required under an IRA after an individual has reached 70 ½ years of age). Federal monetary limitations on contributions to, and benefits under, a qualified pension plan are stated in the rulemaking, as are provisions governing how cost-of-living adjustments, purchase of permissive service credit, and repurchase of prior cash-outs of contributions impact those limits. The Part concerning police pension funds has an additional section concerning involuntary lump-sum distributions, stating they will not be made except when the distribution is made on behalf of a member who is at least normal retirement age, does not exceed \$1000, and is made to a survivor or beneficiary of the member.

Questions/requests for copies/comments through 11/23/09: Eve Blackwell-Lewis (217/782-2867) or Susan Anders (217/785-8220), DOI, 320 W. Washington, 4th Fl., Springfield IL 62767-0001.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed an amendment to "Extensions of Jurisdiction" (80 Ill. Adm. Code 305; 33 Ill. Reg. 13962) extending the Personnel Code to DCMS Bureau of Communication and Computer Services em-

ployees who perform work as network or systems engineers, managers, or fiscal and support staff and who were transferred to DCMS from the Board of Higher Education's Illinois Century Network or from the Department of Transportation information technology staff. Employees to whom the Code was extended have 6 months to qualify by examination for comparable positions at DCMS.

STATE OFFICE BUILDINGS

DCMS also announced withdrawal of proposed amendments to "Acquisition, Management and Disposal of Real Property" (44 Ill Adm Code 5000; 33 Ill Reg 11741) that were published in the 8/14/09 *Illinois Register* to update office space standards for State facilities. The rulemaking replaced existing office space standards linked to employee job titles or duties (e.g., 50 to 75 sq. ft. for a receptionist, 250 to 300 sq. ft. for an executive) with standards designed to promote economy and energy efficiency, according to DCMS. The Department states that a new rulemaking on this subject will be proposed at a later date.

Questions/requests for copies/comments concerning the Part 305 DCMS rulemaking above until 11/23/09: Gina Wilson, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/785-1793.

BUSINESS CORPORATIONS

The SECRETARY OF STATE (Business Services Department) announced withdrawal of proposed amendments to rules titled "Business Corporation Act" (14 Ill Adm Code 150; 33 Ill Reg 12375) that were published in the 9/4/09 *Illinois Register*. The rulemaking prescribed a fee for a search by name of a corporation's registered agent, president, and secretary in the SOS database of registered corporations; codified longstanding SOS policy concerning when a corporation's stocks and securities are considered property located in Illinois and income from them counted as part of

the corporation's business transacted in Illinois; and implemented a 1999 Illinois court ruling stating that all amounts transferred from a corporation's retained earnings or from any other entry in its stockholders' equity to its paid-in capital are subject to all franchise taxes imposed by the Business Corporation Act. Small businesses that are corporations would have been affected by this rulemaking.

Questions/requests for copies: Robert Durchholz, Office of the SOS, 501 S. 2nd St., Rm. 330, Springfield IL 62756, 217/782-4909.

RADIOACTIVE MATERIAL

The ILLINOIS EMERGENCY MANAGEMENT AGENCY issued a Notice of Correction to Notice Only for proposed amendments to "Licensing of Radioactive Material" (32 Ill Adm Code 330; 33 Ill Reg 12061) that were published in the 8/28/09 *Illinois Register*. The rulemaking establishes conditions under which producers or possessors of water and sewage treatment residuals or sludges containing naturally occurring radium below a specific level will be exempt from specified registration, licensure, fee, and reporting requirements. Additional amendments establish requirements for the disposal and analysis of these residuals and sludges. The correction to the rulemaking's notice page adds a list of 13 studies, reports, and sources of data used when IEMA drafted the rulemaking. Those affected by this rulemaking include small municipalities that produce or possess water and sewage treatment residuals or sludges.

Questions/requests for copies: Louise Michels, at the IEMA address and telephone number above.

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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 DCFS and IFA rulemakings will be considered at JCAR's October 14, 2009 meeting, and the SOS rulemaking will be considered at JCAR's November 17, 2009 meeting.

DEPARTMENT OF CHILDREN AND FAMILY SERVICES

"Foster Parent Code" (89 Ill Adm Code 340) proposed 7/6/09 (33 Ill Reg 9221)

ILLINOIS FINANCE AUTHORITY

"Illinois Finance Authority" (74 Ill Adm Code 1100) proposed 5/1/09 (33 Ill Reg 6130)

SECRETARY OF STATE

"School Bus Driver Permit" (92 Ill Adm Code 1035) proposed 7/31/09 (33 Ill Reg 11257)