

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

VIDEO GAMING

The ILLINOIS GAMING BOARD adopted amendments to "Video Gaming (General)" (11 Ill Adm Code 1800; 36 Ill Reg 12699 and 12949), effective 11/21/12, that combine two separate proposed amendments. The rulemaking repeals a provision requiring video gaming terminals to be blocked from view. IGB deemed this change necessary because several municipalities have liquor ordinances that require establishments to have clear views. Repealing the provision eliminates the conflict and allows affected establishments to have video gaming terminals. The rulemaking also requires licensed operators to keep one bank account for each video gaming location he or she operates. An identical emergency rulemaking appeared in the *Illinois Register* at 36 Ill Reg 12699, effective 7/24/12. This provision implements Section 15(15) of the Illinois Video Gaming Act [23 ILCS 40]. Video gaming operators and licensed facilities are affected by this rulemaking.

Questions/requests for copies: Lynn Carter, IGB, 160 N. LaSalle St., Chicago IL 60601, 312/814-7253.

MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to "Medical Assistance Programs" (89 Ill Adm Code 120; 35 Ill Reg 19635 and 19337), effective 11/26/12, concerning medical assistance coverage for non-U.S. citizens and Medicaid income exclusions. The rulemaking (which combines two separate proposed amendments) modifies the definition of emergency medical treatment to mean services needed "as a result" of an acute medical condition, instead of "after the sudden onset" of the condition. (With some exceptions, DHFS rules impose a 5-year waiting period before legally resident non-citizens may qualify for medical assistance. However, any non-citizen who meets financial eligibility criteria may receive assistance for emergency medical care.) According to DHFS, the rulemaking was prompted by an Illinois appellate court determination in *Arellano vs. Department of Human Services and Department of Healthcare and Family Services* that stated limiting coverage to instances of "sudden onset" of a medical condition was impermissible and not supported by federal law. The rulemaking

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ASBESTOS ABATEMENT

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Asbestos Abatement for Public and Private Schools and Commercial and Public Buildings in Illinois" (77 Ill Adm Code 855; 36 Ill Reg 16804) that implement Public Act 93-894. PA 93-894 requires DPH to license asbestos abatement consultants and establishes licensing requirements for these consultants. The rulemaking implements statute by integrating commercial and public building asbestos abatement and making requirements for such abatement consistent with school asbestos abatement requirements. In addition to establishing licensure application procedures and requirements for asbestos abatement consultants, the rulemaking also revises licensure application requirements and responsibilities for asbestos inspectors, asbestos abatement contractors, asbestos consultants and air sampling professionals. DPH also clarified responsibilities of commercial and public building owners and commercial and public building inspection procedures. The amendments are too extensive to list in their entirety. For more information contact the agency at the ad-

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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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also implements federal law (PL 111-25) that permits Medicaid applicants or recipients to exclude from countable income (for purposes of determining eligibility) up to \$2,000 annually in compensation received for participating in certain clinical trials (tests of experimental drugs, therapies or procedures). Hospitals and other medical providers may be affected by this rulemaking.

VETERANS' CARE

DHFS also adopted amendments to "Veterans' Health Insurance Program" (89 Ill Adm Code 128; 35 Ill Reg 19352), effective 11/26/12, implementing Public Act 95-755. The rulemaking extends Veterans Care Program coverage to spouses of veterans and institutes a flat rate premium of \$20 per month for veterans and an additional \$20 per month for their spouses. The former premiums of \$40 or \$70 per month for a veteran, depending on the veteran's income, will apply to backdated months of eligibility prior to 12/1/12. Rules concerning backdated coverage for spouses are included, also. The rulemaking also allows veterans who have been uninsured for at least 3 months (formerly 6 months) to qualify for coverage and clarifies that funeral and burial expenses are not covered. A change since 1st Notice sets 12/1/12 as the start date for spousal coverage and the new flat rate premium. Medical providers who care for veterans or their spouses may be affected by this rulemaking.

Questions/requests for copies of the 3 DHFS rulemakings: Jeanette Badrov, DHFS, 201 S. Grand Ave., East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

HORSE RACING

The ILLINOIS RACING BOARD adopted amendments to "Medication" (11 Ill Adm Code 603; 36 Ill Reg 12988), effective 11/28/12, to lower the threshold level of phenylbutazone from 5 to 2 micrograms. Penalties for

phenylbutazone, flunixin and ketoprofen are being changed to incorporate the penalties recommended by the Association of Racing Commissioners International. Caffeine is being added as an environmental contaminant and cannot exceed 100 nanograms per milliliter in a post-race sample.

Questions/requests for copies: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

WORKERS' COMPENSATION

The WORKERS' COMPENSATION COMMISSION adopted amendments to "Miscellaneous" (50 Ill Adm Code 7110; 36 Ill Reg 13012), effective 11/20/12, concerning "repackaged" drugs (drugs purchased, repackaged and distributed in different quantities) commonly dispensed by physicians in their offices, to set pricing standards for any prescription outside of a licensed pharmacy. These prescriptions shall be billed at the Average Wholesale Price (AWP), as registered by the National Drug Code and as set forth and published in Medispan, with a dispensing fee of \$4.18. For a repackaged drug, the AWP to be used shall be the AWP for the underlying drug product as identified by its National Drug Code from the original labeler. Physicians who treat workers' comp patients are affected by this rulemaking.

Questions/requests for copies through 10/1/12: Kimberly Janas, IWCC, 100 W. Randolph St., Ste. 8-200, Chicago IL 60601, 312/814-6559, Fax: 312/814-3520, e-mail: kimberly.janas@illinois.gov.

VEHICLE TITLES AND PLATES

The SECRETARY OF STATE adopted amendments to "Collection of Fees" (92 Ill Adm Code 1003; 36 Ill Reg 13519) and "Certificates of Title, Registration of Vehicles" (92 Ill Adm Code 1010; 36 Ill Reg 13525), both effective 11/20/12. The Part 1003 amendments allow for an unused vehicle sticker to

be refunded. Formerly, when canceling a vehicle registration or seeking a refund, a notarized statement with the last date of operation was required. The amendment allows for any statement with the last date of operation. When a vehicle is not going to be operated for a registration year, then a statement explaining this must be returned with the registration sticker; plates no longer need to be returned. When a registrant dies the registration plates or sticker (formerly, only the plates) must be returned in accordance with the Illinois Vehicle Code. If a vehicle registration is a duplicate, only the duplicate sticker must be returned. Any title-related application will only be refunded if it has not been processed by the SOS. The amendment also updates the address of the Department of Accounting Revenue, Refund Division to Room 222, Howlett Building, Springfield IL 62756. The Part 1010 amendments allow for refunds on electronic registration and titling (ERT) title transactions only if the application has not been processed by the SOS. Also, starting on 1/1/13, all franchised new car dealers must use an ERT program to submit title and registration applications. Those affected by these rulemakings include car dealers and other businesses that perform ERT transactions.

Questions/requests for copies of the 2 SOS rulemakings: Cynthia Grant, Assistant General Counsel, 298 Howlett Building, Springfield IL 62756, 217/785-3094, e-mail: cgrant@ilsos.net.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted preemptory amendments to "Pay Plan" (80 Ill Adm Code 310; 36 Ill Reg 17138), effective 11/20/12, implementing a memorandum of understanding with the American Federation of State, County and Municipal Employees that assigns AFSCME bargaining unit pay grades to the Public Service Administrator (PSA) title options 9A (certified internal auditor) and 9B (certified information systems auditor). Accord-

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ing to DCMS, no State employees are affected at this time because the PSA options listed are not currently filled.

Questions/requests for copies: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/785-7964, fax 217/524-4570, e-mail: CMS.Pay.Plan@illinois.gov.

HORSE RACING

The ILLINOIS RACING BOARD adopted an emergency amendment to "Medication" (11 Ill Adm Code 603; 36 Ill Reg 17131), effective 11/28/12, for a maximum of 150 days, that updates an incorporation by reference to Association of Racing Commis-

sioners International Uniform Classification Guidelines for Foreign Substances to reflect penalties for Class 4 and 5 drug violations.

Questions/requests for copies: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

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dress below. This rulemaking may impact owners of commercial and public buildings subject to these new regulations, asbestos inspectors, asbestos abatement contractors, asbestos consultants and air sampling professionals.

Questions/requests for copies/comments through 1/22/13: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL, 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

have prior approval in writing from the State Library. The Penny Severns' Grant Program is being repealed. Literacy grants shall be subject to the general grant financial limitations and audit requirements in Section 3035.140 of the rule. Some grant assurances for Live and Learn Construction grants may be waived if approved by the State Library, but Prevailing Wage Act and Illinois Human Rights Act requirements shall not be waived. Large construction grants over \$200,000 will no longer be required to spend 5% of the grant amount on artwork. The Library is dropping its requirement that bids for a construction project cannot be let until a grant contract with the Library has been signed. Guidelines for rating of life safety or legal issues and American with Disabilities Act provisions are being repealed. This rulemaking may affect small businesses that perform work funded by these grants.

Questions/requests for copies/comments through 1/22/13: Joe Natale, Illinois State Library, Gwendolyn Brooks Bldg., Springfield IL 62701-1796, 217/558-4185, e-mail: jnatale@ilsos.net.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to "Organ Donor Leave" (80 Ill Adm Code 332; 36 Ill Reg 16800) to permit State employees leave "up to 1 ½ hours or more" to donate double units of red blood cells every 112 days. This leave is not to be granted more than 3 times in any 12-month period. The rulemaking also changes the name of the Part to "Organ and Blood Donor Leave".

Questions/requests for copies/comments through 1/22/13: Mary Matheny, 720 Stratton Bldg., Springfield IL 62706, 217/557-5404.

STATE LIBRARY GRANTS

The SECRETARY OF STATE (State Library) proposed amendments to "Illinois State Library Grant Programs" (23 Ill Adm Code 3035; 36 Ill Reg 16997) primarily to unify various individual library grant requirements. Grant applicants shall use an application format on the State Library website. Changes in a grant project budget over 10% of the grant award must

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The State Universities Civil Service System rulemaking will be considered at JCAR's December 11, 2012 meeting, while the remaining rulemakings will be considered at JCAR's January 8, 2013 meeting.

STATE UNIVERSITIES CIVIL SERVICE SYSTEM

"State Universities Civil Service System" (80 Ill Adm Code 250) proposed 9/28/12 (36 Ill Reg 14500)

DEPARTMENT OF PUBLIC HEALTH

"Skilled Nursing and Intermediate Care Facilities Code" (77 Ill Adm Code 300) proposed 7/17/12 (36 Ill Reg 11894)

"Illinois Veterans' Homes Code" (77 Ill Adm Code 340) proposed 8/3/12 (36 Ill Reg 12238)

"Sheltered Care Facilities Code" (77 Ill Adm Code 330) proposed 7/27/12 (36 Ill Reg 11911)

"Physical Fitness Facility Medical Emergency Preparedness Code" (77 Ill Adm Code 527) proposed 10/5/12 (36 Ill Reg 14608)

"Pregnancy Termination Report Code" (77 Ill Adm Code 505) proposed 9/21/12 (36 Ill Reg 14129)

DEPARTMENT OF CORRECTIONS

"Rights and Privileges" (20 Ill Adm Code 525) proposed 10/5/12 (36 Ill Reg 14540)

"Impact Incarceration Program" (20 Ill Adm Code 460) proposed 10/5/12 (36 Ill Reg 14536)