

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

HOSPITAL READMISSIONS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to "Hospital Reimbursement Changes" (89 Ill Adm Code 152; 37 Ill Reg 282), effective 1/1/13 through 6/30/13, implementing provisions of Public Act 97-689 (SMART Act) concerning potentially preventable readmissions (PPRs). Effective 1/1/13, hospitals that experience PPRs in excess of a targeted rate of readmission determined for each hospital by DHFS will have their payment rates reduced. A readmission is defined as a subsequent inpatient admission, to the same hospital or to another, that occurs within 30 days after discharge from a previous admission and is clinically related to the previous admission. DHFS will use software created by the 3M Corporation to determine whether a readmission was potentially preventable. The emergency rule specifies which types of readmissions are excluded from PPR calculations (e.g., planned readmissions, admissions for non-acute care, readmissions of Medicare/Medicaid dual eligible patients) and establishes methodologies for calculating a hospital's targeted and actual rates of readmission and its payment reduction, if

applicable. Targeted rates of readmission and payment reductions will be further adjusted in order to achieve savings specified in the SMART Act of at least \$40 million in FY13. Hospitals are affected by this rule.

MEDICAL ASSISTANCE

DHFS also adopted an emergency amendment to "Medical Payment" (89 Ill Adm Code 140; 37 Ill Reg 253), effective 1/1/13 through 6/30/13, that permits federally qualified health centers (FQHCs) and rural health clinics (RHCs) to submit fee-for-service billings for implantable contraceptive devices if the facilities purchase the devices under the federal 340B Drug Pricing Program. A companion proposed amendment appears in this issue of the *Illinois Register* at 37 Ill Reg 18. For dates of service from 7/1/12 through 6/30/13, a physician or advanced practice nurse may submit fee-for-service billings and designate the FQHC or RHC as the alternate payee. On and after 7/1/13, the facility itself may submit fee-for-service billings. The devices themselves must be billed at the facility's actual acquisition cost. A separate encounter payment will be made to the facility for

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IMMUNIZATIONS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Child Health Examination Code" (77 Ill Adm Code 665; 37 Ill Reg 60) and "Immunization Code" (77 Ill Adm Code 695; 37 Ill Reg 77) updating schedules of required immunizations for children enrolled in school or day care in accordance with current medical recommendations and practices. The rulemakings add vaccination against invasive pneumococcal disease as a required immunization for children under age 5 entering preschool or day care, and require two varicella (chickenpox) vaccinations, or other proof of immunity, for children entering kindergarten, 6th grade or 9th grade beginning with the 2014-15 school year. Children under age 2 must have multiple pneumococcal vaccinations according to the prescribed schedule (outlined in an appendix), while children ages 2 to 5 who have not been vaccinated according to this schedule must show proof of having received one vaccination. Proof of pneumococcal vaccination is not required for children who have reached their 5th birthday. The rulemakings also require two doses of mumps and rubella

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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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implanting the device. Clinics and other facilities meeting the definition of an FQHC or RHC may be affected.

Questions/requests for copies of the 2 DHFS emergency rules or comments on the proposed rulemaking through 2/18/13: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

GAS PIPELINES

The ILLINOIS COMMERCE COMMISSION adopted an amendment to "Reports of Accidents or Incidents by Persons Engaging in Transportation of Gas, or Who Own or Operate Gas Pipeline Facilities" (83 Ill Adm Code 595; 35 Ill Reg 4861), effective 1/1/13, that incorporates by reference the definition of "accident or incident" used by the U.S. Department of Transportation's (USDOT) Pipeline and Hazardous Materials Safety Administration at 49 CFR 191.3 in place of the current definition. It defines "accident or incident" as an event that causes gas to escape from pipeline facilities or liquified natural gas facilities. The Gas Pipeline Safety Act requires states that have been delegated the authority to carry out gas pipeline safety enforcement to have rules at least as stringent as, and compatible with, the minimum safety standards adopted by USDOT. Small businesses that own, operate, or repair gas pipelines may be affected by this rulemaking.

Questions/requests for copies: Elizabeth Rolando, Chief Clerk, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

FINANCIAL REGULATION

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to "Payday Loan Reform Act" (38 Ill Adm Code 210; 36 Ill Reg 3605), effective 2/19/13 implementing federal law concerning payday loans to members of the military and their dependents. A lender may not impose an annual percentage rate of interest greater than 36%,

and must provide to the member or dependent orally and in writing a statement of the annual interest rate applicable to the loan, any disclosure required under the federal Truth in Lending Act and a clear description of the payment obligations of the member or dependent. A lender may not require the covered member or dependent to submit to arbitration or impose onerous legal notice provisions in the case of a dispute, or demand unreasonable notice from a covered member or dependent. A lender may not use a check or other method of access to a deposit, savings or other financial account maintained by the covered member or dependent, or the title of a vehicle as security for the loan obligation. Lenders may not prohibit prepayment of a loan or charge a penalty for prepaying all or part of a loan. This rulemaking will affect payday lenders.

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

PERINATAL AIDS PREVENTION

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Perinatal HIV Prevention Code" (77 Ill Adm Code 699; 36 Ill Reg 2060), effective 12/18/12, that implement provisions of Public Acts 94-910 and 95-702, update the Part to correspond with new laboratory testing methodologies approved by the U.S. Food and Drug Administration, and provide requirements for follow-up services during the perinatal period (before, during and immediately after birth). For a living or deceased adult 18 years or older, persons in civil unions are added to the list of those individuals who may consent to HIV testing and/or disclosure of HIV test results. Telephone reporting of positive HIV tests and reporting of perinatal HIV exposure for a person under age 13 when caring for a newborn is required, and the monthly statistics that health care facilities must report are listed. Appendices containing sample writ-

ten informed consent forms are repealed because the Perinatal HIV Prevention Act no longer requires that informed consent be provided in a written format. Since 1st Notice, DPH removed a provision requiring immediate telephone reporting of preliminary positive rapid HIV test results in pregnant outpatients. Instead, any preliminary positive result shall be followed by supplemental testing and reporting of the results to the Department's 24-hour Perinatal HIV Hotline. Those affected by this rulemaking include health care facilities and medical personnel providing prenatal medical care or labor and delivery services.

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.

TEACHER EDUCATION

The STATE BOARD OF EDUCATION adopted amendments to "Certification" (23 Ill Adm Code 25; 36 Ill Reg 13480), effective 12/19/12, that permit applicants for Illinois educator preparation programs to substitute satisfactory ACT or SAT scores for passage of the Test of Academic Proficiency (TAP) (formerly the Illinois Basic Skills Test) provided that the test scores are no more than 10 years old, the test included a writing component, and the applicant has not failed the TAP 5 times or more. SBE will post the threshold scores for each exam on its website (current thresholds are 1030 for the SAT and 22 for the ACT). The rulemaking also permits educator preparation programs to provisionally admit candidates who have not yet passed all 4 TAP subtests, provided that the candidate has passed at least one subtest, the program provides support and remediation to help the candidate pass the remaining tests, and the candidate is fully admitted to the program at least one semester before he or she is scheduled to begin student teaching. Since 1st Notice, SBE has extended (from 5 to 10 years) the length of time that

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SAT and ACT scores remain valid substitutes for TAP results, specified how the minimum SAT and ACT scores will be determined, and clarified that can-

didates must pass their content-area tests before beginning the last semester or term of their internships.

Questions/requests for copies: Kellee Sullivan, SBE, 100 N. First St., S-306, Springfield IL 62777, 217/557-6763.

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vaccine to match the two-dose requirement for measles vaccination since all three vaccines are normally combined. Other provisions clarify requirements for tetanus, diphtheria and pertussis (Tdap) vaccination applicable to children entering grades 6 through 12 and allow advanced practice nurses or physician assistants (in addition to physicians) to verify in writing medical reasons for exempting a child from one or more immunizations. This rulemaking will affect schools, day care facilities, and medical providers.

designee; and clarify that an EMT candidate who has failed the licensing exam twice can take a refresher course instead of repeating the initial training program. Hospitals and EMS services are affected by this rulemaking.

include notification/response, movement to safe areas, accounting for all occupants, and communication and coordination with first responders. The amendments also set forth the rules for the Textbook Block Grant Program, which provides funds to help nonpublic schools purchase secular textbooks that have been preapproved by SBE. The rules require grant recipients to maintain records (title and ISBN or book description; quantity received; total cost of textbooks ordered) for any textbooks purchased under this program for 3 years following the school year in which they were purchased. Schools that violate the terms of the program will be required to return to SBE any funds expended on noncompliant textbooks. Private and parochial schools that maintain SBE recognition are affected.

☞ EMERGENCY MEDICAL SERVICES

DPH also proposed amendments to "Emergency Medical Services and Trauma Center Code" (77 Ill Adm Code 515; 37 Ill Reg 21). The rulemaking requires registered nurses, nurse practitioners and physician assistants employed by out of State hospitals that participate in the Illinois trauma center or pediatric EMS programs to hold an unencumbered license in the state in which they practice. The rulemaking also requires hospitals to report bypass status (temporarily unable to receive patients because operating rooms or beds are at capacity or due to an internal emergency such as a power outage) via online status updates entered into the Illinois Hospital Bypass/State Disaster Reporting System. If the hospital is unable to access the online system, it shall notify the system of its bypass status via fax. Other provisions set requirements for Veterans' Administration facilities that wish to participate in an EMS system, including agreement to accept non-veteran patients during disaster, overload or bypass situations; provide for administrative hearings conducted by the DPH director or a

☞ MILK PRODUCTS

DPH proposed amendments to "Grade A Pasteurized Milk and Milk Products" (77 Ill Adm Code 775; 37 Ill Reg 98) updating incorporations by reference of federal Food and Drug Administration documents. The updated documents and standards cover, among other topics, testing of nonfat dry milk and dry dairy products, reading of thermometers and other equipment, chemical and bacteriological testing, and sampling and testing of heat-treated milk products. Dairy producers and processors, bulk milk haulers and samplers, and owners of milk trucks are affected by this rulemaking.

Questions/requests for copies/comments on the 4 DPH rulemakings above through 2/18/12: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

Questions/requests for copies/comments through 2/19/13: Shelley Helton, Agency Rules Coordinator, Illinois State Board of Education, 100 North First Street, S-493, Springfield, Illinois 62777-0001, 217/782-5270, e-mail: rules@isbe.net.

☞ NONPUBLIC SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to "Voluntary Registration and Recognition of Nonpublic Schools" (23 Ill Adm Code 425; 37 Ill Reg 1). The first change clarifies that recognized nonpublic schools are subject to the rules implementing the School Safety Drill Act, jointly issued by SBE and the Office of the State Fire Marshal. Previously, these schools were required to comply with the statute only. Schools' required safety drill procedures in-

NURSING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled "Nurse Practice Act" (68 Ill. Adm. Code 1300, 37 Ill Reg 12) to clarify who can be delegated duties at an End Stage Renal Dialysis Facility. A person may only be delegated duties if he or she currently holds or is in the process of earning one of the following certifications: Certified Clinical Hemodialysis Technician, Certified Hemodialysis Technician, or Certified in Clinical Nephrology Technology. Administering medication cannot be

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delegated, except for saline flushes and applying topical anesthetics. Kidney dialysis centers are affected.

Questions/requests for copies/comments through 2/18/13: Craig Cellini, 320 W. Washington, 3rd Floor, Springfield IL 62786, 217/785-0813.

tivity Buses" (92 Ill. Adm. Code 435, 37 Ill Reg 117) and "Inspection Procedures for Multifunction School Activity Buses" (92 Ill. Adm. Code 436, 37 Ill Reg 148) to apply the standards and procedures to buses owned and operated by private schools. Metric conversion standards are also added to correspond with the federal Motor Vehicle Safety Standards. Additionally, the rulemakings clarify that the child check system is required, not optional, and adds requirements for the dashboard. The rulemakings update requirements for the crossing

control arm, lettering for emergency doors and exits, front turn signals and radio speakers. Finally, the rulemakings remove the restriction on book and luggage racks and delete the height requirement for passenger seat back cushions. Nonpublic schools that operate multifunction activity buses are affected.

Questions/requests for copies/comments on the 2DOT rulemakings through 2/18/13: Christine Caronna-Beard, IDOT, 2300 S. Dirksen Parkway, Room 317, Spfld., IL 62764, 217/524-3838.

SCHOOL BUSES

The DEPARTMENT OF TRANSPORTATION proposed amendments to "Minimum Safety Standards for Construction of Multifunction School Ac-

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 February 5, 2013 meeting.

ILLINOIS HEALTH FACILITIES AND SERVICES REVIEW BOARD

"Health Facilities Planning Procedural Rules" (77 Ill Adm Code 1130) proposed 4/27/12 (36 Ill Reg 6210)

SECRETARY OF STATE

"Illinois Safety Responsibility Law" (92 Ill Adm Code 1070) proposed 11/2/12 (36 Ill Reg 15413)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Maggie Crotty

Representative Lou Lang

Senator Don Harmon

Representative Don Moffitt

Senator John O. Jones

Representative Rosemary Mulligan

Senator Dale A. Righter

Representative Angelo "Skip" Saviano

Senator Ira Silverstein

Representative Andre Thapedi

**Vicki Thomas
Executive Director**