

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

RIVERBOAT GAMBLING

The ILLINOIS GAMING BOARD adopted amendments to "Riverboat Gambling" (86 Ill Adm Code 3000; 37 Ill Reg 14378), effective 1/8/14, requiring supplier licensees to submit their renewal application materials 90 days (currently 60) before the end of the renewal period. Additionally, only IGB staff or owner licensee's approved surveillance employees may review surveillance video unless another person is specifically authorized by the Administrator or the viewing is pursuant to a lawful subpoena. Those affected by these amendments include riverboat casino suppliers and those engaging in video surveillance.

Questions/requests for copies: Emily Mattison, Illinois Gaming Board, 160 N. LaSalle St, Chicago, IL 60601, 312/814-7253, emily.mattison@igb.illinois.gov.

HEALTH FACILITIES

The HEALTH FACILITIES AND SERVICES REVIEW BOARD adopted amendments to "Narrative and Planning Policies" (77 Ill Adm Code 1100; 37 Ill Reg 3934), effective 2/1/14. A triennial hospital compliance re-certi-

fication provision that requires a licensed architect or engineer who is knowledgeable of the cited requirements and life safety codes to verify facility compliance is removed and a hospital's preparation of the annual bed report to coincide with its preparation of the Joint Commission-required "Statement of Conditions" is no longer required. Facilities must complete an annual bed report, granting DPH access to all files and information used in bed reports previously submitted to HFSRB for verification purposes. The action plan of correction requirement for patient rooms or care units that are not compliant with hospital licensure requirements is removed. The 10-year population projection variable used to determine need in a planning area is changed to 5-year population projection variable throughout the rulemaking. The 10-year need determination requirement for in-center hemodialysis or end stage renal disease stations using a 10-year population projection variable is eliminated. Finally, the definition of ambulatory surgical treatment center to reflect the statutory definition is revised and a definition for geographic service area is added. Since 1st No-

ABUSE INVESTIGATION

The DEPARTMENT ON AGING (DonA) proposed amendments to the Part titled "Elder Rights" (89 Ill Adm Code 270; 38 Ill Reg 2469). A companion emergency rule effective 12/31/13 appeared in last week's *Illinois Register* at 38 Ill Reg 2357. The rules implement Public Act 98-49, which transfers to DonA responsibility for investigating allegations of abuse, neglect, or financial exploitation of disabled adults ages 18-59 living in domestic settings (formerly handled by the DHS Office of Inspector General). The rulemaking changes the name of the Part to "Adult Protection and Advocacy Services", and DonA's Elder Abuse and Neglect Program is renamed Adult Protective Services. Fatality review teams are added to the services and activities provided by APS. Definitions are added or revised, and existing features of the Elder Abuse and Neglect Program are expanded, to include adults with disabilities. Those affected by this rulemaking include residential care facilities or homes for adults with disabilities, caregivers of disabled adults, and agencies or persons currently work-

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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

tice, the statutory definition of an ASTC has been replaced with a reference to the Ambulatory Surgical Treatment Center Act.

HFSRB also adopted amendments to "Health Facilities and Services Review Operational Rules" (77 Ill Adm Code 1130; 37 Ill Reg 7198), effective 2/1/14. The rulemaking removes an obsolete provision regarding addition of dialysis stations to an existing facility from the listing of projects and transactions that are exempt from the permit requirement for consistency. (HFSRB recently repealed the requirements from this Part.) HFSRB also clarified procedures for requesting a public hearing and presentation of public comment during the 1st Notice period. The rulemaking also clarifies that if an administrative hearing is not requested within the required time frame, the right to a hearing will be considered waived. Also, the rulemaking transfers responsibility for appointing a new administrative law judge (ALJ) when an ALJ is disqualified from the Director of IDPH to the HFSRB Chairman. Since 1st Notice, the time frame for requesting a hearing has been changed from 15 business days to 14 business days.

Questions/requests for copies of the 2 HFSRB rulemakings above:: Claire Burman, HFSRB, 122 S. Michigan Ave., 7th Fl., Chicago IL 60603, 312/814-8814, e-mail: Claire.Burman@illinois.gov.

ENVIRONMENTAL DATA

The NATURE PRESERVES COMMISSION (Department of Natural Resources) adopted a new Part titled "Inventories, Registers and Records" (17 Ill Adm Code 4020; 37 Ill Reg 7111), effective 1/10/14, addressing the type of data to be maintained in the Commission's Natural Heritage Database, conditions for using such data and fees to be charged for the use of this data. The rule defines "natural heritage data" as information on the biology, existence and locations of threatened and endangered species and these species' protective sta-

tus; inventories of natural features including, but not limited to, Illinois Natural Areas; and information on land and water reserves. Persons requesting information from the database for research, educational, or other purposes must file requests online or in writing and must sign a 1-year, renewable data licensing agreement stipulating conditions for use of the data. Data cannot be transferred to third parties, and data users must take reasonable precautions to keep the precise locations of threatened and endangered species confidential. A base fee of \$75 applies to each request, with additional fees of \$25 for detailed data requests on particular threatened and endangered species and \$50 per quadrangle for data on any of the 1,071 U.S. Geological Survey quadrangles in Illinois. Users of quadrangle data may request up to 3 updates in a calendar year. For an annual subscription fee of \$20,000 per year, users may obtain data for the entire State, updated at the beginning of each calendar quarter. Fees for custom data requests will be determined on a case-by-case basis. For natural heritage data accessed through DNR's EcoCAT system, a fee of \$25 will be charged and the base fee will be waived. The rulemaking allows discounts and waivers of additional fees when the request furthers the mission of DNR or the Commission (e.g., students working on a thesis or research project), but the base fee will still be charged, and the State retains ownership and licensing rights to the data provided. All fees will be deposited in DNR's Natural Areas Acquisition Fund. Those affected by this rulemaking include researchers, land developers, environmental groups and others who may request natural heritage data from the State.

Questions/requests for copies: Nick San Diego, DNR, One Natural Resources Way, Springfield IL 62701-1271, 217/558-1224.

CONTRACTOR LOANS

The DEPARTMENT OF TRANSPOR-

TATION adopted amendments to "Disadvantaged Business Revolving Loan Program" (92 Ill Adm Code 5; 37 Ill Reg 15513), effective 1/10/14, implementing Public Act 98-117, which established the Disadvantaged Business Revolving Loan and Grant Program. A companion emergency rulemaking effective 9/13/13 appeared in the *Illinois Register* at 37 Ill Reg 15531. The rulemaking defines a disadvantaged business enterprise (DBE) as stated in federal rule at 49 CFR 26 (a small business that is at least 51 percent owned by a person that is both socially and economically disadvantaged, as determined by DOT, with individuals such as Black or Native Americans, women and Asian Americans rebuttably presumed to be socially and economically disadvantaged). An applicant for a DBE loan must meet 7 criteria stated in the rule, including: the applicant must be certified as a DBE; the applicant must demonstrate at least 2 years' experience in transportation construction or construction-related projects; the applicant must have been denied a loan from two or more conventional lenders; if incorporated, the applicant (or a firm's owners or principals if not incorporated) must not have had a bankruptcy or foreclosure in the past five years; and the applicant must not be encumbered by tax liens, judgment liens, or be delinquent in payment of any debt to the State of Illinois. Loan applications must include evidence that the applicant meets the required 51% ownership level; a description of the need for the loan and how loan proceeds will be used; contact information for the applicant, including two references; letters of rejection from two or more conventional lenders; applicable financial information (federal income tax returns, profit/loss statements, balance sheets, IRAs); bank account balances for the previous 90 days; and a copy of an approved contract indicating the DBE has been selected for an DOT project. Loan applications will be accepted at any time, will be

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Proposed Regulations

ing with the Elder Abuse and Neglect Program.

Questions/requests for copies/comments through 3/10/14: Karen Alice Kloppe, DonA, One Natural Resources Way, Suite 100, Springfield IL 62702-1271, 217/785-3346.

Questions/requests for copies through 3/10/14: Craig Cellini, DFPR, 320 W. Washington, 3rd Floor, Springfield, IL 62786, 217/785-0813.

HEALTH AND SAFETY

The DEPARTMENT OF LABOR filed 2 rulemakings to "Health and Safety" (56 Ill Adm Code 350; 38 Ill Reg 2599 and 38 Ill Reg 2634) repealing the current Part and proposing a new Part. The new Part establishes health and safety standards for public sector work places in Illinois. The standards incorporate current Occupational Health and Safety Administration standards. Inspection criteria, including procedures for complaints from employees, protection of trade secrets and when informal reviews can be conducted, are established. Standards for the issuance of citations are set. Citations are issued after the Division Manager reviews the inspection report for alleged violations. Citations must be specific in nature and must provide a reasonable time for abatement. The employer may petition to modify the date in which the alleged violation must be abated if he or she has shown a good faith effort but cannot complete because of circumstances outside his or her control. Proposed penalties are set. Employers may contest citations and notices of proposed penalty in accordance with DOL's Rules of Procedure in Administrative Hearings. Specific procedures are established to verify abatement of alleged violations. Employers will be required to keep records of workplace related fatalities, injuries and illnesses. Examples include needle sticks, occupational hearing loss and TB. The rulemaking designates how to determine work-relatedness, new cases and what must be recorded. The Department may allow for variances from these standards.

Questions/requests for copies/comments on these 2 proposed rulemaking through 3/10/14: Cheryl Neff, DOL, 900 S. Spring St, Springfield, IL 62704, 217/

782-9386.

WATER QUALITY

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Certification and Operation of Environmental Laboratories" (77 Ill Adm Code 465; 38 Ill Reg 2723) that establish compliance with regulations published in the 2/13/13 Federal Register covering national primary drinking water regulations that include revisions to the Total Coliform rule. The rulemaking updates incorporated and referenced materials and repeals obsolete information contained in the appendix. The rulemaking also adds certification for Cryptosporidium by adding references to federal regulations and an EPA supplement.

FOOD SERVICE

Also, DPH proposed amendments to "Food Service Sanitation Code" (77 Ill Adm Code 750; 38 Ill Reg 2787) that implement provisions of Public Act 98-566. PA 98-566 reduced the required training hours for Food Service Sanitation Manager Certification (FSSMC) and changed the recertification and reciprocity approval process in the State of Illinois. The rulemaking updates incorporated and referenced materials, amends requirements for certification and recertification issuance, updates course content and course approval requirements, and amends reciprocity provisions. Food service businesses are affected.

Questions/requests for copies/comments concerning the 2 DPH rulemakings above through 3/10/14: Susan Meister, DPH, 535 W. Jefferson St., 5th Flr., Springfield IL, 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

HOME SERVICES PROGRAM

The DEPARTMENT OF HUMAN SERVICES proposed amendments to "Provider Requirements, Type Services,

COMMERCIAL FISHING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to the Part titled "Commercial Fishing and Musseling in Certain Waters of the State" (17 Ill Adm Code 830; 38 Ill Reg 2713) identical to a previously adopted emergency rule effective 12/2/13 at 37 Ill Reg 19912. The amendments increase the number of special use commercial fishing permits available for the following bodies of water: Rend Lake and Carlyle Lake (increased from 10 to 25 permits); Mississippi River Fish and Wildlife Area, Sangamon River, and Anderson Lake (from 5 to 15 permits); Kaskaskia River (10 to 20 permits); Saline River (3 to 6 permits); and Big Muddy River (3 to 10 permits). DNR states that the additional permits are necessary to facilitate removal of Asian carp and buffalo fish populations. This rule affects persons engaged in commercial fishing on the listed bodies of water.

Questions/requests for copies/comments through 3/10/14: Nick San Diego, DNR, One Natural Resources Way, Spfld IL 62702-1271, 217/782-1809.

NURSING LICENSES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled "Nurse Practice Act" (68 Ill Adm Code 1300; 38 Ill Reg 2523) increasing the fee for practical nurse and registered professional nurse licenses from \$30-\$40, the license restoration fee from \$20-\$50 and the cap for restoration fees from \$125-\$250. Nurses and their employers are affected by this rulemaking.

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New Regulations

viable if submitted 30 days before a contract letting, and shall be valid for six months after application. During the 5 year duration of the program, applicants are limited to three loans, and a second loan cannot be granted until the prior loan has been paid off. Interest rates shall be the prime rate plus 0.5%; and loans are capped at 55% of the contract value or \$249,000. DOT will conduct a pre-eligibility evaluation of applicants for loans prior to granting a loan. A loan selection committee comprised of 3 members shall review loan applications, based upon assessment of need, total budget of the applicant, DBE participation, and information provided in the loan application. The Committee shall review and rank approved loan applications, with dollar amounts assigned to the loan applications up to the maximum amount of funding available. Loans may be used for transportation construction related purposes, including labor costs, materials, supplies, equipment rental, utility costs, permit and right-of-entry fees, taxes, insurance and bonding, but not for refinancing or payment of long-term debt, payment of non-current or delinquent taxes, payments, loans or dividends to stockholders, or purchase or lease of non-construction motor vehicles or equipment, among others. Third party fund control agents procured by DOT shall manage loans and approve disbursement of loan funds. DBE subcontractors shall be required to furnish lien waivers, releases, material certifications and certified payrolls to fund control agents as well as prime contractors. DOT shall be responsible for fees and costs charged by fund control agents or an escrow agent (bank). Failure to make two or more consecutive payments shall be deemed a default, with possible action by DOT legal counsel and causing the DBE to be ineligible for future loans. The loan selection committee and fund control agents must participate in annual ethics training. Members of the loan committee and fund control agents must maintain conflict of interest controls, and execute a confidentiality statement agreeing not

to disclose information gained during their participation in the loan program. Since 1st Notice, definitions of "conventional lender", "escrow agent", and "unified certification program" have been added. Businesses meeting criteria for the loan program are affected.

Questions/requests for copies: Sannaz Etemadi, DOT, 2300 S. Dirksen Pkwy, Rm. 313, Spfld IL 62764, 217/524-7763.

STUDENT ASSISTANCE

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted amendments to "Illinois National Guard (ING) Grant Program" (23 Ill Adm Code 2730; 37 Ill Reg 15332) and "Golden Apple Scholars of Illinois Program" (23 Ill Adm Code 2764; 37 Ill Reg 15334) both effective 1/15/14. Identical emergency amendments effective 9/3/13 appeared in the *Illinois Register* at 37 Ill Reg 15439 and 15446. The Part 2730 amendments create two tiers of eligibility for active duty National Guard members; those in the Guard for less than 10 years receive 4 academic years of benefits, those in the Guard for more than 10 years will receive up to 6 academic years of benefits. Benefits for an academic year will be based upon the number of credit hours in which the recipient is enrolled. Eligible recipients with less than 10 years of service may accumulate up to 120 credit hours, those with more than 10 years of service may accumulate up to 180 credits. Full program benefits may be extended for one additional term if the recipient has accumulated less than the maximum number of eligibility units but does not have enough units remaining for the number of hours in which she/he is enrolled for the term. The Part 2764 amendments open the Golden Apple program to underclassmen and allow recipients an extra year to get a teaching job. Any period of forbearance or deferment issued to the recipient will not count towards the maximum 10 year repayment period. The rulemaking clarifies the conditions of forbearance and deferment listed

whereby the recipient is not required to make any payments and no interest shall accrue. The annual scholarship amount cannot exceed \$5,000 nor exceed 8 semesters/12 quarters of scholarship.

Questions/requests for copies of the 2 ISAC rulemakings above: Lynn Hynes, ISAC, 1755 Lake Cook Rd, Deerfield IL 60015, 847/948-8500, ext. 2305, e-mail: lhynes@isac.org.

MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted emergency amendments to "Medical Assistance Programs" (89 Ill Adm Code 120; 38 Ill Reg 2925) and "Children's Health Insurance Program" (89 Ill Adm Code 125; 38 Ill Reg 2943), effective 1/10/14 for a maximum of 150 days. The Part 120 emergency rules clarify which Sections of the Part apply to eligibility for long term care assistance (rather than to ordinary medical assistance). The Part 125 emergency rules clarify the 10/1/13 effective date for the use of Modified Adjusted Gross Income (MAGI) methodology (required by the federal Affordable Care Act) to determine eligibility for the All Kids and Family Care Assist programs. Obsolete references to the All Kids Rebate program, which was abolished effective 1/1/14, are also removed.

Questions/requests for copies: Jeanette Badrov, DHFS, 210 S. Grand Ave. E., 3rd Fl., Spfld IL 62703-0002, 217/782-1233, e-mail: HFS.Rules@illinois.gov.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a preemptory amendment to "Pay Plan" (80 Ill Adm Code 310; 38 Ill Reg 2974), effective 1/9/14, implementing a collective bargaining agreement between the Illinois Federation of Teachers and the Department of Human Services Office of Rehabilitation Services, covering the period 8/16/12 through 6/30/13. The agreement includes 2% gen-

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eral pay increases for FY13 and FY14, as well as \$25 per month increases in longevity pay for certain long-term employees. New substeps prior to Step 1 (lowest pay grade) are also instituted for employees hired on or after 8/16/14.

Questions/requests for copies: Jason Doggett, DCMS, 504 Stratton Bldg., Spfld IL 62706, 217/782-7964, e-mail: CMS.PayPlan@illinois.gov.

INDEPENDENT TAX TRIBUNAL

The ILLINOIS INDEPENDENT TAX TRIBUNAL adopted a new Part by emer-

gency rule titled "Organization, Information, Rulemaking and Hearings" (86 Ill Adm Code 5000; 38 Ill Reg 2956), effective 1/9/14, detailing its purpose. A companion proposed rulemaking appears in this week's *Illinois Register* at 38 Ill Reg 2597. The rule details the Tribunal's composition, procedures for requests for records, materials available, and requires that it follow Illinois Administrative Procedure Act provisions. Procedural rules address representation before the Tribunal, pleadings, hearings, discovery details, service provisions, subpoena requirements, stipulations and bonds. Taxpayers utiliz-

ing the Tribunal will be affected.

Questions/ requests for copies/comments regarding the proposed rulemaking through 3/10/14: James Conway, Chief Administrative Law Judge, IITT, James R. Thompson Center, 100 W. Randolph St., Chicago IL 60601, 312/814-4291, email: james.conway@illinois.gov.

Proposed Regulations

and Rates of Payment" (89 Ill Adm Code 686; 38 Ill Reg 2560) that implement provisions of Public Act 97-732. PA 97-732 provides DHS' Home Service Program (HSP) with the authority to pay the enhanced rate for health insurance costs, to set rates and fees for services, and pay the same rate for services that are identical to the Department on Aging (DOA). The rulemaking requires Homemaker Service (HS) providers to be in compliance with all DHS and Illinois Department of Healthcare and Family Services (HFS) Medicaid provider requirements. HS providers may appeal program decisions and compliance reviews and the rule establishes a 30 day time period in which to request an appeal. The rulemaking adds a new Section containing the enhanced rate for health insurance costs for eligible HS providers, including information outlining the type of health insurance

plans, eligibility requirements and the annual insurance review for participating providers. The rulemaking also adds HS provider requirements for financial reporting of rate-based wage increases for homemaker employees and changes minimum homemaker cost for HS provider percentages consistent with DOA's. Home services providers are affected.

Questions/requests for copies/comments through 3/10/14: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

MEDICAID COVERAGE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to "Medical Payment" (89 Ill Adm Code 140; 38 Ill Reg 2529) adding preventive services, including routine examinations and vaccina-

tions, to the list of services covered for both adult and child medical assistance recipients. A companion emergency rule effective 1/1/14 appeared in the *Illinois Register* at 38 Ill Reg 1174. The rulemaking also authorizes provision of covered services to 2 new Medicaid eligibility categories under the federal Affordable Care Act effective 1/1/14: adults ages 19-64 with incomes at or below 133% of the Federal Poverty Level who would not otherwise qualify (e.g., as parents of minor children), and former foster children ages 18-25. Medical providers and pharmacies may be affected by this rulemaking.

Questions/requests for copies/comments through 3/10/14: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233, e-mail: HFS.Rules@illinois.gov.

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 18, 2014 meeting.

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Rights and Responsibilities" (89 Ill Adm Code 102) proposed 11/8/13 (37 Ill Reg 17249)

"Application Process" (89 Ill Adm Code 110) proposed 11/8/13 (37 Ill Reg 17259)

"Medical Assistance Programs" (89 Ill Adm Code 120) proposed 11/8/13 (37 Ill Reg 17272)

"Covering All Kids Health Insurance Program" (89 Ill Adm Code 123) proposed 11/8/13 (37 Ill Reg 17293)

"Children's Health Insurance Program" (89 Ill Adm Code 125) proposed 11/8/13 (37 Ill Reg 17310)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Don Harmon

Representative Lou Lang

Senator Tony Munoz

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Representative Don Moffitt

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