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Joint Committee on Administrative Rules
Illinois General Assembly

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VOL. 33

August 7, 2009

Issue 32

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

SCHOOLS

STATE BOARD OF EDUCATION adopted a new Part titled "Payments to Certain Facilities Under Section 14-7.05 of the School Code" (23 Ill Adm Code 405; 33 Ill Reg 3987), effective 7/22/09, that implements Public Act 95-938. The cited section of the School Code covers situations in which a student with disabilities is placed by a court order or by a State agency in an out-of-State public residential special education facility or a private facility of the same type in Illinois or elsewhere, with the student's home school district reimbursing the facility for the student's educational expenses. Previous rules allowed only the "SBE approved" facilities to seek reimbursement. The adopted Part, in accordance with Public Act 95-938, also allows "non-SBE approved" facilities to do so under the following conditions: (1) the facility submits proof to SBE that its teachers are appropriately certified and that its curriculum is age-appropriate, (2) the facility documents that it is able to implement the child's Individualized Education Plan (IEP), and (3) the facility provides SBE with enrollment and attendance data. A school district is not obligated to pay education costs to the residential facility until the facility

fulfills these conditions to SBE's satisfaction, and the rulemaking defines what constitutes satisfactory proof. Other topics covered in the Part include definitions, procedural requirements, cost calculations, and termination of placements. Payments are to be calculated using the same rates and methods currently applied to SBE-approved facilities. Changes since 1st Notice clarify that districts' payments for educational services provided on their behalf by contractual agents are not covered by this Part. Also, additional text clarifies that general education teachers who serve the affected students must hold the qualifications specified in rules at 23 Ill Adm Code 1. Certain residential facilities that provide schooling to students with disabilities may be affected by this rulemaking.

SBE also adopted an amendment to "School Technology Program" (23 Ill Adm Code 575; 33 Ill Reg 4825), effective 7/22/09, that reflects abolition of the former program accounting manual for public school districts and adoption of new program accounting rules in Part 100. Another amendment to Part 575 strikes an obsolete reference to the fall enrollment and housing report and replaces

(cont'd next page)

HOSPITAL CLEANLINESS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to "Hospital Licensing Requirements" (77 Ill Adm Code 250; 33 Ill Reg 11418) implementing Public Act 95-282, which requires hospitals to develop and implement comprehensive policies for the prevention and control of multidrug-resistant organisms (MDRO) and Public Act 95-312, which creates the methicillin-resistant staphylococcus aureus (MRSA) control program. Hospitals must designate "infection prevention and control professionals" to develop and implement policies governing control of infections and communicable diseases who are qualified through documented education, training, experience, and/or certification. These professionals are added as members of the infection control committee that will perform an annual, facility-wide, infection-control risk assessment. Policies and procedures for reporting and for care of patients with communicable diseases must be in accordance with the Control of Sexually Transmissible Diseases Code (77 Ill Adm Code 693) and the Control of Tuberculosis Code (77 Ill Adm Code 696), in addition to the currently specified Control of Communicable Diseases Code (77 Ill Adm Code 690). Hospitals are required to comply with the federal Centers for Disease Control and Prevention publications governing transmission of infectious agents and guidelines for hand hy-

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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

it with the September 30th enrollment count that school districts are required to submit to SBE.

Questions/requests for copies: Tim Imler (217/782-4870) for Part 405 and Marica Cullen (217/557-7323) for Part 575, SBE, 100 N. First St., Springfield IL 62777-0001, e-mail: rules@isbe.net

FOSTER FAMILY HOMES

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to "Licensing Standards for Foster Family Homes" (89 Ill Adm Code 402; 32 Ill Reg 13104), effective 8/1/09. DCFS adds a statement concerning this program's purpose that requires its central licensing office to review its standards every 3 years for accuracy and appropriateness. The rulemaking also creates a new "non-active" licensing status for foster homes that applies when the homes do not have foster children placed in them. Licensees on non-active status agree to remain in compliance with this Part, but will not be subject to regular monitoring visits. The rulemaking includes procedures for placing a license on non-active status and for restoring it to active status. When a non-active license is due to be renewed, the licensee must complete a regular renewal application and a renewal home study within the prescribed time frame. A license may be moved back to non-active status anytime after renewal if the licensee qualifies for such status. If DCFS fails to provide a decision on a foster family renewal application prior to the license's expiration date, the license will continue to be valid for an additional 30 days until a final decision is reached; additional extensions may be granted by DCFS in individual cases for good cause. References to the obsolete Child Abuse and Neglect Tracking System (CANTS) are changed to reflect the new system's title, which is the Statewide Automated Child Welfare Information System (SACWIS). A further amendment lowers from 18 to 17 the age at which members of the foster family household are consid-

ered adults subject to a fingerprint-based, criminal background check. The rulemaking updates water-hazard protection requirements in foster family homes, effective 1/1/09. All in-ground pools accessible to children must have a 5' or higher fence with a lockable gate; above-ground pools must have 4', non-climbable sidewalls enclosed by a 5' fence with a lockable gate that is at least 36" away from the pool's sidewalls; and hot tubs not enclosed with a 5' fence must have securely locked covers. Portable wading pools not enclosed by a 5' fence must be emptied daily. Foster families who were licensed or held a permit on 1/1/08 and met the 3.5' fencing requirements in effect on that date are considered to be in compliance with the fence requirement. Foster family home licensees with pools, hot tubs, ponds, outdoor fountains, decorative water ponds, fishponds, etc. also are required to have a current CPR certification. Foster family home licensees are prohibited from smoking tobacco in the home; in an open or enclosed vehicle while transporting children; or within 15' of entrances, exits, windows that open, or ventilation intakes that serve the home while children are placed in the home. The rulemaking also adds carbon monoxide detector requirements for homes containing fuel-burning equipment or that have an attached garage and clarifies the time periods when foster parents must undergo medical re-examinations. Licensed foster family homes must be visited by a licensed DCFS or private agency worker at least semi-annually. The rulemaking additionally updates Appendix A, which lists criminal convictions that would prevent licensure, to add the following offenses to the list: any felony conviction for child abuse or neglect, spousal abuse, or a crime against children; any felony conviction for most crimes involving violence, including rape, sexual assault, or homicide; and felony convictions for physical assault, battery, or drug-related offenses committed within the past 5 years.

Questions/requests for copies: Jeff

Oswski, DCFS, 406 E. Monroe, Station #65, Spfld. IL 62703-1498, 217/524-1983, TDD 217/524-3715, Fax 217/557-0692, e-mail: cfpolicy@idcfs.state.il.us

SEWER CONSTRUCTION

The ENVIRONMENTAL PROTECTION AGENCY adopted amendments to "Fees for Construction Permits Required Under Section 12(b) of the Illinois Environmental Protection Act" (35 Ill Adm Code 320; 33 Ill Reg 3576), effective 7/22/09, updating the Part to reflect Public Act 93-32, which doubled existing fees for sewer construction permits and imposed new fees for industrial wastewater sources and construction related to land application of industrial sludge or spray irrigation of industrial wastewater. The doubled fees range from \$100 to \$2,400, depending on how many customers will be served by a sewer project; the new fees range from \$1,000 to \$6,000, depending on the treatment required. Exemptions are also provided. The Agency has collected these fees since the public act took effect in 2003. The amendments also reflect the statute's addition of definitions of "industrial", "pretreatment", and "toxic pollutants". The 45-day deadline for Agency action on a permit application may be waived by the applicant in writing. The Part's title is changed from "Permit Fees for Installing or Extending Sewers". Small businesses, small municipalities, and not-for-profit corporations that are required to obtain such a permit may be affected by this rulemaking.

Questions/requests for copies: Deborah J. Williams, EPA, 1021 N. Grand Ave. E., Spfld. IL 62794-9276, 217/782-5544.

ARCHITECT LICENSURE

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to rules titled "Illinois Architecture Practice Act of 1989" (68 Ill Adm Code 1150; 33 Ill Reg 5081), effective 7/22/09, implementing provisions of Public Act 94-543 and revised standards of the Nat'l

New Regulations

Council of Architectural Registration Boards (NCARB), which is the entity responsible for administering the architect exam for State licensure and Intern Development Program. In compliance with PA 94-543, DFPR will no longer accept applicants with degrees from non-National Architecture Accrediting Board (NAAB) programs or Canadian Architectural Certification Board (CACB) programs after 1/1/14. The rulemaking also amends applicant criteria for the diversified professional training program to reflect DFPR's acceptance of training units attained by pre-professional applicants with a 4-year baccalaureate degree only until 1/1/14. The rulemaking removes the required submission of a complete work history from the application process, allows foreign students to complete the "TOEFL-iBT" (internet-based test) as a test option for the Test of English as a Foreign Language, and clarifies licensure by examination requirements for applicants holding an NAAB-accredited professional degree. Additional amendments hold scores for all examinations passed in a 5-year period, beginning 1/1/06, valid for licensure, and all exam passing scores prior to 1/1/06 will be deemed permanently valid by DFPR. The rulemaking also updates Appendix B, which details significant changes to minimum architect licensure standards arranged by date with a short summary of the changes, and Appendix C, which summarizes historical changes of DFPR examination requirements. Further nonsubstantive amendments reflect the reorganization of DFPR a few years ago. A change since 1st Notice clarifies that the Intern Development Program guidelines are dated 2009. Small businesses or firms employing architects may be impacted by this rulemaking.

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

DEER & GOOSE HUNTING

The DEPARTMENT OF NATURAL RE-

SOURCES adopted amendments for the following 6 Parts concerning deer and goose hunting, all effective 7/27/09: "White-Tailed Deer Hunting by Use of Firearms" (17 Ill Adm Code 650; 33 Ill Reg 6409), "White-Tailed Deer Hunting by Use of Muzzleloading Rifles" (17 Ill Adm Code 660; 33 Ill Reg 6430), "White-Tailed Deer Hunting by Use of Bow and Arrow" (17 Ill Adm Code 670; 33 Ill Reg 6446), "Special White-Tailed Deer Season for Disease Control" (17 Ill Adm Code 675; 33 Ill Reg 6468), "Late-Winter Deer Hunting Season" (17 Ill Adm Code 680; 33 Ill Reg 6476), and "Youth Hunting Seasons" (17 Ill Adm Code 685; 33 Ill Reg 6484). In Parts 650 and 660, amendments shorten the "September Drawing – Multiple Permits" application period to end the first weekday in October. Both Parts allow over-the-counter sales of remaining permits after the conclusion of random daily drawings beginning the 3rd Monday in October on a first-come, first-served basis until the permits are exhausted. Individuals may purchase more than one permit, subject to availability. Also, Parts 650 and 660 make 15 and 8 site-specific changes, respectively. In Part 670, DNR reconfigures the hunting dates to lengthen the season by 3 days, ending the first Sunday after January 13th, and makes 15 site-specific changes. Part 675 increases the length of the special season from 3 to 7 days, with archery no longer an option for this special season. The procedures for attaching a harvest tag and transporting game are simplified and standardized to correspond with the other deer hunting seasons. The use of check stations is phased out, and hunters must instead use the automated telephone or on-line reporting systems. Also, DNR will not issue new permits for those individuals who take diseased or spoiled deer, and the hunter must dispose of the carcass. Those hunters participating in the chronic wasting disease (CWD) surveillance program whose animal tests positive for CWD will be issued a permit for the same county or special hunt area next year. In Part 680, the length of the season increases from 3

to 7 days, and DNR creates a two-tiered system for counties open for the late-winter deer season. Unit A counties are those with deer herds that are overpopulated and require a significant harvest. Unit B counties require less significant harvests to achieve deer population goals. The resident permits will go on sale via over-the-counter vendors starting December 1st through the last day of the season. Unit A counties have no limit on the number of permits an individual may purchase, while individuals hunting in Unit B counties are restricted to one permit per county. DNR clarifies that hunting outside of season hours is a Class A misdemeanor with a minimum \$500 fine up to a \$5,000 maximum. Other covered topics concern the permit application process, application rejection, permit revocation, and permit replacement. Certain DNR sites having a daily hunter quota will hold daily drawings at 5:00 a.m. if more hunters show up than can be reasonably accommodated. Part 685 amendments make youth deer permits available for over-the-counter sales beginning August 1st through the last day of the youth deer season, and hunters may purchase only one either-sex permit. Text that obligates DNR to provide deer hunting seminars to participating youth deer hunters is stricken. The rulemaking also amends provisions related to statewide regulations, permit requirements, application rejection, and permit revocation. In addition, Part 685 contains the rules concerning youth waterfowl hunting, which are amended to change that hunt's date to December 27th. A change since 1st Notice clarifies in Parts 670, 675, 680, and 685 that a permit refund may be granted if DNR issued the permit erroneously.

Questions/requests for copies: Mitchell Cohen, DNR, One Natural Resources Way, Springfield, IL 62702-1271, 217/782-1809.

SOS EMERGENCY DATABASE

The SECRETARY OF STATE adopted an amendment to "Issuance of Li-

New Regulations

censes" (92 II Adm Code 1030; 33 III Reg 6243), effective 7/22/09, implementing Public Act 95-898, which requires SOS to establish an emergency contact database of all persons for whom an instruction permit, driver's license, or identification card record exists and can be verified on the the SOS driver's license or identification card database. The database will be used by law enforcement personnel to notify a person's "emergency contacts" when necessary for emergency medical treatment or when notification needs to be made by law enforcement for other reasons. The rulemaking defines an emergency as a motor vehicle accident or accident involving another mode of transportation, natural disaster, criminal act, or other circumstance in which a victim is so seriously injured that he or she cannot independently communicate with emergency contacts. SOS will make sign-up for the database available through its website or through the mail at SOS discretion, and participation will be voluntarily initiated by the person applying to become part of the database. The accuracy of an individual's emergency contact information is the responsibility of the participant and will be deleted only when the individual's driver's license or identification card record no longer exists in the SOS driver's license or identification card database. Emergency contacts are limited to no more than 2 individuals per participant. The rulemaking details the information to be included for each emergency contact, including the contact's name, address, telephone number, and relationship to the participant. It also affirms the statutory requirement that emergency contact database information must remain confidential and be released only to law enforcement entities in the course of official duties or pursuant to a court order. Those affected by this rulemaking include local police departments.

Questions/requests for copies: Arlene J. Pulley, SOS, 2701 S. Dirksen Pkwy., Springfield IL 62723, 217/557-4462.

UNIVERSITY EMPLOYEES

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM adopted amendments to "State Universities Civil Service System" (80 III Adm Code 250; 33 III Reg 3258), effective 7/22/09. The rulemaking removes the 2-year period for keeping candidate names on an employment register (a list of persons available to fill job openings or eligible for promotion) and adds new grounds for removing candidates from a register. Candidates must be removed from the register if they refuse to accept 3 offers of status appointment or attempt deception or fraud on an employment application or examination. Other mandatory grounds for removal include a change in class or testing standards or a candidate's acceptance of another position not included in that register. A candidate may be removed from a register if he or she fails to provide written evidence of availability for employment, is promoted, or has not been hired after 4 referrals for an appointment in that same class. An employer may offer a trainee assignment to a candidate if at least one of the following criteria apply: the chosen candidate lacks one or more of the minimum qualifications for that class, recruitment efforts have failed to attract more qualified candidates, operating needs require ongoing training programs, or there is a recognized need for specialized training in technical or professional fields. No more than 10% of the total positions in any class with 10 or more positions may be filled by trainee appointments on any given day. Regarding disability policies, the rulemaking allows an employer to require medical evidence of disability and establishes a notification and review process if an employee fails to return to work after disability leave has been exhausted or canceled. The rulemaking also adds, as a disciplinary option, rein-

statement of an employee following a 60-day suspension when discharge is not warranted but some disciplinary action is appropriate. A change since 1st Notice reinstates the provision that a trainee's starting salary shall not be more than 95% of the minimum of the approved pay range for the class and additionally specifies that after increases have been awarded, a trainee's salary shall not exceed 95% of the "midrange" of the approved pay range for the class.

Questions/requests for copies: Mary C. Follmer, SUCSS, 1717 Philo Rd., Ste. 24, Urbana IL 61802, 217/278-3150, ext. 226.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to "Pay Plan" (80 III Adm Code 310; 33 III. Reg. 11698), effective 7/23/09. The amendments implement two agreements with 2 public employee unions and one prevailing rate change announced by the Department of Labor. Two agreements between DCMS and the Illinois Federation of Public Employees, Local 4408, implement a 1.5% raise retroactive to 1/1/09, a 2.5% raise retroactive to 7/1/09, and a 2% raise effective 1/1/10 for employees covered by bargaining units RC-29 (paraprofessional investigatory and law enforcement employees) and RC-56 (site superintendents and natural resource, historic preservation, and agriculture managers). The final change affects the International Brotherhood of Boiler Makers – Iron Shipbuilders, Blacksmiths, Forgers, and Helpers by providing that effective 7/1/09, boiler safety specialists in the northern region of Illinois will be paid \$7784.76 per month rather than \$7461.12.

Questions/requests for copies: Jason Doggett, DCMS, 504 Stratton Bldg., Spfld. IL 62706, 217/782-7964.

Proposed Regulations

giene. Also, the rulemaking directs the committee to develop, implement, monitor, and enforce a hand-hygiene program and prescribes its contents. Incorporations by reference of various publications concerning hospital standards are added or updated. Hospitals will be affected by this rulemaking.

Questions/requests for copies/comments through 9/21/09: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761-0001, 217/782-2043, e-mail: dph.rules@illinois.gov

RIVERBOAT GAMBLING

The ILLINOIS GAMING BOARD proposed an amendment to "Riverboat Gambling" (86 Ill Adm Code 3000; 33 Ill Reg 11407) to allow an application for approval as a "key person" (a person subject to regulatory approval who is able to control or exercise significant influence over the management, assets, or operating policies of an owner or supplier licensee) to be withdrawn without leave of the Board if the Board receives a written notification of withdrawal before acting on the application. However, if the intended withdrawal is objected to by the Administrator, Board leave to withdraw will be required.

Questions/requests for copies/com-

ments through 9/21/09: Michael Fries, IGB, 160 N. LaSalle St., Chicago IL 60601, 312/814-4700, Fax 312/814-7253, e-mail: mfries@revenue.state.il.us

HOME INSPECTOR LICENSING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to rules titled "Home Inspector Licensing Act" (68 Ill Adm Code 1410; 33 Ill Reg 11366) that add numerous definitions and make numerous changes to the Part. Home inspector license applicants are required to submit applications within one year after completing the State licensure examination. Further amendments removed obsolete grandfathering provisions applicable to individuals who completed pre-license education requirements between 1/1/01 and 1/1/03 as previously required by the Office of Banks and Real Estate. Applicants are required to take at least 6 continuing education (CE) hours of mandatory courses within the required 12 hours taken per two-year renewal period. If an inspector holds a license with more than one year remaining prior to expiration, but with less than 2 years remaining, he or she must complete a minimum of 3 CE hours of mandatory courses within the required 6 CE hours. The rulemaking also specifies the scope of a home inspector's responsibilities, including, but not limited to, observing

visible and accessible installed home systems and components. Submission of inspection reports is allowed via electronic format within 2 business days after the inspection, including the inspector's recommendation to correct any highlighted deficiencies, and the standards that an inspector must utilize when completing an inspection are clarified. Inspectors may disclose results of a home inspection without approval of the client if conditions exist that threaten health, safety, and welfare and require emergency action. DFPR may conduct inspections of licensed pre-license and CE education providers without notice (previously 48-hour notice required). Furthermore, a minimum of 5 "field inspection events" (interior and exterior residential real property inspections) must be included in pre-license education course work to obtain a home inspector license. Also, examples of home inspector CE course curriculum requirements are separated into mandatory courses and elective courses. Those who train home inspectors or provide home inspection services will be affected by this rulemaking.

Questions/requests for copies/comments through 9/21/09: Craig Cellini at the DFPR address and telephone number above.

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 August 18, 2009 meeting.

SEX OFFENDER MANAGEMENT BOARD

"Sex Offender Evaluation and Treatment" (20 Ill Adm Code 1905) proposed 10/17/08 (32 Ill Reg 16704)

"Juvenile Sex Offender Evaluation and Treatment" (20 Ill Adm Code 1910) proposed 10/17/08 (32 Ill Reg 16712)

STATE BOARD OF INVESTMENT

"State of (Illinois) Employees' Deferred Compensation Plan" (80 Ill Adm Code 2700) proposed 3/27/09 (33 Ill Reg 4433)

The Flinn Report

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