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Joint Committee on Administrative Rules
Illinois General Assembly

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VOL. 33

September 25, 2009

Issue 39

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

SURGICAL NURSES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to "Ambulatory Surgical Treatment Center Licensing Requirements" (77 Ill Adm Code 205; 33 Ill Reg 1425), effective 9/10/09, implementing Public Act 94-915, which requires hospitals and outpatient surgery centers to have a registered nurse who is licensed under the Nursing and Advanced Practice Nursing Act and qualified by training and experience present in the operating room and functioning as the "circulating nurse" during all invasive or operative procedures. A circulating nurse is responsible for coordinating all nursing care, patient safety needs, and the needs of the surgical team in the operating room. The rulemaking also implements Public Act 94-861, which sets conditions under which registered nurses may administer anesthesia in ambulatory surgical treatment centers (ASTCs) under the supervision of a physician, podiatrist, or dentist. In addition, the rulemaking leaves to the attending physician's discretion whether bone, cartilage, and soft tissue removed during surgery needs a pathological examination. A change since 1st Notice clarifies that podiatrists themselves (along with anesthesiologists, physicians,

dentists, certified registered nurse anesthetists, and registered nurses) may administer anesthesia. Hospitals and ASTCs are among those affected by this rulemaking.

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

HOSPITAL SERVICES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to "Hospital Services" (89 Ill Adm Code 148), effective 9/8/09. The adopted rulemaking combines two separately proposed rulemakings published in the *Illinois Register* at 33 Ill Reg 3588 and 5685. It also replaces an emergency rulemaking adopted at 33 Ill Reg 5821, effective 4/1/09, which expired on 8/28/09. The rulemaking implements Public Act 95-1017, which appropriated \$40 million from the Tobacco Settlement Recovery Fund for one-time payments to hospitals with a greater than average percentage of Medicaid inpatients. The rulemaking also increases other hospital payments by a total of \$35 million and provides \$4 million in "outlier" adjustment pay-

(cont'd next page)

PHARMACIES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed repealing the Part titled "Pharmacy Practice Act" (68 Ill Adm Code 1330; 33 Ill Reg 12992) and replacing it with a new Part with the same title (68 Ill Adm Code 1330; 33 Ill Reg 13081) to implement Public Act 95-689. This statute made significant revisions to pharmacy and pharmacist licensure regulations. The most significant changes include elimination of pharmacy divisions, instead reclassifying licensed pharmacies by which services the pharmacy is licensed to provide. DFPR expands the use of computerized technology in meeting recordkeeping requirements and revises the process for dispensing prescription drugs remotely. The rulemaking also requires registration of certified pharmacy technicians, provides a certification process, and revises the application process and licensure requirements for pharmacists educated outside of the United States. Also, guidelines are added under which telepharmacies and remote automated pharmacy systems are to operate, including updated pharmacy equipment requirements and security operating protocols for prescribing drugs or receiving drug prescriptions remotely. The rulemaking additionally establishes guidelines for a pharmacist's or student pharmacist's administration of vaccinations, obtaining protocols written by a physi-

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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

ments (for exceptionally costly services) to various children's hospitals. Affected hospitals include Holy Cross, Children's Memorial, Mercy, Mt. Sinai, Norwegian American, Silver Cross, St. Anthony's, Swedish American, Swedish Covenant, BHC Streamwood, Riveredge, Ferrell, Graham, Jackson Park, La Rabida, Loretto, Richland, Roseland, Sacred Heart, St. Bernard's, Kindred, Aurora Lakeshore, Hartgrove, Maryville Scott, Hardin County, Harrisburg, Methodist, South Shore, Thorek, Rush, Comer, Ingalls, Ronald McDonald (affiliated with Loyola), Hope, Lutheran, St. John's, Memorial, Metro South, St. Alexius, St. James, Trinity, and RML Health Providers. The rulemaking also sets reimbursement rates for Lincoln Prairie Behavioral Health Center and Adventist Bolingbrook Hospital. A change since 1st Notice reclassifies Medicaid percentage adjustments for government-owned hospitals to disproportionate share hospital (DSH) adjustments; this does not change the hospitals affected nor the amount received by any hospital. Medical assistance providers may be affected by this rulemaking.

Questions/requests for copies: Tamara Tanzillo Hoffman, DHFS, 201 S. Grand Ave. E., 3rd Fl., Springfield IL 62763-0002, 217/557-7157.

AIR POLLUTION

The POLLUTION CONTROL BOARD adopted amendments to "Definitions and General Provisions" (35 Ill Adm Code 211; 33 Ill Reg 6896) and "Nitrogen Oxides Emissions" (35 Ill Adm Code 217; 33 Ill Reg 6921), both effective 8/31/09. Amendments to Part 217 are intended to meet State obligations under the federal Clean Air Act by further controlling nitrogen oxide (NO_x) emissions from major "stationary sources" of pollution that have NO_x emissions of, or greater than, 100 tons/year in "nonattainment areas". New regulations impose pollution caps for the following individual emission units at such major sources: industrial boilers, process heaters, glass

melting furnaces, cement and lime kilns, furnaces used in iron and steel-making and aluminum melting, and fossil fuel-fired stationary boilers that have NO_x emissions of, or greater than, 15 tons/year and equal to, or greater than, 5 tons/ozone season. (The Chicago "nonattainment area" includes Cook, DuPage, Kane, Lake, McHenry, and Will counties; Goose Lake and Aux Sable townships in Grundy County; and Oswego Township in Kendall County. The Metro East "nonattainment area" includes Jersey, Madison, Monroe, and St. Clair counties plus Baldwin Township in Randolph County.) Changes since 1st Notice clarify items such as how allowable emission rates will be calculated; what types of units are subject to, or eligible for, emissions averaging plans; and compliance deadlines for emissions limitations. Amendments to Part 211 add 12 new definitions of terms used in the new regulations proposed for Part 217 above. For example, a definition of "load shaving unit" is added, which means a device used to generate electricity for sale or use during high electricity demand days, including, but not limited to, stationary reciprocating internal combustion engines or turbines.

Questions/requests for copies: Tim Fox, PCB, 100 W. Randolph, Ste. 11-500, Chicago IL 60601, 312/814-6085, e-mail: foxt@ipcb.state.il.us. Please reference docket R08-19.

SEX OFFENDER TREATMENT

The SEX OFFENDER MANAGEMENT BOARD adopted amendments for "Adult Sex Offender Evaluation and Treatment" (20 Ill Adm Code 1905; 32 Ill Reg 16704) and a new Part titled "Juvenile Sex Offender Evaluation and Treatment" (20 Ill Adm Code 1910; 32 Ill Reg 16712), both effective 9/10/09. Part 1905, which formerly reflected the Board's policies for both adult and juvenile offenders, has been amended to address only adult offenders, while new Part 1910 prescribes Board policies for juveniles. Part 1910 states principles for practices that achieve

the Board's goal of providing all juveniles adjudicated for a sex offense under the Sex Offender Management Board Act with a comprehensive evaluation that addresses the full range of the juvenile's sexually inappropriate behaviors and with a multidisciplinary team (MDT) established to assure that (1) the juvenile's need for treatment, supervision, and management is met and (2) the victim's need for safety and well-being is met. Victims will have the right to determine the extent to which they will provide input concerning the management and treatment of the juvenile. A victim and perpetrator will have contact or reside in the same home only when all other alternatives have been exhausted. Treatment of an offender will be clinically based and designed to aid the offender in managing sexual behavior and reduce recidivism. Terms are defined. The Board will establish an approved provider list for evaluation and treatment of juvenile offenders grounded on criteria similar to adult offenders but tailored to juvenile status and offenses. Stricter and more specific professional licensure criteria (e.g., physicians, nurses, and clinical psychologists licensed under various Acts) are required for evaluators and treatment providers for juveniles, as opposed to the criteria for persons performing an evaluation of an adult offender (a bachelor's degree in social work, etc.), although both categories of evaluators must have roughly equivalent practical hours of experience in dealing with sex offenders (juvenile evaluators must have at least half of their hours of practical experience devoted to the treatment of juveniles). Application requirements and subsequent review, approval, appeal, provider removal, and provider complaint procedures for juvenile service providers remain roughly equivalent to those for providers serving adult offenders. Confidentiality provisions for a juvenile offender are more restrictive than those for adults, with adult providers permitted to share information with probation or parole officers and other agencies responsible for the supervision of an adult offender. Both adult and juve-

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nile service providers must notify clients of the limits of confidentiality imposed on therapists by the Abused and Neglected Child Reporting Act. Specific and detailed diagnostic methods listed in the adult offender rule (e.g., Beck Depression Scale, UCLA Loneliness Scale) are omitted from the juvenile rule, and elements of an evaluator's factors in making recommendations for a juvenile are narrower than the adult rule's provisions (e.g., 23 factors such as admission of offenses, psychopathology, and criminal history are listed). The evaluator's basis for a juvenile's recommendations are grounded on the juvenile's level of risk and needs, strengths, deficits, management and supervision strategies, and the type and intensity of treatment and placement options available for the juvenile offender. Juvenile primary treatment plans must, among other elements, provide protection of past and potential future victims; seek to improve individual and family functioning; enhance support systems; favor continuity in caregiver relationships; develop long-term relapse prevention, safety, and aftercare plans; and describe measurable outcomes for successful treatment completion. Treatment providers also must develop and employ a written treatment contract and consent agreement and meet quarterly with the offender's multidisciplinary team to discuss the offender's treatment progress. Criteria for successful completion of sex offense treatment are listed; supervision, risk management, and accountability protocols are prescribed; and family reunification provisions and conditions are prescribed. Not every detail of the lengthy new Part (e.g., use of polygraph tests) can be covered in this newsletter. The contact person listed below can provide additional information. Not-for-profit organizations that provide mental health or treatment programs for sex offenders may be affected by these 2 rulemakings.

Questions/requests for copies of the 2 SOMB rulemakings above: Cara Smith, Sex Offender Management Bd., 100 W.

Randolph, Ste. 12-202, Chicago IL 60601, 312/814-5526 or 312/814-2970.

STATE EMPLOYEES

The ILLINOIS STATE BOARD OF INVESTMENT (SBI) adopted amendments to "State (of Illinois) Employees' Deferred Compensation Plan" (80 Ill Adm Code 2700; 33 Ill Reg 4433), effective 9/14/09. The rulemaking adds standards to govern which investment options SBI chooses for the State employee deferred compensation plan. SBI, with the input of an outside investment consultant, is to select investment options that offer participants sufficient choices to diversify their account balances and construct portfolios with a reasonable balance between risk and return. Factors to be considered in the Board's selection of an option include the investment experience of its manager; the suitability of its investment approach; its investment record; whether the option consistently meets clearly defined investment goals; whether it yields results comparable to, or better than, other options with similar objectives; how it has performed in difficult market environments; its expense ratio relative to similar options; whether the option is large enough to accommodate plan assets; and whether it has demonstrated superior operation and management over time. Other provisions replace the term "investment funds" with "investment options" and shift responsibility for various functions among SBI, the Department of Central Management Services, and the recordkeeper firm (currently T. Rowe Price) under contract with SBI and DCMS. SBI must provide the recordkeeper with the most recent copy of the plan, its investment options, its administrative procedures and forms, and any other information the recordkeeper needs to carry out its duties. Other added responsibilities of SBI include maintaining federal tax qualification; reviewing, selecting, and approving the services to be provided by the recordkeeper; and resolving all benefit claims and claim appeals under the plan. The recordkeeper, mean-

while, must accept and invest participant contributions from DCMS and process all distributions, changes to investment options as directed by SBI, and changes to investment allocations. The recordkeeper also takes over from DCMS and SBI the processing of hardship distributions, i.e., requests to withdraw money from a deferred compensation plan due to an "unforeseeable emergency". Circumstances that meet the definition of "unforeseeable emergency" include funeral or divorce expenses; a threatened eviction from, or mortgage foreclosure upon, the participant's principal residence; repair costs for a principal residence that qualify for a federal tax deduction; medical expenses due to a sudden illness or accident; loss of income; and other events beyond the participant's control that create financial hardship. Hardship distribution requests must be made within 24 months after the "unforeseeable emergency" event that prompted them and only for financial needs that cannot be met through reimbursement, insurance, liquidation of assets, obtaining commercial loans, or stopping elective contributions to the plan. Documentation must be submitted to the recordkeeper with any requests for hardship withdrawals. The rulemaking also changes the makeup of the Deferred Compensation Hardship Committee (currently comprised of one DCMS employee and two non-DCMS employees) to replace one non-DCMS employee with a representative of SBI. The recordkeeper, rather than the committee, will decide whether to accept or reject a hardship distribution request and whether to demand additional medical or other evidence prior to a decision. An adverse decision by the recordkeeper may be appealed to the hardship committee and then to SBI. The recordkeeper is also responsible for determining how hardship distribution payments will be made and for transferring deferred compensation accounts to another eligible government plan after a participant leaves State employment. Since 1st Notice, text has been added addressing the

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Board's procurement policy and competitive bidding for investment options. Selection of options is to be done "in an environment of full disclosure" with all decisions to be made "solely in the best interest of the Plan's participants and beneficiaries". Bids for investment options must be published at least 14 days before a response is due, and uniform documents must be used for bid solicitation, review, and acceptance. Other changes include more specific criteria for choosing investment options and illustrative examples of options that meet these criteria.

Questions/requests for copies: Linsey Schoemehl, SBI, 180 N. La Salle, Ste. 2015, Chicago IL 60601, 312/793-1486, Fax 312/793-2266, e-mail: Linsey.schoemehl@illinois.gov

eral (OIG) to include investigating and recommending action in the case of financial exploitation, in addition to cases of mental, physical, and sexual abuse. The rulemaking incorporates several statutory definitions, adds "financial exploitation" throughout the rulemaking as a covered form of abuse, and makes extensive nonsubstantive corrections throughout. Agency or facility administrators or employees are prohibited from retaliating against an employee who discharges his or her duties as a required reporter of abuse or neglect. All agencies and facilities are required to have a detailed policy for reporting allegations of abuse, neglect, and financial exploitation or deaths and must train employees concerning DHS' rules and the agency's or facility's policy at the time of hire and at least biennially. The rulemaking clarifies when OIG retains responsibility for an investigation (allegations of physical or sexual abuse by an employee; allegations of financial exploitation over \$300 by an employee, facility, or agency; allegations of neglect by an employee that results in an individual's death or other serious deterioration of the individual's physical or mental condition) or refers it to the community agency on a case-by-case basis. All personal health information collected during an OIG investigation and contained in an OIG report will remain confidential in compliance with federal HIPAA regulations. The rulemaking clarifies that AFSCME

employees (Council 31 (State-operated facilities)) requesting union representation during an investigation will be granted representation according to the applicable union contract. OIG is required to provide the investigative report to the Secretary and the director of the facility where the abuse, neglect, or financial exploitation occurred within 10 days after the complete investigative report is transmitted to DHS. OIG must also provide a copy to DFPR if the employee is licensed by that Department. The rulemaking replaces the OIG's appeal process with submission of a written response on DHS forms to the respective DHS program division office. Written responses detail actions the agency will take to address the OIG's findings in a substantiated case. The rulemaking outlines the process by which the written response must be submitted and DHS responsibilities, and clarifies when an individual's identity and his or her case's investigative finding will not be forwarded to the Health Care Worker Registry. Agencies and facilities contracted with the State of Illinois to provide services may be impacted by this rulemaking.

Questions/requests for copies/comments concerning the proposed rulemaking through 11/9/09: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

☞ ABUSE INVESTIGATIONS

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to "Office of Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies" (59 Ill Adm Code 50; 33 Ill Reg 13489), effective 9/10/09, for a maximum of 150 days, implementing provisions of Public Act 96-407. An identical proposed rulemaking appears in this week's issue of the *Illinois Register* at 33 Ill Reg 13244. P.A. 96-407 expands the authority of the DHS Office of the Inspector Gen-

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er for administering vaccinations and treating severe adverse reactions, policies for handling disposal of used supplies and contaminated equipment, the procedure for administering vaccinations, and recordkeeping requirements. DFPR also replaces provisions concerning the dispensing of contraceptives in retail pharmacies with generalized, non-specific text requiring pharmacies that do not stock a lawfully prescribed drug or device to provide an alternative (e.g., by pro-

viding another drug or device with the same effect or referring the customer's prescription to another pharmacy). This rulemaking makes extensive changes other than those highlighted in this summary. For more information concerning this rulemaking, contact the DFPR agency representative listed below. This rulemaking may impact pharmacy technicians, licensed pharmacists, pharmacy owners, and the general public who obtain prescription drugs through retail pharmacies.

☞ DENTAL ANESTHESIA

DFPR proposed amendments to rules titled "Illinois Dental Practice Act" (68 Ill Adm Code 1220; 33 Ill Reg 12927) implementing Public Act 95-399, which directs DFPR to adopt rules concerning administration and monitoring of dental anesthesia and required training for personnel who administer anesthesia. The rulemaking addresses the conditions under which dentists, dental hygienists, and dental assis-

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tants may administer or assist in the administration of minimal and moderate (conscious) sedation, deep sedation, or general anesthesia, all of which require the treating dentist to hold a permit. Dentists holding anesthesia permits are required to complete 9 hours (currently 4) of continuing education (CE) in administration of anesthesia every 3 years, to have performed at least 10 procedures using anesthesia per year, and to conduct emergency drills twice a year with staff members who assist with procedures using sedation. Dental hygienists and dental assistants must obtain certification in basic life support for healthcare providers or an equivalent certification from the American Red Cross as a condition for licensure. Hygienists who have not completed 12 or 14 hours of training in administration of nitrous oxide (not required since 1/1/98 for graduates of DFPR-approved dental hygiene programs which include it in their curricula) must complete a 6-hour course and submit proof of completion to their employing dentist within 18 months after this rulemaking takes effect. Hygienists must also complete 36 (currently 32) hours of CE every 3 years for license renewal, which may include CPR certification (not included under current rule). Other topics covered in the rulemaking include: the number and type of personnel who must be present during procedures using sedation, the types of equipment that must be used, recordkeeping and adverse event reporting requirements, and conditions for waiving CE requirements (e.g., a temporary incapacitating illness). The rulemaking also re-establishes and sets membership criteria for DFPR's Anesthesia Review Panel, which advises the DFPR director on anesthesiology-related issues; repeals text listing approved anesthesiology programs; and revises the definitions of the levels of anesthesia and their characteristics. Dentists who hold anesthesia permits or employ individuals who assist in anesthesia administration will be affected by this rulemaking.

☞ **STRUCTURAL ENGINEERS**

DFPR also proposed amendments to rules titled "Structural Engineering Practice Act of 1989" (68 Ill Adm Code 1480; 33 Ill Reg 13179). The rulemaking makes extensive non-substantive changes, including updating the rules to reflect the reorganization of DFPR several years ago and creation of the Division of Professional Regulation. DFPR will grant one year of experience applied towards an applicant's licensure requirements to individuals who complete a doctoral degree with emphasis in structural engineering and at least 8 hours in specified coursework beyond a master's degree. Two years of credit will be granted for completion of a doctoral degree and 16 semester hours of coursework. Graduate study credit granted to licensure applicants will be capped at 2 years (currently one year). Also, the seismic design requirement for licensure (demonstrating knowledge of how to build earthquake-resistant structures) can now also be met by completing a 15-contact-hour course (currently 16 hours are required) and submitting a short essay on Illinois seismic conditions. The rulemaking removes the work history requirement from the licensure application process and provides passing grade equivalents for the Test of English as a Foreign Language examination. Additional regulations designate separate credential evaluating services for individuals who received their education in a foreign country and are not enrolled as a structural engineer intern in Illinois. Continuing education (CE) credits cannot be claimed toward an individual's licensure renewal requirement for operating, visiting, or volunteering at exhibitor booths at workshops and other meetings, and licensees are required to maintain CE records for 4 years (currently 5). The Department also clarifies that the design/build project delivery process does not include engineering contract requirements imposed upon subcontractors. Structural engineers and firms that employ them will be affected by this rulemaking.

☞ **LAND SURVEYING**

DFPR proposed amendments to rules titled "Illinois Professional Land Surveyor Act of 1989" (68 Ill Adm Code 1270; 33 Ill Reg 12972). The rulemaking adds minimum standards for writing land parcel legal descriptions, which must be complete and provide definite property lines for the land parcel. The rulemaking provides specific requirements for land parcels depending upon whether or not they are located in a recorded subdivision. In the event that a new legal description is created for the land parcel or a previous description is rewritten, adequate identifying information must be retained in the legal description to provide a historical record of the land parcel. Professional land surveyors and firms that employ them may be impacted by this rulemaking.

Questions/requests for copies/comments concerning the 5 DFPR rulemakings above through 11/9/09: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield IL 62786, 217/785-0813, Fax 217/557-4451.

TEACHERS' INSURANCE

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to "Teachers' Retirement Insurance Program" (80 Ill Adm Code 2170; 33 Ill Reg 12904). The amendments add provisions implementing the federal Health Insurance Portability and Accountability Act (HIPAA), including a definition of "protected health information", a requirement that annual notices of privacy policies be sent to all participants, and provisions addressing when protected health information may be disclosed and the right of participants to access their health information. The rulemaking updates the definition of "certificate of creditable coverage" to mean a document indicating how long a person was continuously covered under a previous insurance plan. Other changes include allowing Teachers' Retirement System (TRS) benefit recipients or dependent beneficiaries to

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enroll or re-enroll in TRS health insurance programs when they become eligible for Medicare. The rulemaking designates the director of the Department of Healthcare and Family Services as the person who will determine insurance rates and premiums for TRS benefit recipients (a function currently performed by the director of the DCMS) and issue rate-setting methodology to TRS by April 15th of each calendar year. Other provisions define when TRS benefit recipients may change health plans and when coverage terminates for recipients and dependents who withdraw from the program or cease to be eligible for coverage. Finally, the rulemaking raises the participant and employer contribution rates to the Teacher Health Insurance Security Fund from the 0.75% of salary for teachers and 0.5% of teacher's salary for employers stated in existing rule to 0.84% and 0.63%, respectively, through 6/30/10.

Questions/requests for copies/comments through 11/9/09: Gina Wilson, DCMS, 720 Stratton Bldg., Springfield IL 62706, 217/785-1793.

of Credit, Billing, Deposits, Termination of Service and Issuance of Telephone Directories for Local Exchange Telecommunications Carriers in the State of Illinois" (83 Ill Adm Code 735; 33 Ill Reg 12918) concerning documentation of mailing dates for bills and discontinuance notices. Companies that send bills and discontinuance notices by mail must retain for 2 years any documentation of the date of mailing that the U.S. Postal Service (USPS) requires for the mailing method used by the company. For bills and notices mailed in envelopes postmarked by the USPS, the date of the postmark will satisfy the documentation requirement. Companies must also retain for 2 years documentation of the due date of each bill and of the date each bill was mailed, delivered, sent electronically, or otherwise made available to each customer. Telecommunications providers that are small businesses will be affected by this rulemaking.

Questions/requests for copies/comments through 11/9/09: Elizabeth Rolando, Chief Clerk, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

proposed amendments to "Riverboat Gambling" (86 Ill Adm Code 3000; 33 Ill Reg 13222) that change rule text to conform to an earlier rulemaking adopted at 32 Ill Reg 17759, effective 10/28/08, which authorizes distribution of coupons that may be redeemed for complimentary electronic wagering credits.

Questions/requests for copies/comments through 11/9/09: Michael Fries, IGB, 160 N. LaSalle, Chicago IL 60601, e-mail: michael.fries@igb.illinois.gov, 312/814-7137, Fax 312/814-7253.

RIVERBOAT GAMBLING

The ILLINOIS GAMING BOARD

STATE PROCUREMENT

The DEPARTMENT OF HUMAN RIGHTS proposed amendments to "Procedures Applicable to All Agencies" (44 Ill Adm Code 750; 33 Ill Reg 13237) charging a \$75 fee to employers of more than 15 employees seeking public contracts and applying for a Department-issued Employer Report Form, effective 1/1/10. Small businesses seeking public contracts may be affected by this rulemaking.

Questions/requests for copies/comments through 11/9/09: David T. Rothal, DHR, 100 W. Randolph, Ste. 10-100, Chicago IL 60601, 312/814-6257, TTY 312/263-1579.

TELEPHONE BILLS

The ILLINOIS COMMERCE COMMISSION proposed amendments to "Procedures Governing the Establishment

JCAR Meeting Action

At its 9/15/09 meeting, the Joint Committee on Administrative Rules voted Objections and Filing Prohibitions concerning three proposed rulemakings and also voted to object to another proposed rulemaking and a peremptory rulemaking.

DEPT. OF HUMAN SERVICES

The Joint Committee on Administrative Rules objects to, and prohibits the filing of, the DHS rulemakings titled "Temporary Assistance for Needy Families" (TANF) (89 Ill Adm Code 112; 33 Ill Reg 5201) and "General Assistance" (GA) (89 Ill Adm Code 114; 33 Ill Reg 5228) because the Department lacks specific statutory authority to expand TANF and GA in a

way that will subject the State to unknown additional costs. (The two rulemakings exclude client assets from consideration in determining TANF and GA eligibility.) The Department's inability to provide an estimated cost, combined with a Fiscal Year 2010 reduction in available TANF funds and an overall reduction in funds available for GA, adds to a concern that DHS may not be able to absorb the costs resulting from these rulemakings with-

out jeopardizing services to other DHS clients. The adoption of these rulemakings would constitute a threat to the public interest and welfare because insufficient funds for these major program expansions may result in funds being rerouted from other public assistance recipients.

The Committee objects to, and prohibits the filing of, the DHS rulemaking titled "Autism Research Fund Scien-

JCAR Meeting Action

tific Review Committee" (59 Ill Adm Code 270; 33 Ill Reg 7054) because the rulemaking lacks grant application procedures, grant issuance guidelines, and standards for DHS' determination not to act on a Review Committee recommendation. Under this rulemaking, DHS and the Review Committee would be exercising agency discretion in disbursing funds for autism research projects. Section 5-20 of the Illinois Administrative Procedure Act requires agencies to establish by rule standards for exercising discretionary powers. Adoption of this rulemaking without proper grant procedures would constitute a threat to the public interest and welfare since it could lead to inequitable awarding of grant funds.

With regard to the DHS peremptory rulemaking titled "Collections and Recoveries" (89 Ill Adm Code 165; 33 Ill Reg 11336), JCAR objects to the agency's use of peremptory rulemaking in this instance. The underlying federal law which prompted the rulemaking was enacted on 6/18/08, which gave DHS more than enough time to adopt this change through regular rulemaking. Conditions that preclude use of regular rulemaking are among the requirements for use of peremptory rulemaking under Section 5-50 of the Illinois Administrative Procedure Act.

DEPARTMENT OF INSURANCE

JCAR objects to the DOI rulemaking titled "Preferred Provider Programs" (50 Ill Adm Code 2051; 33 Ill Reg 1927) because the rulemaking may have a significant negative economic impact on the affected industry. The rulemaking, which replaces an existing Part that is being repealed, provides for the regulation of preferred provider programs, including those that provide insured persons or beneficiaries access to discounted health care provider fees.

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 October 14, 2009 meeting.

STATE BOARD OF EDUCATION

"Public Schools Evaluation, Recognition and Supervision" (23 Ill Adm Code 1) proposed 6/12/09 (33 Ill Reg 7587)

"New Teacher Induction and Mentoring" (23 Ill Adm Code 65) proposed 5/1/09 (33 Ill Reg 6250)

"Health/Life Safety Code for Public Schools" (23 Ill Adm Code 180) proposed 7/6/09 (33 Ill Reg 9279)

"Driver Education" (23 Ill Adm Code 252) proposed 7/6/09 (33 Ill Reg 9287)

"Special Education Facilities Under Section 14-7.02 of the School Code" (23 Ill Adm Code 401) proposed 7/6/09 (33 Ill Reg 9299)

"Providers of Supplemental Educational Services" (23 Ill Adm Code 675) proposed 7/6/09 (33 Ill Reg 9305)

"Pupil Transportation Reimbursement" (23 Ill Adm Code 120) proposed 7/6/09 (33 Ill Reg 9265)

TEACHERS' RETIREMENT SYSTEM

"The Administration and Operation of the Teachers' Retirement System" (80 Ill Adm Code 1650) proposed 6/19/09 (33 Ill Reg 8160)

ILLINOIS RACING BOARD

"Jockeys, Apprentices, Jockey Agents, and Valets" (11 Ill Adm Code 1411) proposed 6/19/09 (33 Ill Reg 8153)

CARNIVAL-AMUSEMENT SAFETY BOARD

"Carnival and Amusement Ride Safety Act" (56 Ill Adm Code 6000) proposed 2/6/09 (33 Ill Reg 1836)

DEPARTMENT OF REVENUE

"Retailers' Occupation Tax" (86 Ill Adm Code 130) proposed 7/6/09 (33 Ill Reg 9252)

"Retailers' Occupation Tax" (86 Ill Adm Code 130) proposed 7/31/09 (33 Ill Reg 11230)

"Income Tax" (86 Ill Adm Code 100) proposed 7/31/09 (33 Ill Reg 11201)

DEPARTMENT ON AGING

"Community Care Program" (89 Ill Adm Code 240) proposed 4/24/09 (33 Ill Reg 5948)

The Flinn Report

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