

JOINT COMMITTEE ON ADMINISTRATIVE RULES

ILLINOIS GENERAL ASSEMBLY

CO-CHAIR:
SEN. DON HARMON

CO-CHAIR:
REP. KEITH WHEELER

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SEN. KAREN McCONNAUGHAY
SEN. TONY MUÑOZ
SEN. IRA SILVERSTEIN
SEN. CHUCK WEAVER
REP. PETER BREEN
REP. BARBARA FLYNN CURRIE
REP. TOM DEMMER
REP. GREG HARRIS
REP. ANDRÉ THAPEDI

MINUTES

June 12, 2018

MEETING CALLED TO ORDER

The Joint Committee on Administrative Rules met on Tuesday, June 12, 2018 at 11:00 a.m. in Room C600 of the Michael A. Bilandic Building, Chicago IL. Co-Chair Wheeler called the meeting to order and announced that the policy of the Committee is to allow only representatives of State agencies to testify orally on any rule under consideration at Committee meetings. Other persons are encouraged to submit their comments to the JCAR office in writing.

ATTENDANCE ROLL CALL

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| X Senator Pamela Althoff | X Representative Peter Breen |
| X Senator Don Harmon | Representative Barbara Flynn Currie |
| Senator Karen McConnaughay | X Representative Tom Demmer |
| Senator Tony Muñoz | X Representative Greg Harris |
| Senator Ira Silverstein | X Representative André Thapedi |
| X Senator Chuck Weaver | X Representative Keith Wheeler |

APPROVAL OF THE MINUTES OF THE MAY 15, 2018 MEETING

Senator Althoff moved, seconded by Representative Breen, that the minutes of the May 15, 2018 meeting be approved. The motion passed unanimously (8-0-0).

REVIEW OF AGENCY RULEMAKINGS

Department of Children and Family Services – Licensing Standards for Day Care Homes (Emergency) (89 Ill. Adm. Code 406; 42 Ill. Reg. 8519), Licensing Standards for Day Care Centers (Emergency) (89 Ill. Adm. Code 407; 42 Ill. Reg. 8555) and Licensing Standards for Group Day Care Homes (Emergency) (89 Ill. Adm. Code 408; 42 Ill. Reg. 8593)

Representative Thapedi moved, seconded by Senator Weaver, that JCAR object to the Department's use of emergency rulemaking to implement its lead testing policy and to the Department's implementation of the policy before rules were adopted. PA 99-922 became effective on 1/17/17 and required DCFS to adopt lead testing and mitigation rules by 1/1/18. Although DCFS notified day care licensing staff and providers on 12/6/17 that the lead testing policy was effective immediately, it did not start the rulemaking process for another 5 months and then used emergency rulemaking to implement the policy. Any emergency situation addressed by this rule is agency created. The motion passed unanimously (8-0-0).

Department of Human Services – Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 Ill. Adm. Code 2060; 41 Ill. Reg. 14878)

Representative Demmer moved, seconded by Representative Harris, that JCAR object to the Department's failure to fulfill the mandate of P.A. 100-23 that it adopt a methodology in rule increasing payment rates for licensed community-based substance abuse treatment providers within 30 days after the 7/6/17 effective date of the Public Act. The motion passed unanimously (8-0-0).

Law Enforcement Training and Standards Board – Surcharge Fund Financial Assistance (20 Ill. Adm. Code 1700; 42 Ill. Reg. 7972 (Emergency))

Co-Chair Harmon encouraged LETSB staff to work with JCAR Staff to iron out the particulars of this rule when they move the accompanying proposed rulemaking. Senator Weaver moved, seconded by Representative Thapedi, that JCAR object to the Law Enforcement Training and Standards Board's use of emergency rulemaking to implement PA 99-352. While the PA was effective 1/1/16, the Board didn't adopt the emergency rule until 4/25/18, almost 2½ years later. Any emergency situation that exists has been created by the Board's failure to act in a timely manner. The motion passed unanimously (8-0-0).

CONSIDERATION OF OTHER RULEMAKINGS/ISSUES

Department of Financial and Professional Regulation – The Barber, Cosmetology, Esthetics, Hair Braiding, and Nail Technology Act of 1985 (68 Ill. Adm. Code 1175; 42 Ill. Reg. 3943)

Mark Thompson, Deputy General Counsel for the Division of Professional Regulation, represented DFPR. Representative Harris said it was JCAR's understanding that DFPR was agreeable to an Extension on this rulemaking. Mr. Thompson said that was correct.

Senator Althoff moved, seconded by Representative Harris, that JCAR, with the concurrence of DFPR, extend the Second Notice period for this rulemaking for an additional 45 days. The motion passed unanimously (8-0-0).

Department of Financial and Professional Regulation – Medical Practice Act of 1987 (68 Ill. Adm. Code 1285; 41 Ill. Reg. 14870)

Representative Thapedi: What prompted the promulgation of this rulemaking? Mr. Thompson: With the opioid crisis, most states have adopted some sort of standards for educating and guiding professionals in dealing with it. Representative Thapedi: Is this rulemaking in any way a codification of professional standard of care? Mr. Thompson: No, this rulemaking simply offers guidance.

Department of Healthcare and Family Services – Medical Payment (89 Ill. Adm. Code 140; 42 Ill. Reg. 3040)

Kim Schultz represented HFS. Representative Harris asked if this rulemaking deals with the implementation of Illinois' Section 1115 behavioral health transformation and State Plan. Ms Schultz confirmed. Representative Harris asked if, due to controversy over subsection (e) of Table N of this rulemaking, HFS intended to withdraw that Appendix from the rulemaking for further discussion among stakeholders. Ms Schultz confirmed that this was HFS' intent. Representative Harris thanked HFS for its work on this issue.

Secretary of State – Commercial Driver Training Schools (92 Ill. Adm. Code 1060; 42 Ill. Reg. 4512)

Ellen Sfikas, Assistant Legal Advisor, represented the Secretary of State's office. Co-Chair Harmon: Will SOS agree to an Extension of this rulemaking? Ms Sfikas: Yes. Co-Chair Harmon: While some of the additional disqualifying offenses for commercial driver school instructors may be laudable, the Committee has some concerns about their underlying statutory authority. We would like SOS to work with JCAR Staff to address these concerns during the Extension. Co-Chair Harmon moved, seconded by Representative Demmer, that JCAR, with the concurrence of SOS, extend the Second Notice period for this rulemaking for an additional 45 days. The motion passed unanimously (8-0-0).

CERTIFICATION OF NO OBJECTION

Senator Althoff moved, seconded by Co-Chair Harmon, that the Committee inform the agencies to whose rulemakings the Committee has not voted an Objection or Extension, or did not remove from the No Objection List, that the Committee considered their respective rulemakings at the monthly meeting and, based upon the agreements for modification of the rulemaking made by the agency, no Objections will be issued. The motion passed unanimously (8-0-0).

ANNOUNCEMENT OF JULY MEETING DATE

Co-Chair Wheeler announced that the next JCAR meeting would be held at 11:00 a.m. on Tuesday, July 17, 2018, in Room C600 of the Michael A. Bilandic Building, Chicago IL.

ADJOURNMENT

Representative Breen moved, seconded by Representative Demmer, that the meeting stand adjourned. The motion passed unanimously.

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