

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

SMART ACT EMERGENCY RULES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted 11 emergency rulemakings, all effective 7/1/12, to implement Public Act 97-689, the Save Medicaid Access and Resources Together (SMART) Act. The SMART Act imposes \$1.6 billion in budget cuts upon Illinois medical assistance programs. It also exempts emergency rules implementing the SMART Act from the Illinois Administrative Procedure Act's 150-day limit on emergency rules, allowing them to remain in effect through 6/30/13 or until replaced by permanent rules. Ten of the 11 emergency amendments have been published in this week's *Illinois Register* and are summarized below. An emergency rulemaking to "Medical Payment" (89 Ill Adm Code 140) will be published in next week's *Register* and summarized in next week's *Flinn Report*.

GENERAL ASSISTANCE

DHFS adopted emergency amendments to "General Administrative Provisions" (89 Ill Adm Code 101; 36 Ill Reg 10176) and "Application Process" (89 Ill Adm Code 110; 36 Ill Reg 10219), effective 7/1/12 through 6/30/

13, removing references to the General Assistance program abolished by the SMART Act. A companion proposed rulemaking to Part 110 appears in this issue of the *Illinois Register* at 36 Ill Reg 9886. Other amendments to Part 101 remove obsolete references to the Department of Public Aid, clarify which former Public Aid programs are administered by DHFS or by the Department of Human Services, and state that DHFS handles reports of fraud or abuse related to the Children's Health Insurance Program and the All Kids program.

VENDORS

DHFS adopted emergency amendments to "Practice in Administrative Hearings" (89 Ill Adm Code 104; 36 Ill Reg 10195), effective 7/1/12 through 6/30/13, concerning oversight of vendors and alternate payees (persons or entities authorized to receive medical assistance payments in place of the actual provider). A companion proposed rulemaking appears in this issue of the *Illinois Register* at 36 Ill Reg 9883. The rulemakings allow DHFS to immediately terminate, suspend or exclude from the medical assistance program vendors who pose a risk of

(cont'd next page)

Proposed Regulations

HOME CARE SERVICES

The DEPARTMENT OF HUMAN SERVICES proposed amendments to "Program Description" (89 Ill Adm Code 676; 36 Ill Reg 9902), "Determination of Need (DON) and Resulting Services Cost Maximums" (89 Ill Adm Code 679; 36 Ill Reg 9910), and "Eligibility" (89 Ill Adm Code 682; 36 Ill Reg 9919), implementing provisions of the SMART Act that raise the DON score required to qualify for Medicaid-funded care under the Home Services Program (which serves disabled adults) from 29 to 37. Clients and providers of the Home Services Program are affected by these rulemakings.

Questions/requests for copies/comments on the 3 proposed DHS rulemakings through 8/27/12: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

COMMUNITY CARE PROGRAM

The DEPARTMENT ON AGING (DonA) proposed an amendment to "Community Care Program" (89 Ill Adm Code 240; 36 Ill Reg 9812) implementing a provision of Public Act 97-689 (SMART Act) raising the minimum Determina-

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NEW REGULATIONS: Rules adopted by agencies this week.

PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

☞: Symbol designating rules of special interest to small businesses, small municipalities, and not-for-profit corporations. Agencies are required to consider comments from these groups and minimize the regulatory burden on them.

QUESTIONS/COMMENTS/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of *The Flinn Report* or the *Illinois Register* will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

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fraud, waste, abuse or harm and providers who "constitute an immediate danger to the public". It also establishes an appeal process for affected vendors and alternate payees. DHFS may deny eligibility to individuals and entities with prior unpaid debts to the Department, as well as those to whom a vendor with unpaid debts transfers assets, ownership or control. Other amendments broaden the Department's authority to collect interest on overpayments; withhold payments while an audit, administrative appeal, or review is pending; withhold payments for lack of proper licensure, certification, or compliance with state or federal regulations; and deny payment or credit for services rendered after the vendor or alternate payee was notified of suspension or exclusion from the medical assistance program. Medical providers, vendors and alternate payees are affected by this rulemaking.

FAMILY CARE

DHFS adopted emergency amendments to "Special Eligibility Groups" (89 Ill Adm Code 118; 36 Ill Reg 10223) and "Children's Health Insurance Program" (89 Ill Adm Code 125; 36 Ill Reg 10298), both effective 7/1/12 through 6/30/13. A companion proposed amendment to Part 118 appears in this issue of the *Illinois Register* at 36 Ill Reg 9888. The Part 118 rulemaking repeals grandfathering provisions that had allowed persons with incomes of 185% to 400% of the federal poverty level (FPL) to remain enrolled in the Family Care program if they were enrolled on 6/30/09. Amendments to Part 125 limit Family Care eligibility to parents or caretaker relatives whose income is at or below 133% of FPL, clarify the definitions of "All Kids" and "Family Care", and remove obsolete references to the former Kid Care program. Persons enrolled in Family Care are affected by these rulemakings.

Cares Rx Program" (89 Ill Adm Code 119; 36 Ill Reg 10229) by emergency rulemaking effective 7/1/12 through 6/30/13. A companion proposed repealer appears in this issue of the *Illinois Register* at 36 Ill Reg 9890. The rulemaking abolishes the Illinois Cares Rx prescription drug program for low-income senior citizens, which provided prescription drug assistance to persons with incomes at or below 200% of the federal poverty level. Former Illinois Cares Rx clients and pharmacies may be affected by this rulemaking.

MEDICAID ELIGIBILITY

DHFS adopted emergency amendments to "Medical Assistance Programs" (89 Ill Adm Code 120; 36 Ill Reg 10253) effective 7/1/12 through 6/30/13. The rulemaking imposes stricter limits on certain assets and asset transfers for persons seeking Medicaid assistance for long-term care. Transfers to special needs trusts for disabled adults made after the adult reaches 65 years of age will be treated as asset transfers for less than fair market value, which can delay Medicaid eligibility for long-term care, unless the disabled person is a ward of the State or of a county. (Formerly, these transfers were allowed regardless of the disabled person's age.) For community spouses living at home while the other spouse is in a nursing home, the rulemaking limits the maximum amount of assets he or she may retain to \$109,560 and limits his/her maximum monthly income allowance to \$2,739. Eligibility for long term care assistance will be denied if a community spouse or institutionalized spouse refuses to disclose assets or income during the application process, and former limits on DHFS' ability to seek support from the community spouse have been removed. Funds spent on legal assistance or on prepaid funeral or burial arrangements during the 3 months prior to application for Medicaid (for which eligibility may be granted retroactively) are no longer exempt from consideration during the application process. Retroactive eligibility

may be granted to persons who are deceased by the time an application is made. Income-producing farmland and farm equipment are no longer entirely exempt from consideration as assets, but are subject to the same \$6,000 exemption limit as other income producing assets. A homestead or other real property held in trust is not exempt unless the applicant's spouse, minor child or disabled child resides there. The exemption for prepaid funeral contracts is limited to \$5,874 (formerly \$10,000) for goods and services; amounts set aside specifically for the purchase of burial space are entirely exempt regardless of value. The homestead equity exemption is reduced to \$525,000 (formerly \$750,000), adjusted annually for inflation. Another amendment gives DHFS authority to determine which types of primary care providers may participate in the Recipient Restriction Program instead of listing the approved provider types (formerly, primary care providers, pharmacies, dentists, podiatrists, and vendors of durable medical equipment). Those affected by this rulemaking include care providers enrolled in the RRP, nursing homes, nursing home residents and their spouses, and persons who counsel seniors regarding Medicaid eligibility for long-term care.

HOSPITALS

DHFS adopted emergency amendments to "Hospital Services" (89 Ill Adm Code 148; 36 Ill Reg 10326) effective 7/1/12 through 6/30/13. The rulemaking bars payment for the entirety of any inpatient hospital stay on or after 7/1/12 if the patient experiences a provider preventable condition (PPC) after admission. PPCs include hospital acquired conditions (HACs) such as infections, and other provider preventable conditions (OPPCs) such as surgical mistakes, that are deemed preventable through compliance with evidence-based guidelines. Hospitals must code primary and secondary diagnoses with "present on admission" (POA) codes indicating whether the condition was

ILLINOIS CARES RX

DHFS repealed the Part titled "Illinois

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present when the patient was admitted. HACs and OPPCs must be reported via coding on inpatient claims even though DHFS may deny such claims. Payment will also be denied for patients age 21 or older admitted for alcohol or drug detoxification within 60 days of a previous detox admission. Payment for caesarian sections is limited to the rate for normal vaginal deliveries unless the caesarian section was medically necessary, and payment rates established for outpatient rehabilitation services are removed. Various supplemental payments to hospitals with high volumes of Medicaid patients, which had been scheduled to expire on 6/30/12, are extended until 12/31/14. The rulemaking applies a federally prescribed copayment (currently \$3.65 per day; formerly, \$2 or no copayment) to inpatient services and to emergency services. The Excellence in Academic Medicine program, which provided additional payments to designated teaching hospitals, is abolished. Claims for services provided to sexual assault victims will be paid at the DHFS rate (formerly, the provider's customary charge to the public for the same service) and must be submitted within 180 days.

DHFS also adopted emergency amendments to "Hospital Reimbursement Changes" (89 Ill Adm Code 152; 36 Ill Reg 10410), effective 7/1/12 through 6/30/13, imposing a general 3.5% rate cut upon most hospitals. Hospitals exempted from the rate cut include safety net hospitals, critical access hospitals, and certain hospitals operated by a unit of local government or state university. The reduction also does not apply to certain payments specified in the SMART Act. The rulemaking freezes the supplemental per diem rate for long term acute care hospitals at the level in effect on 10/1/10 and bars new long term acute care hospitals from enrolling in the program after 6/14/12 (the effective date of the SMART Act). Also, hospitals located in counties where DHFS requires medical assistance recipients to enroll in a care coordina-

tion program (CCP) will be barred from receiving supplemental payments unless they begin participating in the CCP by 8/14/12 or within 60 days after mandatory CCP enrollment begins in those counties. Hospitals are affected by these rulemakings.

☞ LONG TERM CARE

Finally, DHFS adopted emergency amendments to "Long Term Care Reimbursement Changes" (89 Ill Adm Code 153; 36 Ill Reg 10416) effective 7/1/12 through 6/30/13. The rulemaking imposes a 2.7% rate cut upon supportive living facilities, mental health facilities, and nursing homes designated as Institutions for Mental Disease (IMDs) due to a high number of residents with mental illnesses. Other amendments abolish bed reserve payments for adult residents of nursing homes, mental health facilities, and institutions for the developmentally disabled during temporary absences, and remove a \$10 per day/resident payment to nursing homes for residents with developmental disabilities. For nursing facilities not designated as IMDs, the support and capital components of payment rates will be reduced 1.7%, and other rate components will be based upon the number of residents in various Resource Utilization Groups (RUGs) that classify residents according to their level of care. Payment rates for residents in lower-level RUGs will be reduced 10% while rates for those in higher-level RUGs will be reduced 1%. Long term care facilities are affected by this rulemaking.

Questions/requests for copies of the 10 DHFS emergency rules, and comments on the proposed rulemakings to Parts 104, 110, 118, and 119 through 8/27/12: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, Springfield IL 62763-0002, 217/782-1233.

DHS GENERAL ASSISTANCE

The DEPARTMENT OF HUMAN SERVICES repealed, by emergency rulemaking, the Part titled "General

Assistance" (89 Ill Adm Code 114; 36 Ill Reg 10437), effective 7/1/12 until 6/30/13, in accordance with PA 97-689 (SMART Act). An identical proposed repealer appears in this issue of the *Illinois Register* at 36 Ill Reg 9894. The rulemakings repeal rules for the General Assistance program of public assistance, which was abolished by the SMART Act as of 7/1/12. DHS also proposed emergency amendments to "General Administrative Provisions" (89 Ill Adm Code 10; 36 Ill Reg 10421), "Related Program Provisions" (89 Ill Adm Code 117; 36 Ill Reg 10503), and "Collections and Recoveries" (89 Ill Adm Code 165; 36 Ill Reg 10513), also effective 7/1/12 until 6/30/13, removing references to General Assistance from each Part in accordance with the SMART Act. Identical proposed rulemakings appear in this issue of the *Register* at 36 Ill Reg 9892 (Part 10), 36 Ill Reg 9898 (Part 117) and 36 Ill Reg 9900 (Part 165). Former clients of the General Assistance program are affected by these rulemakings.

Questions/requests for copies/comments on the 4 proposed DHS rulemakings through 8/27/12: Tracie Drew, at the DHS address and phone number on page 1.

☞ SECURITY PROFESSIONALS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to rules titled "Private Detective, Private Alarm, Private Security, Fingerprint Vendor and Locksmith Act of 2004" (68 Ill. Adm. Code 1240; 36 Ill. Reg. 4215), effective 7/13/12, that implement provisions of Public Acts 95-613 and 96-1445. PA 95-613 requires persons that handle canines in the act of protecting persons or property or conducting investigations to hold a Department-issued canine handler or canine trainer authorization card. The rulemaking adds a new Subpart dedicated to the licensure of canine handlers, which includes training course standards, handler authorization card issuance requirements, authorized training programs, trainer authorization card issu-

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ance requirements and unprofessional conduct standards under which DFPR may deny issuance of or suspend an existing canine handler or canine trainer authorization card. PA 96-1445 requires implementation of consumer safeguards regarding locksmiths. The rulemaking requires locksmith agencies conducting business in Illinois to have an office within the State or an out-of-state office no further than 50 miles from the Illinois border. DFPR also adds more specific procedures for issuance of licenses for private detective agencies, private alarm agencies, private security contractor agencies and locksmith agencies. (Formerly, the rule contained provisions for licensing individual applicants, not agencies.) The rulemaking also includes provisions for issuance of branch office licenses and new requirements for agency licensee-in-charge licensing; defines armed employees; revises requirements for approving firearm instructors associated with armed proprietary security forces; establishes certification and renewal fees for firearm instructors; establishes initial issuance and licensure renewal fees for canine handler and trainer authorization cards; and increases initial issuance and renewal fees firearm control cards and armed proprietary security force registrations. Initial licensure of canine handlers, trainers, or training programs is \$75 to \$100 (renewals are \$45) and the renewal fee for armed proprietary security forces is increased from \$20 to \$200. The rulemaking also sets standards and fees for approving canine handler, canine instructor and firearm instructor training programs. This rulemaking will affect police and guard dog trainers, private security guards, locksmiths, and their employers.

OPTOMETRISTS

DFPR also adopted amendments to "Optometric Practice Act of 1987" (68 Ill Adm Code 1320; 35 Ill Reg 18993), effective 6/29/12. The rulemaking implements a provision of Public Act 97-170 which expanded the definition of ocular pharmaceutical agents to

include anti-drying agents and agents for the treatment of hypotrichosis. Another change clarifies that all continuing education (CE) earned in other states being presented in Illinois for credit must be certified by the Council on Optometric Practitioner Education (COPE). The rulemaking also amends the requirements for minimum eye examinations and minimum equipment lists for optometry offices. A new Section clarifies recordkeeping requirements for examinations made and prescriptions written by a licensed optometrist. The rulemaking also changes the ancillary licensure process to an ancillary registration process and removes associated ancillary licensure fees from rule. (Ancillary licenses are currently granted to optometrists practicing at more than one location.) Since 1st Notice, provisions have been added allowing patient records to be transferred or released to a "covered entity" under the federal Health Insurance Portability and Accountability Act (HIPAA). Records may also be released to any person, entity or organization presenting a valid authorization for release signed by the patient. Those affected by this rulemaking include optometrists, vision care facilities and other entities that employ optometrists.

Questions/requests for copies of the 2 DFPR rulemakings above: Craig Cellini, DFPR, 320W. Washington, 3rd Fl., Springfield IL 62767-0001, 217/785-0813.

VIDEO GAMING

The ILLINOIS GAMING BOARD adopted amendments to "Video Gaming (General)" (11 Ill Adm Code 1800; 36 Ill Reg 4012), effective 6/28/12 concerning fingerprinting of license applicants and registration of video gaming terminals. A companion emergency amendment effective 2/29/12 appeared in the *Illinois Register* at 36 Ill Reg 4150. The amendments provide that inkless fingerprinting must be performed by a livescan vendor contracted and approved by the Department of Public Health. Also, video

gaming terminals are required to have registration tags affixed and any terminal not tagged may be seized. In case of seizure, the affected terminal operator must be notified of the seizure and of his or her right to an appeal hearing. Since 1st Notice, IGB has added more detailed provisions for qualification as a livescan vendor, how fingerprinting will be conducted (e.g., with both rolled and slap impressions of all 10 fingers), how fees will be determined, and grounds for revocation, suspension, or denial of a livescan vendor contract. Those affected by this rulemaking include owners and operators of video gaming terminals.

Questions/requests for copies: Lynn J. Carter, IGB, 160 N. La Salle St., Chicago IL 60601, 312/814-7137.

WATER SUPPLIES

The POLLUTION CONTROL BOARD adopted amendments to "Maximum Setback Zones" (35 Ill Adm Code 618; 36 Ill Reg 4015), effective 6/27/12, concerning land use near wells that serve as public water supply sources. The rulemaking establishes a maximum setback zone for six wells operated by Fayette Water Company (FWC) in Fayette County in accordance with Section 14.3 of the Environmental Protection Act. Potential primary sources of groundwater contamination are prohibited from locating wholly or partially within this maximum setback zone. The rulemaking also provides that the same prohibition will apply to other maximum setback zones that may be created under this Part in order to protect particularly vulnerable groundwater supplies. (Formerly, this Part established a maximum setback zone only for the Village of Marquette Heights in Tazewell County.) A map showing the boundaries of the FWC existing minimum and proposed maximum setback zones is included in a new appendix. This rulemaking affects land owners and users within the maximum setback zone.

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Questions/requests for copies: Tim Fox, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-6085, www.ipcb.state.il.us. Please reference docket R11-25.

DRIVER'S LICENSES

The SECRETARY OF STATE adopted amendments to "Cancellation, Revocation or Suspension of Licenses or Permits" (92 Ill. Adm. Code 1040; 36 Ill. Reg. 3661), effective 6/29/12, to implement provisions from several public acts. The definition of "statutory summary revocation" from PA 96-1344 has been added to the Part as well as a statutorily designated new offense. SOS is also adding several other statutorily designated new offenses for which SOS can take sanctions against a driver's license and is removing the "serious" designation

from multiple offenses that are considered a serious traffic violation if committed in a commercial vehicle.

Questions/requests for copies: Jennifer Egizii, SOS, Driver Services Department, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a preemptory amendment to "Pay Plan" (80 Ill Adm Code 310; 36 Ill Reg 10518), effective 6/27/12, implementing two recent Memoranda of Understanding (MOUs) with state employee unions. One MOU, signed 6/25/12 with the American Federation of State, County and Municipal Employees (AFSCME) reinstates general pay increases, seniority-related pay in-

creases and step (promotion) increases for employees represented by AFSCME bargaining units at the Deaf and Hard of Hearing Commission, Guardianship and Advocacy Commission, Historic Preservation Agency, and Prisoner Review Board, effective 7/1/11. A second MOU with the Illinois Federation of Public Employees (IFPE), signed 6/26/12, reinstates similar pay increases for Historic Preservation Agency employees represented by IFPE, effective 7/1/11. In both cases, the affected positions had been subject to a pay freeze imposed upon various State agencies during fiscal year 2012.

Questions/requests for copies: Jason Doggett, DCMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, fax 217/524-4570, e-mail: CMS.PayPlan@illinois.gov.

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tion of Need score required to qualify for Medicaid-funded home care services under the Community Care Program (which serves senior citizens) from 29 to 37, effective 7/1/12 or upon federal approval, whichever is later. Care providers and clients of the program are affected by this rulemaking.

Questions/requests for copies/comments through 8/27/12: Karen Alice Kloppe, DonA, One Natural Resources Way #100, Springfield IL 62702-1271, 217/782-4842.

films of less than 30 minutes and those of 30 minutes or more and remove references to obsolete rules from 2006 and earlier. The rulemaking adds a definition of "talk show" and defines a vendor as an Illinois company, corporation, or other registered business entity that is in good standing with the Illinois Secretary of State throughout the duration of the production. A certified public accountant who attests to the documentation of the tax credit must be qualified under American Institute of Certified Public Accountants standards. Accredited productions on or after 1/1/09 will be awarded a credit equal to 30% of the spending approval plus 15% of Illinois labor expenditures approved by the Department, for employees who earn more than \$1,000 on the production and live in areas of high poverty or high unemployment in Illinois. Part 532 amendments outline the live theater program and define terms applicable to live theater. After 1/1/12, qualified applicants are eligible for a tax credit on a first-come, first-served basis. Each

award is limited to \$500,000 per accredited theater. Applicants for an Accredited Theater Production Certificate must provide basic identifying information and production information, including the title of the production, production run, estimated total budget, estimated number of runs in Illinois, estimated total Illinois labor expenditure, and number of residents to be hired to work on the production. Pre-Broadway productions must provide tangible evidence that the production is scheduled to be performed in the Broadway theater district in New York City within 12 months. Applicants must remain in good standing with state and local authorities and make application no sooner than 180 days prior to the opening of ticket sales. The rulemaking also outlines the application and approval process for certificates and credits, and criteria the Department will use to approve/deny an award and calculation of the award amount. Other sections outline the Department's obligation to evaluate the Program and report to

FILM & THEATER TAX CREDITS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed amendments to "Illinois Film Production Services Tax Credit Program" (14 Ill Adm Code 528; 36 Ill Reg 9823) and proposed a new Part titled "Illinois Live Theater Production Tax Credit Program (14 Ill Adm Code 532; 36 Ill Reg 9841) to support dramatic arts production in Illinois. Part 528 amendments differentiate between

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the Illinois General Assembly, confidentiality of documents, record retention, and transfer of any theater tax credit award. Those affected by this rulemaking may include small businesses who serve the entertainment

industry and for-profit theaters or theatrical groups.

Questions/requests for copies/comments through 8/27/12: Jolene Clarke, Rules Administrator, Department of

Commerce and Economic Opportunity, 500 East Monroe, Springfield IL 62701, 217/557-1820, Fax: 217/524-3701 or email: Jolene.clarke@illinois.gov.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. These rulemakings will be considered at JCAR's August 14, 2012 meeting.

DEPARTMENT OF HUMAN SERVICES

"Child Care" (89 Ill Adm Code 50) proposed 3/30/12 (36 Ill Reg 4648)

"Temporary Assistance for Needy Families" (89 Ill Adm Code 112) proposed 3/30/12 (36 Ill Reg 4658)

"Supplemental Nutrition Assistance Program (SNAP)" (89 Ill Adm Code 121) proposed 3/30/12 (36 Ill Reg 4670)

DEPARTMENT OF NATURAL RESOURCES

"Illinois Prescribed Burning Act" (17 Ill Adm Code 1565) proposed 5/11/12 (36 Ill Reg 6904)

Correction: In last week's *Flinn Report*, rulemakings moved to Second Notice by the Department of Agriculture, Department of Human Services, Illinois Student Assistance Commission, and Illinois Commerce Commission were erroneously described as being on JCAR's August 14, 2012 meeting agenda. These rulemakings were considered by JCAR at its July 10, 2012 meeting. JCAR regrets the error and any confusion it may have caused.

JCAR Meeting Action

At its 7/10/12 meeting, the Joint Committee on Administrative Rules voted to object to two proposed rulemakings. The Committee and the respective agencies also agreed to extend Second Notice an additional 45 days for the Department of Financial and Professional Regulation's rulemaking titled "Boxing and Full-contact Martial Arts Act" (68 Ill Adm Code 1370; 36 Ill Reg 4467), DFPR's repeal of the Part titled "Professional Boxing and Martial Arts Contests" (68 Ill Adm Code 1371; 36 Ill Reg 4571), and the Pollution Control Board rulemaking titled "Clean Construction or Demolition Debris Fill Operations" (35 Ill Adm Code 1100; 36 Ill Reg 2801).

IL LAW ENFORCEMENT TRAINING AND STANDARDS BOARD

JCAR objects to the ILETSB rulemaking titled "Intern Training Program" (20 Ill Adm Code 1725; 36 Ill Reg 5077) because of the Board's delay in adopting rules for the program, which was created by a 1997 statute. The agency implemented this program through policy not in rule, in violation of Section 5-10 of the Illinois Administrative Procedure Act.

DEPARTMENT OF VETERANS' AFFAIRS

JCAR objects to the DVA rulemaking titled "Payment of Maintenance Charges and Income Management at the Illinois Veterans Homes" (95 Ill Adm Code 108; 36 Ill Reg 5450) because the rulemaking states that DVA will establish outside of rule the policy for determining the dependent allowance that will be deducted before calculating a resident's maintenance charge. Under Section 5-10 of the IAPA, agency policy maintained outside of rule is not enforceable.