

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

☞ DRIVER'S LICENSES

The SECRETARY OF STATE adopted emergency amendments to the Part titled "Issuance of Licenses" (92 Ill Adm Code 1030; 38 Ill Reg 8331; 38 Ill Reg 8429) effective 4/4/14, allowing SOS to limit the number of appointments an individual or single computer IP address can make within a 24-hour period for non-visa status Temporary Visitor Driver's Licenses. If SOS finds that limited number has been violated, it may cancel all appointments exceeding the maximum allowable number. A companion proposed rulemaking appears in this week's *Illinois Register* at 38 Ill Reg 8331. Those interested in obtaining a temporary visitor's driver's license or assisting an individual with obtaining one may be interested in this rulemaking.

Questions/requests for copies/comments on the proposed rulemaking through 6/2/14: Nathan Maddox, SOS, 98 Howlett Building, Spfld IL 62756, 217/785-3094, nmaddox@ilsos.net.

☞ LOBBYISTS

SOS also adopted amendments to the Part titled "Lobbyist Registration

and Reports" (2 Ill Adm Code 560; 37 Ill Reg 20628), effective 4/3/14. Companion emergency amendments effective 12/16/13 appeared in the *Illinois Register* at 37 Ill Reg 20784, but were repealed effective 2/7/14. The rulemaking implements recent amendments to the Lobbyist Registration Act that were effective 1/1/14, by changing the definition of "client" to mean any person or entity that employs or compensates a lobbyist to lobby State government; adding a definition of "client registrant" (client required to register under the Act); and requiring reports of lobbyist expenditures to include the names and addresses of client registrants and of the official or officials on whose behalf the expenditures ultimately were made. Registered lobbyists and their clients are affected by this rule.

Questions/requests for copies: Michelle Nijm, SOS, 100 W. Randolph St., Ste. 5-400, Chicago IL 60601, 312/814-7246.

EDUCATOR LICENSURE

THE STATE BOARD OF EDUCATION adopted amendments to Parts titled "Gifted Education" (23 Ill Adm Code

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MEDICAL CANNABIS

Four State agencies have proposed rulemakings implementing Public Act 98-122, the Compassionate Use of Medical Cannabis Pilot Program Act, which establishes a 4-year pilot program allowing cultivation and dispensing of cannabis (marijuana) for medical purposes. These rules are too detailed to describe in their entirety. For more information, consult the contact person listed below for each agency.

☞ CULTIVATION

The DEPARTMENT OF AGRICULTURE proposed a new Part titled "Compassionate Use of Medical Cannabis Pilot Program" (8 Ill Adm Code 1000; 38 Ill Reg 8069) regulating cultivation centers that grow cannabis plants and produce cannabis-infused products (baked goods, liquids, tinctures, ointments). DOA will grant permits for a total of 22 cultivation centers, one for each Illinois State Police district. Cultivation centers cannot sell products directly to consumers and cannot enter into exclusive agreements with particular dispensaries. A single entity

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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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227; 37 Ill Reg 19525), "Summer Bridges Program" (23 Ill Adm Code 232; 37 Ill Reg 19530) and "Grants for Arts Education and Foreign Language Education" (23 Ill Adm Code 265; 37 Ill Reg 19555) all effective 4/1/14 to reflect the statutory shift from teacher certification to educator licensure. In addition the Part 227 amendments update an existing incorporation by reference.

ALTERNATIVE LEARNING

SBE also adopted amendments to "Alternative Learning Opportunities Program" (23 Ill Adm Code 240; 37 Ill Reg 19535) effective 4/1/14. This rule implements PA97-495, which permits districts to transfer expelled or suspended students to an Alternative Learning Opportunities Program (ALOP) unless doing so would place ALOP students or staff at risk. Expelled/suspended students cannot be transferred from the ALOP to their home schools until the term of expulsion or suspension is completed. The proposed rule also requires nonpublic schools classified as ALOPs to meet the ISBE's registration and recognition requirements for nonpublic schools in 23 Ill Adm Code 425 and allows programs approved by other State agencies (currently, only SBE) to serve as ALOPs. In addition, the amendments make technical changes to reflect the statutory shift from teacher certification to educator licensure, as well as minor grammatical and stylistic changes. Some non-public schools may be affected by this rulemaking.

Questions/requests for copies of the 4 SBE rulemakings: Part 227, Marcia Johnson (217/524-4832); Part 265, Dora Welker (217/524-4832); and Part 240, David Andel (217/782-5589), all SBE, 100 N. First Street, Springfield IL 62777. For Part 232, Melinda Wright, SBE, 100 W. Randolph St. Suite 14-300, Chicago IL 60602, 217/524-4832.

EDUCATIONAL LABOR RELATIONS

The EDUCATIONAL LABOR RELA-

TIONS BOARD proposed amendments to "General Procedures" (80 Ill Adm Code 1100; 37 Ill Reg 15559), "Representation Procedures" (80 Ill Adm Code 1110; 37 Ill Reg 15563), "Collective Bargaining and Impasse Resolution" (80 Ill Adm Code 1130; 37 Ill Reg 15567) and "University of Illinois Bargaining Units" (80 Ill Adm Code 1135; 37 Ill Reg 15583) all effective 4/1/14. The amendments to Part 1100 allow Board members to appear at Board meetings via video or audio conferencing if they are personally ill, away on official Board business or have a family or other emergency. Also, the public may address the Board on any relevant subject for a reasonable amount of time, not to exceed 5 minutes. Finally, photos, tape, film and other recording is permitted at all open Board meetings provided the equipment does not interfere with the Board's discussion. Amendments to Part 1110 require all majority interest petitions be posted for at least 21 days. The Part 1130 amendments implement PA97-8, establishing separate procedures for Chicago Public Schools and all other school districts in the state. The rulemaking specifies that for newly certified bargaining representatives and existing representatives, if an agreement is not reached within 90 days of next school year, either party may file a notice with the Board. A second notice must be filed if there is still not an agreement within 45 days of the school year. Mediation may be invoked by either party after a period of negotiation and 90 days before the school year, if either party makes a request or is made automatically by the Board if there is a new exclusive representative or 45 days before the start of the school year. If the Board invokes mediation, the parties must submit a stipulation to defer selection of the mediator within 2 days. Criteria for notification and public posting states either party or the mediator may initiate public posting anytime 15 days after mediation has begun. An initiation must be filed with the Board and contain the requisite information. Employees may not strike until at least 14 days have elapsed

after the Board has posted the most recent offer and cost summaries on its website. Collective bargaining and impasse resolution rules for Chicago Public Schools are identical to the statute. Changes since 1st Notice clarify when invocation of mediation by ELRB is optional and when it is mandatory. Finally, amendments to Part 1135 add a bargaining unit for full-time, nontenure-track faculty at the Urbana-Champaign and Chicago U of I campuses and create separate bargaining units for full-time tenured or tenured-track faculty and full-time nontenure-track faculty at the Springfield campus. Since 1st Notice, ELRB has included all full-time, non-tenure track faculty in the presumptively appropriate bargaining units, rather than only those who hold a terminal degree in their field of instruction or have been employed at least four consecutive semesters, excluding summer terms. Members of the public with business before the Board, school districts, public education unions and faculty at the University of Illinois may be affected by these rulemakings.

Questions/requests for copies: Susan Willenborg, ELRB, 160 N. LaSalle St., Suite N-400, Chicago IL 60601, 312/793-3170.

SNAP BENEFITS

The DEPARTMENT OF HUMAN SERVICES adopted emergency amendments to "Supplemental Nutrition Assistance Program" (89 Ill Adm Code 121; 38 Ill Reg 7428) that implement a provision of federal Public Law 113-79, effective 4/1/14. An identical permanent rulemaking appears in this week's *Illinois Register* at 38 Ill Reg 8241. PL 113-79 disallows a SNAP household to qualify for the air conditioning/heating standard allowance based on the expected receipt of Low Income Home Energy Assistance Program (LIHEAP) payments. The rulemaking requires SNAP applicants/recipients to receive a LIHEAP payment of \$21 or more in the current month of application or in the immedi-

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cannot hold more than 3 cultivation center permits. Cultivation centers cannot be located within 2,500 feet of any school, day care facility, or area zoned for residential use, or within 1,000 feet of a dispensary or another cultivation center. Financial requirements include a \$25,000 permit application fee, a \$2 million escrow account or surety bond (the amount decreases by \$500,000 upon opening of the center and \$500,000 every year thereafter, phasing out after 3 years of operation), documentation of at least \$500,000 in liquid assets, a \$200,000 initial permit fee, and a \$100,000 annual renewal fee. Permit applications will be accepted within a 30-day window to be announced by DOA on its website. Information required on a cultivation center permit application includes the names, addresses, and dates of birth of all principal officers and board members; verification from ISP of fingerprint-based criminal background checks of the principal officers, agents, agent-in-charge, and board members; detailed operation and management plans; a projected annual budget; documented experience with agricultural cultivation techniques; and verification that the center is in compliance with local zoning ordinances. Selection criteria for cultivation center permits are listed. Identification cards for cultivation center agents are \$100 for the original card, \$100 to renew a card, and \$50 for a replacement card. Fees are also charged for changing the name or ownership of a cultivation center (\$1,000); making significant modifications or expansions to a cultivation center (\$8,000); making minor alterations (\$1,000); and registering a product with DOA (\$100 per product). Violations of the Act or this Part may incur fines of no more than \$50,000 per violation. Detailed financial disclosure statements, including documentation of funding sources, are required upon application for a permit and must be updated when changes are made. A center that does not begin operations within 6 months after receiving a permit, or that ceases production for more than 90 consecutive days after

opening, will forfeit its permit, unless it obtains an extension from DOA or shows good cause for the interruption in production. Other topics addressed in this Part include recordkeeping requirements; specifications for cultivation and production areas; containment, packaging and labeling specifications; transportation, inventory control and security requirements (which include 24-hour video monitoring accessible to DOA or ISP in real time); laboratory testing; and waste disposal. Persons planning to own, operate, work at or invest in a cannabis cultivation center are affected by this rulemaking.

Questions/requests for copies/comments through 6/2/14: Susan Baatz, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/524-6905, fax 217/785-4505.

DISPENSARIES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed a new Part titled "Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program" (68 Ill Adm Code 1290; 38 Ill Reg 8163) establishing a registry for dispensing organizations (DOs) authorized to provide medical cannabis to patients. The Part establishes 60 DO districts throughout the State, based on ISP districts, counties and townships. Dispensing organizations must be authorized before they can be registered; the Part includes criteria and processes for both authorization and registration. No person can be part of more than 5 dispensing organizations and a single dispensing organization may register for only one dispensary per district, in up to 5 districts. Fees are \$5,000 to apply for authorization, \$30,000 for initial registration, \$25,000 per year for registration renewal, \$100 for an agent application, \$5,000 for a change of location, \$50 per year for an agent ID card, and \$50 for replacement of a DO registration or agent ID card. All authorized DOs must submit registration packets within 120 days after authori-

zation. Registrations will not be granted until the registration packet is complete and the dispensary has passed an inspection by DFPR. Additionally, each registered DO must show proof of a \$50,000 surety bond. Registrations cannot be transferred or assigned and expire annually. Criteria for dispensing agents and agents-in-charge are established. All agents-in-charge must be a principal officer or full-time employee of the DO. Principal officers must obtain dispensing agent ID cards. Dispensing organizations must include their names on all packaging and can only obtain medical cannabis and medical cannabis products from Illinois-permitted cultivation centers. All third party vendors must be disclosed to DFPR. Dispensaries may only operate between 6 a.m. and 8 p.m. Prohibited activities are listed. Dispensaries must have real-time, web-based inventory control systems. Audits must be performed by the agent-in-charge every 30 calendar days. Records must be stored electronically and made available to DFPR for inspection. Advertising restrictions and grounds for discipline are outlined. A person disciplined under these rules may be fined up to \$10,000 and could have his or her registration suspended. Hearing procedures are also established. Those interested in establishing dispensing organizations, and municipalities where dispensing organizations may be established, are affected by this rulemaking.

Questions/requests for copies/comments through 6/2/14: Craig Cellini, DFPR, 320 W. Washington, 3rd Fl. Springfield IL 62786, 217/785-0813, e-mail: FPR.MedicalCannabis@illinois.gov.

PATIENTS & CAREGIVERS

The DEPARTMENT OF PUBLIC HEALTH proposed a new Part titled "Compassionate Use of Medical Cannabis Patient Registry" (77 Ill Adm Code 946; 38 Ill Reg 8243) establishing requirements for its Patient Registry Program. The rulemaking specifies

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ately preceding 12 months in order to qualify for the Standard Utility Allowance (SUA) based on receipt of LIHEAP. The rulemaking also updates all CFR references to reflect the most recent 2013 versions.

CONTROLLED SUBSTANCES

DHS also adopted peremptory amendments, effective 4/7/14, to "Schedule of Controlled Substances" (77 Ill Adm Code 2070; 38 Ill Reg 8439) implementing a federal regulation (21 CFR 1308) adding 10 synthetic cathinones to the list of Schedule I controlled substances.

Code 51; 37 Ill Reg 17331), effective 4/1/14, thereby implementing Public Act 98-49. The Act repealed the Abuse of Adults with Disabilities Intervention Act [20 ILCS 2435] and created the Adult Protective Services Act [320 ILCS 20] which shifted responsibility for adult protective services to the Department on Aging. Agencies that provide services to disabled adults are affected.

Questions/requests for copies of the adopted, emergency and peremptory rules, and comments concerning the proposed rulemaking through 6/2/14: Tracie Drew, DHS, 100 S. Grand Ave. E., 3rd Fl., Springfield IL 62762, 217/785-9772.

DHFS REPEALER

The DEPARTMENT OF HEALTHCARE

AND FAMILY SERVICES repealed emergency amendments to the Part titled "Children's Health Insurance Program" (89 Ill Adm Code 125; 38 Ill Reg 8454) by emergency rulemaking effective 4/15/14. The rulemaking repeals emergency amendments adopted at 38 Ill Reg 2943, effective 1/10/14 for a maximum of 150 days, clarifying the 10/1/13 effective date for use of the Modified Adjusted Gross Income (MAGI) methodology to determine financial eligibility in accordance with the federal Affordable Care Act. A replacement emergency rulemaking also effective 4/15/14 will appear in next week's *Illinois Register*.

Questions/requests for copies: Jeanette Badrov, DHFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

DHS REPEALER

DHS also repealed the Part titled "Office of Inspector General Adults with Disabilities Abuse Project" (59 Ill Adm

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which debilitating medical conditions qualify an individual for eligibility (e.g., cancer, glaucoma, HIV/AIDS, various neuromuscular disorders) and establishes a process for issuing and renewing medical cannabis registry identification cards to qualifying patients and caregivers. Registered patients and caregivers may obtain medical cannabis only from the dispensing organizations designated on their applications; they may not grow or cultivate it themselves or obtain it from other patients or caregivers. From 9/1 through 10/31/14, initial DPH registry applications will be accepted from patients whose last names begin with the letters A through L and their caregivers. From 11/1 through 12/31/14, other eligible patients and their caregivers may submit initial applications. Beginning 1/1/15, applications will be accepted from any applicant at

any time. Fees for registration and identification cards are \$100 annually for patients, \$25 annually for caregivers, and \$25 for replacement cards. A reduced annual fee of \$50 may be charged to veterans and recipients of Social Security Disability Income or Supplemental Security Income; proof of military service (DD 214) or SSDI/SSI documentation from the Social Security Administration is required. Patient registry application procedures for veterans receiving treatment at VA hospitals are included. All applicants are notified, and must attest by their signature, that cannabis is a prohibited Schedule I controlled substance under federal law; that use of medical cannabis in conjunction with other conduct may be in violation of State or federal law; and that use of medical cannabis may affect an individual's ability to receive federal

or state licensure in other areas. A patient or caregiver whose registration expires or is canceled must return any unused medical cannabis to a local law enforcement agency for disposal within 10 days. The rulemaking also sets criteria for physicians to recommend use of medical cannabis and document a bona fide physician-patient relationship with a qualifying patient; provides procedures for requesting consideration of a debilitating medical condition to be added to the list via recommendation of a 15-member advisory board; and sets rules for preparation and storage of cannabis-infused food products. Those impacted by this rulemaking include physicians, patients and caregivers.

Questions/requests for copies/comments through 6/2/14: Susan Meister,
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DPH, 535 W. Jefferson St., 5th Fl., Springfield IL, 62761, 217/782-2043, e-mail: dph.rules@illinois.gov.

☞ CANNABIS SALES TAX

Finally, the DEPARTMENT OF REVENUE proposed amendments to the Part titled "Retailers' Occupation Tax" (86 Ill Adm Code 130; 38 Ill Reg 8294) and proposed a new Part titled "Medical Cannabis Cultivation Privilege Tax Law" (86 Ill Adm Code 429; 38 Ill Reg 8319), both concerning taxation of medical cannabis and related products. The Part 130 amendments establish a basic State sales tax rate of 1% for cannabis, including cannabis-infused products, and a rate of 6.25% for cannabis paraphernalia. Local sales taxes also apply. The amendments also require DOR to notify DFPR and DPH when a dispensary's certificate of registration is revoked or not renewed. All books and records kept by a medical cannabis dispensing organization shall be made available during business hours to DOR at any time. The Part 429 rule implements an additional 7% tax on the sales price per ounce of medical cannabis. The rule further details registration provisions, required information on returns, claims and credit memoranda, recordkeeping, penalties and interest, and revocation proceedings of certificate of registration. Those affected by these rulemakings include medical cannabis cultivation centers and dispensaries.

Questions/requests for copies/comments on the 2 DOR rulemakings through 6/2/14: Richard Wolters, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

☞ VEHICLE SCALES

The DEPARTMENT OF AGRICULTURE proposed amendments to the Part titled "Weights and Measures Act" (8 Ill Adm Code 600; 38 Ill Reg 8057) requiring DOA approval prior to construction or relocation of any vehicle scale and establishing criteria for condemnation, seizure and destruction of

vehicle scales that are not in compliance with DOA rules. Applications for approval to construct or move a vehicle scale must be submitted in writing and include a construction/relocation plan for the scale, notarized signatures of the owner/operator or facility manager, and documentation that the vehicle scale will comply with DOA rules. A similar procedure is required to obtain variances from vehicle scale construction requirements. DOA must approve or deny applications in writing within 30 business days. If a vehicle scale fails three successive inspections within a calendar year, DOA will remove the scale from service and notify the owner of intent to seek condemnation. The owner, operator or manager of the scale may request a follow-up inspection by an unbiased, qualified inspector at his or her own expense. If the scale can be repaired and brought back into compliance, repairs must be completed within 30 business days after the follow-up inspection. If it cannot be repaired, DOA will condemn the scale and it will be destroyed at the owner, operator or manager's expense. A decision to condemn a vehicle scale is final but is subject to judicial review. The rulemaking also adds specifications for shallow pit vehicle scales, which must be fully electronic, installed to ensure water drainage away from the pit area, and include a concrete floor and concrete walls with at least 3 feet clearance on each side. Those affected by this rulemaking include grain elevators and other facilities that use vehicle scales.

☞ ANIMAL DISEASE

DOA also proposed amendments to the Parts titled "Illinois Bovidae and Cervidae Tuberculosis Eradication Act" (8 Ill Adm Code 80; 38 Ill Reg 8013), "Diseased Animals" (8 Ill Adm Code 85; 38 Ill Reg 8020) and "Animal Disease Laboratories Act" (8 Ill Adm Code 110; 38 Ill Reg 8035). The Part 80 amendments permit use of a USDA-approved blood test to detect the

presence of tuberculosis in cervids (e.g., deer, elk, antelope) in place of a comparative or single cervical test in specified cases. Time periods between initial and follow-up testing of cervids suspected of being infected are also specified. Amendments to Part 85 incorporate federal regulations concerning movement of cervids from areas where Chronic Wasting Disease (CWD) is present. If an animal dies or is euthanized due to an unknown cause within 60 (currently, 36) months after any movement of animals between its herd and another, the animal will be classified as CWD-suspect, and the other herd will be treated as CWD-exposed. Disease management plans must be developed for any affected herd. For a herd to maintain Certified Monitored CWD status, a herd management agreement must be submitted to DOA for approval, all animals must be individually identified in accordance with federal regulations (ear tag, flank or ear tattoo, electronic implant), and the herd must be adequately fenced. A facility inspection (in addition to the currently required annual herd inventory) must be performed annually to maintain certified status. Requirements for reporting, identifying, and removing infected or suspect animals from monitored herds are also included. The amendments to Part 110 remove references to the Centralia Animal Disease Laboratory and the Springfield Serology Laboratory (both closed) and remove references to tests that are not available at the Galesburg Animal Disease Laboratory (the only DOA disease lab currently operating). The tests and fee schedule for the Galesburg laboratory are also updated. Those affected by these rulemakings include livestock owners, owners or managers of deer and other cervid herds, and veterinarians.

Questions/requests for copies/comments on the 4 DOA rulemakings above through 6/2/14: Susan Baatz, DOA, State Fairgrounds, P.O. Box 19281, Springfield IL 62794-9281, 217/524-6905, fax 217/785-4505.

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 May 20, 2014 meeting.

DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Travel" (80 Ill Adm Code 2800) proposed 1/31/14 (38 Ill Reg 3273)

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

"Medical Assistance Programs" (89 Ill Adm Code 120) proposed 8/2/13 (37 Ill Reg 12302)

HEALTH FACILITIES AND SERVICES REVIEW BOARD

"Public Information, Rulemaking, and Organization" (Repealer) (2 Ill Adm Code 1925) proposed 2/17/14 (38 Ill Reg 3424)

"Public Information, Rulemaking, and Organization" (2 Ill Adm Code 1925) proposed 2/7/14 (38 Ill Reg 3442)

DEPARTMENT OF PUBLIC HEALTH

"Hospital Licensing Requirements" (77 Ill Adm Code 250) proposed 7/19/13 (37 Ill Reg 11128)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Don Harmon

Representative Lou Lang

Senator Tony Munoz

Representative David Leitch

Senator Sue Rezin

Representative Don Moffitt

Senator Dale A. Righter

Representative Tim Schmitz

Senator Ira Silverstein

Representative Andre Thapedi

**Vicki Thomas
Executive Director**