

Elaine Spencer
Editor

Joint Committee on Administrative Rules
Illinois General Assembly

700 Stratton Bldg. Springfield IL 62706
217/785-2254 ilga.gov/commission/jcar

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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, also titled The Flinn Report in memory of founding JCAR member Rep. Monroe Flinn, is designed to inform and involve the public in changes taking place in agency administration.

New Rules

■ FOREVER GREEN PROGRAM

The DEPARTMENT OF AGRICULTURE adopted a new Part titled Forever Green Illinois Program (8 IAC 241; 38 Ill Reg 4549) effective 11/26/14. A companion emergency rule effective 3/6/14 through 8/2/14 appeared in the *Illinois Register* at 38 Ill Reg 6702. The new Part creates a pilot program designed to maintain and beautify trees, shrubs and other greenery on property owned by the State or by units of local government. The initial participating entities will be chosen by DOA based on criteria such as size, location, need, available funding, and other factors. Chosen entities may submit a list of problem trees (dead, diseased, pest infested or otherwise posing a hazard to public safety or infrastructure) to DOA, which will utilize Department-approved contract-

ors to replace up to 150 problem trees with new trees or shrubs selected from an approved list. The participating entity remains responsible for repairing or replacing any infrastructure (e.g., sidewalks, pavement, curbs) displaced or damaged by the tree removal. Those affected by this rule may include small municipalities and small businesses affected by problem trees.

Questions/requests for copies: Warren D. Goetsch, DOA, State Fairgrounds, P. O. Box 19281, Springfield, IL 62794-9281, 217/785-2427, fax 217/524-4882.

INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to Construction and Filing of Accident and Health Insurance

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Proposed Rulemakings

■ HOME HEALTH SERVICES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Home Health, Home Services, and Home Nursing Agency Code (77 IAC 245; 38 Ill Reg 23298) clarifying the differences between the types of agencies regulated under this Part and delineating their respective duties and obligations. (A home health or home nursing agency provides skilled nursing services, while a home services agency provides only non-medical services such as assistance with housekeeping and other daily living activities.) The rulemaking expands the definitions of client records and clinical notes to include electronic (as well as written) documents and allows the use of electronic signatures; defines an employee as a person working for another

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NEW RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Adopted for a temporary period not to exceed 150 days.
PROPOSED RULES: Rules proposed by agencies this week, commencing a 45-day First Notice period during which public comments must be accepted.
PEREMPTORY RULES: Rules adopted without prior public notice or JCAR review as authorized by 5 ILCS 100/5-50.
■ Designates 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: Submit mail, email or phone calls to the agency personnel listed below each summary.
RULE TEXT: Available on the Secretary of State (www.cyberdriveillinois.com) and General Assembly (www.ilga.gov) websites under Illinois Register. Second Notice text (original version with changes made by the agency during First Notice included) is available on the JCAR website.

New Rules

(cont. from page 1)

Policy Forms (50 IAC 2001; 38 Ill Reg 16122), effective 11/25/14, to conform to recent federal Affordable Care Act regulations which permit a federally qualified health center to be paid either the Medicaid amount or some other mutually agreed upon amount, provided that the mutually agreed upon rates are at least equal to the payment rates under Medicaid. The amendments also state that the pediatric oral care benefit for new Exchange-certified, stand-alone dental plans will be deemed satisfied if the health insurance issuer has obtained reasonable assurance that such benefits are provided. Assurance can be demonstrated if at least one qualified stand-alone dental plan offers the minimum essential pediatric oral care required under the rule and it is available for purchase by a small group or individual purchaser; the insurer prominently discloses to a purchaser or enrollee that its individual plan does not offer the required pediatric oral care benefits, and the health insurer has received and kept records of confirmation from the purchaser or enrollee that he or she has obtained coverage that includes the pediatric oral care benefits. Since 1st Notice, DOI has clarified the status of stand-alone, Exchange-certified dental plans (originally referred to as “qualified dental plans outside the Exchange”).

DOI also adopted amendments to Minimum Standards of

Individual Accident and Health Insurance (50 IAC 2007; 38 Ill Reg 16528); Managed Care Reform and Patient Rights (50 IAC 5420; 38 Ill Reg 16579); and Health Maintenance Organization (50 IAC 5421; 38 Ill Reg 16585), all effective 11/25/14. The Part 2007 amendments are largely technical in nature, such as removing language that appears to permit coverage exclusion for suicide or attempted suicide, clarifying the definition of “Fixed Indemnity Plans” to state insurance payments may also be made on a basis other than a period of time, and making other changes. Changes since 1st Notice provide that notice and attestation requirements contained in this rule do not apply to guaranteed renewable or non-cancellable individual hospital indemnity plans or other fixed indemnity insurance policies issued before 1/1/15, nor to other specified types of hospital indemnity or fixed indemnity plans. Another change clarifies that the suicide exclusion may remain in place for excepted benefit policies and grandfathered health plans (those in effect prior to ACA enactment). The Part 5420 amendments include a nursing home as a provider, implementing Public Act 98-651. Part 5421’s amendments mirror those made for Part 5420, and also increase length of care and treatment for inpatient mental health care (from 10 to 45 days) and alcohol and drug treatment rehabilitation services (from 10 to 45 days for inpatient care, and from 20 to 60 outpatient visits).

Questions/requests for copies of the 4 DOI rulemakings above: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, Fax: 217-524-9033.

■ SOLID WASTE DISPOSAL

POLLUTION CONTROL BOARD adopted amendments to Solid Waste Disposal: General Provisions (35 IAC 810; 38 Ill Reg 18608) and Standards for Existing Landfills and Units (35 IAC 814; 38 Ill Reg 18617) both effective 11/24/14, updating incorporations by reference to ensure that these rules are identical in substance to their federal counterparts. Small businesses and small municipalities that own or operate solid waste landfills may be affected.

Questions/requests for copies: Michael McCambridge, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-6924, michael.mccambridge@illinois.gov. Please reference docket R15-8. Copies of the Board’s opinion and order are also available at <http://www.ipcb.state.il.us>.

PUBLIC INFORMATION

The OFFICE OF THE ATTORNEY GENERAL repealed the Part titled Compliance with the Freedom of Information Act (2 IAC 576; 38 Ill Reg 23448) and adopted a new Part with the same title (2 IAC 576; 38 Ill Reg 23450), both effective 11/25/14.

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Proposed Rulemakings

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person or a company under an express or implied contract that gives the employer authority to determine wages, salary or other payment (currently, an employee is defined as a person for whom an agency pays withholding taxes); and clarifies that a placement agency (which assists nurses and home care workers in finding clients for whom to work) does not provide client support or management of services. Placement agency contracts and client service contracts are limited to no more than 12 months, and placement agencies may charge only a one-time fee. A home nursing agency whose manager is not a registered nurse or advanced practice nurse must hire a full-time supervisor who is an RN. For clients who need bathing assistance and cannot bathe in a tub or shower, home services workers may provide this assistance only if they have been trained to give bed baths, the client or his/her representative is

New Rules

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The new Part, which replaces rules not changed since their adoption in 1985, aligns the OAG's FOIA procedures with recent statutory changes (e.g., the time frame for responding to a FOIA request is reduced from 7 to 5 business days).

Questions/requests for copies: Lynn Patton, OAG, 500 S. Second St., Springfield IL 62706, 217/524-1504.

able to participate in or direct the process, and the agency has conducted an evaluation of the worker's competency to perform bed baths. Services provided by a licensed practical nurse must be performed under the direction of an RN. Occupational and physical therapists and their assistants may only perform services within their respective scope of practice under their profession's Practice Act. The rulemaking also addresses changes of agency ownership and states when such transactions require issuance of a new license. Dual license holders or applicants must establish separate entities for client services and for placement services and must provide separate client contracts for skilled medical (nursing) services and for non-medical services. Other provisions address information to be included on license renewal applications; minimum requirements for third-party contracts; and requirements for reporting allegations of abuse or neglect by a placed worker to a placement agency. Those affected by this rulemaking include home health and home services agencies, placement agencies, and their clients.

Questions/requests for copies/comments through 1/26/15: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ AIR POLLUTION

The POLLUTION CONTROL BOARD proposed amendments to Definitions and General Provisions (35 IAC 211; 38 Ill Reg 23264) and Air Quality Standards (35 IAC 243; 38 Ill Reg 23289) incorporating federal air pollution standards and exemptions. (The proposed rulemakings are identical in substance to federal standards and are exempt from Second Notice review by JCAR under the Illinois Administrative Procedure Act.) The Part 211 amendment incorporates USEPA's exemption of 2-amino-2-methyl-1-propanol (AMP) from the definition of volatile organic compound. Amendments to Part 243 incorporate by reference new USEPA-designated testing methods for pollution monitoring. Those affected by these rulemakings include businesses who use AMP or emit air pollutants. A hearing on both rulemakings will take place by videoconference at PCB's Chicago and Springfield offices on Thursday, Jan. 8, at 1:30 p.m.

Comments on the 2 PCB rulemakings through 1/26/15: John Thierriault, Clerk, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. Questions: Michael J. McCambridge, same address, 312/814-6924, michael.mccambridge@illinois.gov. Please reference docket R15-4. Copies of the Board's opinion and order can be obtained at <http://www.ipcb.state.il.us>.

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 the Committee's January 2015 meeting (date, time and location to be determined).

ELEVATOR SAFETY REVIEW BOARD

Illinois Elevator Safety Rules (41 IAC 1000) proposed 10/10/14 (38 Ill Reg 19601)

SECRETARY OF STATE

Procedures and Standards (92 IAC 1001) proposed 7/7/14 (38 Ill Reg 13790)

ILLINOIS GAMING BOARD

Video Gaming (General) (11 IAC 1800) proposed 9/19/14 (38 Ill Reg 18828)

Joint Committee on Administrative Rules

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