

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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Issue 1

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.

Emergency Rules

■ MEDICAL CANNABIS

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Compassionate Use of Medical Cannabis Patient Registry (77 IAC 946; 39 Ill Reg 444) effective 12/22/14 for a maximum of 150 days. Identical proposed amendments appear in this week's *Illinois Register* at 39 Ill Reg 247. The emergency and proposed rules implement recent amendments to the Compassionate Use of Medical Cannabis Pilot Program Act that allow patients under age 18 to receive patient registry identification cards and that add seizure disorders (e.g., epilepsy) to the list of debilitating medical conditions for which medical cannabis may be used. The rulemakings establish a procedure through which parents, guardians or designated caregivers of qualifying medical cannabis patients under age 18

can apply for registry identification cards on their behalf. (The patient must reapply for his or her own registry card after reaching age 18.) A parent or designated caregiver of a qualified medical cannabis patient under age 18 will be added to DPH's Medical Cannabis Advisory Board, and a practitioner with experience in pediatrics or child or adolescent

New Rules, page 3 **Peremptory Rule, page 5**

psychiatry/mental health must be included among the 9 board members who are currently licensed healthcare practitioners. The rulemakings also remove obsolete language regarding the phase-in of the registry card application process. DPH will accept applications year-round effective 1/1/15. Medical

(cont. page 2)

Proposed Rulemakings

■ ADOPTION & FOSTER CARE

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to 12 Parts: Reports of Child Abuse and Neglect (89 IAC 300; 39 Ill Reg 1), Placement and Visitation Services (89 IAC 301; 39 Ill Reg 19), Services Delivered by the Department of Children and Family Services (89 IAC 302; 39 Ill Reg 47), Access to and Eligibility for Child Welfare Services (89 IAC 304; 39 Ill Reg 62), Adoption Services for Children for Whom the Department of Children and Family Services is Legally Responsible (89 IAC 309; 39 Ill Reg 74), Permanency Planning (89 IAC 315; 39 Ill Reg 98), Administrative Case Reviews and Court Hearings (89 IAC 316; 39 Ill Reg 123), Interstate Placement of Children (89 IAC

(cont. page 2)

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.

Proposed Rulemakings

(cont. from page 1)

328; 39 Ill Reg 137), Service Appeal Process (89 IAC 337; 39 Ill Reg 143), Appeal of Foster Family Home License Denials by Relative Caregivers (89 IAC 338; 39 Ill Reg 153), Authorized Child Care Payments (89 IAC 359; 39 Ill Reg 159) and Licensing Standards for Foster Family Homes (89 IAC 402; 39 Ill Reg 165). These amendments implement Public Act 97-1076, which concerns contact and visitation between siblings when some or all are in DCFS custody and not living in the same household. The definition of “sibling” is expanded to include step-siblings when they enter substitute care together and have a positive relationship. DCFS also

clarifies that children with one or both biological parents in common continue to be considered siblings even if parental rights are terminated or one or more of the children are adopted or placed in private guardianship. The rulemakings require DCFS to include preservation of sibling relationships as a factor in substitute care placement decisions; to train direct service staff regarding the importance of sibling relationships; to place siblings together in substitute care when possible; and to recruit adoptive homes that will accept sibling groups and encourage ongoing sibling contact. For siblings who are placed apart, DCFS must develop visitation

and contact plans that include face to face visits and other forms of contact (e.g., telephone calls, social media communications), unless such contact places the siblings at risk of physical, mental or emotional harm. Adoption workers must make good faith efforts to locate all known siblings of a child being placed for adoption and facilitate contact between them if possible. Those affected by this rulemaking include prospective foster and adoptive parents and agencies that handle adoption or foster care.

Questions/requests for copies/comments on the 12 DCFS rulemakings through 2/17/15: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983, fax 217/557-0692, e-mail: CFPolicy@idcfs.state.il.us

Emergency Rules

(cont. from page 1)

cannabis patients, caregivers, and physicians or other health practitioners are affected by this emergency rule.

Questions/requests for copies/comments on the proposed rulemaking through 2/17/15: Susan Meister, DPH, 535 W. Jefferson St. 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ INCOME TAX

The DEPARTMENT OF REVENUE adopted an emergency amendment to Income Tax (86 IAC 100; 39 Ill Reg 483) effective 12/22/14 for a maximum of 150 days. An

identical proposed amendment appears in this week’s *Illinois Register* at 39 Ill Reg 250. The rulemakings require employers to electronically file Form W-2 information for 2014 no later than 2/15/15 (formerly, the W-2 filing deadline was 3/31). DOR states that the earlier deadline allows verification of withholding and other information reported on Illinois income tax returns while they are being received and processed. Employers who file W-2 information are affected.

Questions/requests for copies/comments on the proposed rulemaking through 2/17/15: Paul Castleton, DOR, 101 W. Jefferson St., Springfield IL 62796, 217/524-3951.

■ SALES TAX

The DEPARTMENT OF REVENUE proposed amendments to Retailers’ Occupation Tax (86 IAC 130; 39 Ill Reg 252) and Use Tax (86 IAC 150; 39 Ill Reg 273) implementing Public Acts 96-1035 and 98-422. Both rulemakings provide that sales of motor vehicles in Illinois to non-Illinois residents are not subject to sales tax or use tax if the purchaser certifies that the vehicle will not be used in Illinois for more than 30 days. The Part 130 rulemaking also provides that, effective 7/1/13, local

(cont. page 4)

New Rules

MALPRACTICE INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to Medical Liability Insurance Rules and Rate Filings (50 IAC 929; 38 Ill Reg 3281), effective 12/19/14, repealing various administrative hearing Sections of the Part linked with DOI review of rate increases for medical malpractice insurance. The rulemaking largely restores the Part to its prior form before various medical malpractice reform measures were initiated by Public Act 94-677 and ruled unconstitutional in *Lebron vs. Gottlieb Memorial Hospital*, a 2010 Illinois Supreme Court case. New provisions calling for submission of documents to DOI by electronic means are being added, as well as revised requirements for company rate change information that is to be reported to DOI. A company is also not required to make filings under this Part for individual risks that cannot be rated in the normal course of business as provided in the Insurance Code (because of special or unusual circumstances) but must be rated on the basis of underwriting judgment, and such a company must maintain documentary information regarding rates determined in such a manner.

TRANSGENDER COVERAGE

DOI also adopted amendments to the Part now titled Unfair Discrimination Based on Sex, Sexual Orientation, Gender Identity or Marital Status (50 IAC

2603; 38 Ill Reg 17185), effective 7/1/15, to bar discriminatory insurance practices regarding transgender persons. The amendments change the name of the Part (formerly Unfair Discrimination Based on Sex, Sexual Preference or Marital Status), add a new Section of definitions, including such terms as gender transition (the process of changing one's sexual characteristics to mirror one's gender identity), perceived gender identity, and transgender person (a person diagnosed with gender identity disorder or gender dysphoria), in addition to standard terms employed in other insurance Parts of the Administrative Code. Prohibited practices include discriminatory insurance clauses; provisions that treat gender dysphoria differently from other medical conditions and procedures covered by the policy; cancelling, limiting or refusing to issue a policy on the basis of an insured's or prospective insured's actual or perceived gender identity; and designating an insured's actual or perceived gender identity, or transgender status, as a preexisting condition for which coverage will be denied or limited. A temporary exemption applies to plans having fewer than 51 members that are sold after 1/1/14 and renewed between 1/1/15 and 10/1/15 after the expiration of the 2015 plan year.

Questions/requests for copies of the 2 DOI rulemakings: Joseph Clennon (217/557-1396) for Part

929 and Jim Rundblom (217/785-8559) for Part 2603, DOI, 320 W. Washington St., Springfield IL 62767-0001, Fax: 217-524-9033.

DCFS SCHOLARSHIPS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to Department of Children and Family Services Scholarship Program (89 IAC 312; 38 Ill Reg 13564) effective 12/31/14 that add to rule the weighted point system used to score scholarship applicants. Factors to be considered in the point system include the applicant's high school or college grade point average; ACT or GED test scores; extracurricular activities, jobs, or awards; letters of recommendation; and a student statement.

Questions/requests for copies: Jeff Osowski, DCFS, 406 East Monroe, Station #65, Springfield IL 62701-1498; 217/524-1983; cfpolicy@idcfs.state.il.us.

TELECOMMUNICATIONS

The ILLINOIS COMMERCE COMMISSION adopted amendments to the Parts titled Standards of Service for Local Exchange Telecommunications Carriers (83 Ill Adm Code 730; 37 Ill Reg 20562) and Customer Credits (83 Ill Adm Code 732; 37 Ill Reg 20567) both effective 12/22/14. Both rulemakings remove references to competitive local

(cont. page 5)

Proposed Rulemakings

(cont. from page 2)

governments do not incur sales tax on fuel sold to or used by an air common carrier for flights engaged in foreign trade or trade between the U.S. and any of its possessions. The Part 150 rulemaking also extends until 6/30/16 a use tax exemption for taxpayers engaged in centralized purchasing who temporarily store purchased items in Illinois. Motor vehicle sellers, local governments and other businesses are affected by these rulemakings.

Questions/requests for copies/comments on the 2 DOR rulemakings through 2/17/15: Paul Castleton, DOR, 101 W. Jefferson St., Springfield IL 62796, 217/524-3951.

SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Educator Licensure (23 IAC 25; 39 Ill Reg 288) and Programs for the Preparation of Superintendents in Illinois (23 IAC 33; 39 Ill Reg 307) concerning licensure requirements for teachers and superintendents. The Part 25 amendments implement 3 Public Acts (98-751, 98-872 and 98-917) by requiring individuals holding an educator license with stipulations endorsed for career and technical educator to pass the basic skills test at the time their credentials are renewed (currently, before receiving the initial license); allowing experience in a general

administrative position (currently, only as a principal, special education director or chief school business official) to qualify an individual for a superintendent endorsement; and, until 6/30/19, allowing experience in a school support personnel position (currently, only teaching experience) to qualify an individual for a principal endorsement. The amendment to Part 33 corrects a cross reference to superintendent preparation programs. SBE also proposed an amendment to Driver Education (23 IAC 252; 39 Ill Reg 342) correcting the Web address for the Association for Driver Education Specialists. (The ADES certifies driving instructors for students with disabilities who require specially equipped vehicles or other accommodations.)

PRESCHOOLS

SBE proposed amendments to the Part titled Early Childhood Block Grant (23 IAC 235; 39 Ill Reg 313) implementing the ExceleRate Illinois quality rating and improvement system for programs that receive federally funded Race to the Top grants under this Part. The ExceleRate Illinois system aligns rating standards for SBE's early childhood programs (Preschool for All and Prevention Initiative) with those used by other State agencies' early learning programs. Programs may be rated as "licensed," "bronze", "silver", or "gold" based on assessments of teaching and learning, family and community

engagement, leadership and management, and staff qualifications. Other changes require directors of preschool programs, effective 7/1/17, to hold educator licenses with principal or general administrative endorsements; require snacks and meals to meet certain food and beverage standards; and incorporate the most recent standards for early language development for English learners. Preschool programs seeking SBE grants are affected by this rulemaking.

Questions/requests for copies/comments on the 4 SBE rulemakings through 2/17/15: Shelley Helton, SBE, 100 N. First St., S-493, Springfield IL 62777-0001, 217/782-5270, rules@isbe.net

IHDA RULE REPEAL

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY proposed repeal of Single Family Mortgage Purchase Program (47 IAC 220; 39 Ill Reg 205) and Single Family Mortgage Purchase Program II (47 IAC 250; 39 Ill Reg 225). These programs (adopted in 1981 and 1983) are no longer active.

Questions/requests for copies/comments on the 2 IHDA rulemakings through 2/17/15: Kristi S. Poskus, Esq., IHDA, 401 N. Michigan Ave., Suite 700, Chicago IL 60611, 312/836-7416.

(cont. page 5)

New Rules

(cont. from page 3)

exchange telecommunications service, since the rules in these Parts now apply only to noncompetitive local exchange carriers. The ICC also adopted amendments to the Part now titled Standards of Service and Customer Credits for Electing Providers and Competitive Non-Electing Providers (83 IAC 737; 38 Ill Reg 5475), also effective 12/22/14. These amendments change the name of the Part (formerly Standards of Service and Customer Credits for Electing Providers) and implement a provision of Public Act 98-45 that,

with regard to customer service quality, regulates retail telco services provided by competitive local exchange carriers in the same manner and to the same extent as those services provided by electing providers. A change since 1st Notice requires that a reportable outage affect at least 100 access lines.

Questions/requests for copies/comments on the 3 ICC rulemakings: Brian W. Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/558-2387.

■ MILK PRODUCTS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Grade A Pasteurized Milk and Milk Products (77 IAC 775; 38 Ill Reg 10853), effective 12/19/14, codifying provisions for the certified pasteurizer sealer program, including issuance of the certified pasteurizer sealer permit. Certified pasteurizer sealers holding a valid permit would be authorized to test and

temporarily seal pasteurization equipment prior to DPH re-testing and re-sealing within its 10 day allotted time period. Dairies are affected by this rulemaking.

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

SOS PERSONNEL

The SECRETARY OF STATE adopted amendments to Merit Commission (80 IAC 50; 38 Ill Reg 18851) effective 12/18/14 implementing Public Act 98-810, which extends to 45 days (formerly 30 days) the time period during which the Secretary of State Merit Commission must schedule a hearing after an SOS employee appeals his or her removal, discharge or demotion.

Questions/requests for copies: Amy Williams, 298 Howlett Bldg., Springfield IL 62756, 217-785-3094, awilliams3@ilsos.net

Proposed Rulemakings

(cont. from page 4)

MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Payment (89 IAC 140; 39 Ill Reg 182) removing transsexual surgery from a list of non-covered physician services effective 4/1/15. This rulemaking makes Section 140.412 consistent with a recently adopted amendment to Section 140.6 (published at 38 Ill Reg 23623) effective 12/2/14.

Questions/requests for copies/comments through 2/17/15: Jeanette Badrov, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002 217/782-1233, HFS.Rules@illinois.gov

Peremptory Rule

■ MEAT & POULTRY

The DEPARTMENT OF AGRICULTURE adopted peremptory amendments to the Part titled Meat and Poultry Inspection Act (8 IAC 125; 39 Ill Reg 502), effective 12/22/14, implementing a recent change in federal regulations. The amendments establish a uniform compliance date of 1/1/18 for any new meat and poultry product

labeling regulations issued by the USDA Food Safety and Inspection Service between 1/1/15 and 12/31/16. Meat and poultry processors, packers and retailers are affected by this peremptory rule.

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

Second Notice

The following rulemaking was moved to Second Notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will be considered at the Committee's January 13, 2015 meeting, scheduled for 11 a.m. in room A-1 of the Stratton Office Building, Springfield. Other items that have not been listed in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning this rulemaking should be sent to JCAR at the address, phone number and Web address on page 1.

DEPT OF INSURANCE

Insurance Data Reporting Requirements (50 IAC 4203) proposed 9/26/14 (38 Ill Reg 19083)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Don Harmon

Representative Lou Lang

Senator Tony Muñoz

Representative David Leitch

Senator Sue Rezin

Representative Don Moffitt

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Executive Director**