

Elaine Spencer
Editor

Joint Committee on Administrative Rules
Illinois General Assembly

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

VOL. 39

January 23, 2015

Issue 4

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

■ CONCEALED CARRY

The CONCEALED CARRY LICENSING REVIEW BOARD adopted a new Part titled Concealed Carry Licensing Review (20 IAC 2900; 38 Ill Reg 19364), effective 1/6/15. An identical emergency rulemaking effective 9/18/14 appeared in the *Illinois Register* at 38 Ill Reg 19571. The new Part sets forth procedures and requirements for the CCLRB, which was established by the Illinois State Police under the Firearm Concealed Carry Act to review law enforcement agency objections to Firearm Concealed Carry License (FCCL) applications. The CCLRB consists of 7 members appointed by the Governor; 4 members constitutes a quorum, and meetings shall be called by the chairperson as often as necessary to meet the Board's statutory obligations. If CCLRB

determines an objection to be sustainable, it must, within 10 days, notify the affected FCCL applicant of the objection, its basis, and the agency submitting the objection. When reviewing an objection to an FCCL application, the Board may request additional information from the applicant, the objecting law enforcement agency or ISP, and may also (by a vote of at least 4 members) request testimony at a hearing from the applicant, his or her counsel, or a representative of ISP or the objecting law enforcement agency. Hearings are closed to the public and shall be limited to instances in which written communications cannot resolve the issue to the Board's satisfaction. If the applicant has not previously submitted electronic fingerprints to ISP and these prints may resolve the law enforcement agency's objection,

(cont. page 3)

Proposed Rulemakings

■ MENTAL HEALTH

The DEPARTMENT OF HUMAN SERVICES proposed a new Part titled Perinatal Mental Health Disorders Prevention and Treatment (77 IAC 636; 39 Ill Reg 1427), implementing Public Act 95-469. The PA and the new Part establish protocols for screening and prevention of perinatal mental health disorders (e.g., postpartum depression). The Part requires licensed health care professionals who provide prenatal or postpartum care and hospitals that provide labor and delivery services to offer pregnant women information regarding signs and symptoms of perinatal mental health disorders, treatment resources and methods of coping with symptoms. Health care professionals providing prenatal or postpartum care must invite

(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)

patients, at least once during their pregnancies and at least once after giving birth, to complete a screening questionnaire (approved by the Department of Healthcare and Family Services) for perinatal mental health disorders. A healthcare professional providing pediatric care to a newborn shall also offer the questionnaire to the infant's mother at least 6 weeks after delivery, unless she has already completed the questionnaire during the postpartum period. The questionnaire may be offered more than once if the health professional determines the patient (or the mother if the patient is an infant) to be at risk of, or suffering from, a perinatal mental health disorder. The health care professional may refer the patient to an appropriate healthcare provider for further assessment and treatment, and must notify emergency personnel if the patient poses an immediate risk of harm to herself or others. Questionnaire results may be shared with the patient's primary health care professional only with her consent, unless the prenatal or postpartum care provider determines the patient poses an acute danger to herself or someone else, in which case consent is not required. The offer of the questionnaire and any action taken as a result must be included in the patient's health record. Those affected by this rulemaking include hospitals, birthing centers, ob-gyns, pediatricians, and other licensed

healthcare professionals serving pregnant/postpartum women and newborns.

Questions/requests for copies/comments through 3/9/15: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

■ MEDICAID ELIGIBILITY

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Assistance Programs (89 IAC 120; 39 Ill Reg 1403) that, in accordance with the federal Affordable Care Act, allow hospitals that meet listed criteria to become qualified Hospital Presumptive Eligibility (HPE) providers. Qualified HPE providers may determine the following categories of patients (if they do not have other health insurance and appear to meet other Medicaid eligibility criteria) to be presumptively eligible for Medicaid: pregnant women, children under age 19, breast or cervical cancer patients, parents or other caretaker relatives of minor children, and former foster children ages 19 through 25. Presumptive eligibility begins immediately and continues until HFS makes a final determination of the patient's Medicaid status, or until the last day of the month following the month of presumptive eligibility determination if the patient fails to apply for Medicaid by that date. HFS shall provide training and technical assistance to all

HPE providers and assign unique HPE numbers to individuals trained to determine presumptive eligibility. To maintain qualified HPE status, a hospital must achieve specified performance standards, such as having at least 65% of its HPE enrollees submit applications for ongoing Medicaid benefits (increasing to 80% in 2016 and 90% in 2017) and less than 5% of its HPE enrollees prove to be ineligible (decreasing to 4% in 2016 and 3% in 2017). Hospitals that fail to meet performance standards will be disqualified and cannot reapply for HPE provider status for 6 months. The rulemaking also updates certain presumptive eligibility requirements for children and for providers participating in the Healthy Start program for pregnant women. For children, the household income threshold (currently 133% of the Federal Poverty Level) and Illinois residency requirements are being removed. For Healthy Start providers, new qualifying criteria for recognition as a qualified Medicaid Presumptive Eligibility provider are being added. Those affected by this rulemaking include hospitals, clinics, and other healthcare providers.

Questions/requests for copies/comments through 3/9/15: Jeanette Badrov, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233, HFS.Rules@illinois.gov

(cont. page 4)

New Rules

(cont. from page 1)

CCLRB will notify the applicant and the applicant will have 30 days after receipt of the notice to submit fingerprints. The final determination of the Board will be entered into the FCCL database. The Board must also file monthly reports of the number of objections it has received and how many have been affirmed. Local law enforcement agencies and FCCL applicants are affected by this rule.

Questions/requests for copies: Claudia E. Castro, CCLRB, 801 S. Seventh St., Suite 1200-A, Springfield IL 62703, 708/227-1510.

■ INSURANCE ADJUSTORS

The DEPARTMENT OF INSURANCE adopted amendments to Licensing of Public Adjustors (50 IAC 3118; 38 Ill Reg 13149), effective 1/9/15, to implement elements of Public Act 96-1332 (effective 1/1/11), which made substantive changes to the law regarding public insurance adjustors. Adjustors must now be licensed in accordance with the Public Act and be fingerprinted. Prior adjustor licensure grandfathering provisions are repealed. Twenty-four hours of continuing education is required prior to renewal of a public adjustor license. In addition to the longstanding requirement to obtain DOI approval of contracts before they are used in Illinois, adjustors must also provide their license numbers; include the full

name of the person signing all submitted contracts (as specified in DOI records); include the form number and edition of the contract form in the lower left hand of the contract; include the effective date of use; attest that they are fully bonded pursuant to State law; provide space for the insured's full name, address, insurance company and policy number if known; include descriptions of the loss and its location as well as the services to be provided to the insured; and disclose the full salary, fee, commission, or other consideration the adjustor is to receive. Existing rate schedules of charges for filing provisions with DOI are being streamlined. Adjustors must file written disclosures regarding financial interests and claim processes, as well as a consumer rights notice, prior to the insured signing a contract. Sample notices are provided on DOI's website. Since 1st Notice, references to license "extensions" have been changed to "renewals".

Questions/requests for copies: David Murphy, DOI, 320 W. Washington St., Springfield IL 62767-0001, 217/782-5415.

■ INCOME TAX

The DEPARTMENT OF REVENUE adopted an amendment to Income Tax (86 IAC 100; 38 Ill Reg 19128) effective 1/7/15 to implement a provision of PA 96-468, which changes the method of computing maximum allowable

credit for taxes paid to other states after 12/31/09. The credit is the smaller of either 1) the total amount of tax paid to other states for that year, or 2) the product of Illinois tax due multiplied by the fraction that results from dividing the taxpayer's non-Illinois base income by Illinois base income. Multi-state business entities will be affected by this rulemaking.

DIPLOMATIC TAX EXEMPTIONS

DOR also adopted amendments to Retailers' Occupation Tax (86 IAC 130; 38 Ill Reg 9171), effective 1/12/15, concerning tax exemptions for foreign diplomats. The amendments exempt from sales tax sales made to governmental bodies only if the body has an active DOR-issued exemption identification number that is presented to the retailer and the sale is invoiced directly to and paid by the body. Effective 7/1/14, individuals presenting credit cards containing the employee name and governmental body, without documentation of the exemption ID number, will not be exempt from the tax. Certain purchases made with Diplomatic Tax Exemption Cards issued by the US Department of State to accredited foreign diplomatic and consular officials, and Taipei Economic and Cultural Representative Office Cards issued by the American Institute in Taiwan/Washington (AIT/W), with authority from the US State Department, are exempt from

(cont. page 4)

New Rules

(cont. from page 3)

tax. A purchase may be made tax free, regardless of payment type, if a Personal Tax Exemption card is presented. The rule-making specifies which purchases can and cannot be made tax free with Diplomatic Tax Exemption Cards or similar cards. An illustration depicts examples of cards, identifying logos and restrictions on exemptions. Those affected by this rulemaking include diplomats from Taipei (Taiwan) and other foreign nations.

Questions/requests for copies of the 2 DOR rulemakings: Paul Caselton (217/782-7055) for Part 100 and Richard Wolters (217/782-2844) for Part 130, DOR, 101 W. Jefferson St., Springfield IL 62794.

■ HAZARDOUS WASTE

The POLLUTION CONTROL BOARD adopted amendments to 6 Parts: Hazardous Waste Management System: General (35 IAC 720; 38 Ill Reg 20376), Identification and Listing of Hazardous Waste (35 IAC 721; 38 Ill Reg 20441), Standards Applicable to Generators of Hazardous Waste (35 IAC 722; 38 Ill Reg 20534), Standards Applicable to Transporters of Hazardous Waste (35 IAC 723; 38 Ill Reg 20545), Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (35 IAC 724; 38 Ill Reg 20558) and Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (35 IAC 725; 38 Ill Reg 20580), all effective 1/12/15. These rulemakings reflect updates to

federal regulations that provide for the use of e-Manifests for hazardous waste shipments and require exporters of cathode ray tubes (CRTs) to submit activity notifications and annual reports to USEPA and IEPA. Minor technical corrections are also made. Those affected by these rulemakings include businesses that collect or dispose of discarded electronics (e.g. television sets, computer monitors) or transport hazardous wastes.

Questions/requests for copies of the 6 PCB rulemakings: Michael J. McCambridge, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-6924, michael.mccambridge@illinois.gov. Please reference docket R15-1. Copies of the Board's opinion and order can also be obtained by calling 312/814-3620 or at www.ipcb.state.il.us.

Proposed Rulemakings

(cont. from page 2)

■ REAL ESTATE APPRAISERS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to Real Estate Appraisers Licensing (68 IAC 1445; 39 Ill Reg 1362) updating the Part to the current Uniform Standards of Professional Appraisal Practice (USPAP) and Appraisal Qualifications Board (AQB) standards and implementing a Public Act that requires a fingerprint-based criminal background check and

review of the criminal record, if one exists, for appraisal license applicants. The rulemaking establishes a conditional education course to be completed before an initial associate real estate trainee appraiser license will be issued on or after 1/1/15. Applicants must complete the 3 hr. ILST-15 AQB Supervisor-Trainee Course or the 6 hr. ILST-15 Supervisor-Trainee Course. If the applicant completes the 3 hr. course, he/she has one year to complete either the 3 hr. Illinois-specific course or the 6 hr. course. The renewal fee for education

providers is being lowered from \$500 to \$250. DFPR will require all applicants for licensure to submit fingerprints to the Department of State Police. DFPR will determine whether an applicant with a criminal record is fit to be licensed, based on factors such as whether the crime is one of armed violence or moral turpitude, related to the real estate professions, or if more than 10 years have elapsed since the completion of the sentence. DFPR will also consider whether the applicant has been

(cont. page 5)

Proposed Rulemakings

(cont. from page 4)

sufficiently rehabilitated based on factors such as the completion of probation or parole and, if the applicant did not receive parole, whether 10 years have elapsed since the final discharge and there have not been any additional convictions. Any of the following listed factors outweigh a presumption of rehabilitation: lack of compliance with terms of punishment, unwillingness to undergo any medical treatment/counseling, falsifying the application, or failing to furnish additional information or appearing for a meeting with the Department. DFPR will not consider juvenile adjudications, arrests that did not lead to a conviction, convictions overturned by a higher court or convictions that have been pardoned or expunged. If the applicant is found unfit for licensure, DFPR will send a notice to the applicant with a statement of why it made the decision. The applicant may request a hearing within 20 days after the date the notice was mailed or personally served. DFPR will schedule an informal conference at least 20 days before the hearing. Real estate appraisers and course providers may be interested in this rulemaking.

Questions/requests for copies/comments through 3/9/15: Craig Cellini, 320 W. Washington, 3rd Floor, Springfield IL 62786, 217/785-0813.

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Group Coordination of Benefits (50 IAC 2009; 39 Ill Reg 1436); proposed repeals of Standard Health Applications (50 IAC 2030; 39 Ill Reg 1459), Accident and Health Expense Reporting (50 IAC 2043; 39 Ill Reg 1499) and Legal Reserve Life Blank (50 IAC 2101; 39 Ill Reg 1509); and proposed a new Part titled Producer Licensing (50 IAC 3121; 39 Ill Reg 1513). The Part 2009 amendments set out protocols for coordination of health insurance benefits where insureds have more than one policy, particularly a group and individual policy. This effort is being made, in the Department's view, to deter fraud under the Affordable Care Act where insureds may seek excessive recoveries employing more than one health policy. Specific disease policies shall be paid irrespective of other coverage available through individual health insurance. The rulemaking also makes non-substantive technical changes. Parts 2030, 2043, and 2101 are being repealed because the statutes they implemented (Sections 359b, 359c, and Articles XVI and XXI of the Illinois Insurance Code) have been repealed by Public Acts 98-969 and 86-753. Finally, the new Part 3121 clarifies DOI policies and procedures for insurance producers. Key terms such as Designated Responsible

Licensed Producer (DRLP) (an individual responsible for a business entity's compliance with DOI rules and policies and Illinois Insurance laws) and resident (a person living in Illinois more than 51% of the year and whose net income is taxable) are defined. First-time applicants for insurance producer licensure shall receive a pro-rated fee for the initial license so that the applicant's expiration date can be set for the applicant's birth month, no less than 18 nor more than 29 months after initial licensure. Applicants must allow 5 business days for DOI to receive and distribute licensure and continuing education information, as well as provide an email address. Business entity licenses shall expire on May 31st every 2 years. A business entity DRLP must have an active resident or non-resident in Illinois and must be an owner, partner, officer or director of the entity.

Questions/requests for copies/comments concerning the 5 DOI rulemakings through 3/9/15: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767-0001, 217-785-8220, fax 217-524-9033.

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 February 17, 2015 meeting in Springfield. Other items that have not been listed in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be sent to JCAR using the contact information on page 1.

DEPT OF INSURANCE

Confidentiality Protocols for Request and Receipt of Claim Information by Alternative Means
(50 IAC 2028) proposed 11/7/14 (38 Ill Reg 20854)

IL STATE BOARD OF INVESTMENT

Rules and Regulations of the Board (74 IAC 800) proposed 11/7/14 (38 Ill Reg 20862)

State (of Illinois) Employees' Deferred Compensation Plan (80 IAC 2700)
proposed 11/7/14 (38 Ill Reg 20868)

STATE BOARD OF ELECTIONS

Procedures for Implementing the Electronic Canvass (26 IAC 219)
proposed 10/24/14 (38 Ill Reg 20204)

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

Senator Dale A. Righter

Representative André Thapedi

Senator Ira Silverstein

Vicki Thomas
Executive Director