

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 6

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

■ ABUSE INVESTIGATION

The DEPARTMENT ON AGING (DonA) adopted amendments to the Part now titled Adult Protection and Advocacy Services (89 Ill Adm Code 270; 38 Ill Reg 2469), formerly titled Elder Rights, effective 1/23/15. The rulemaking implements Public Act 98-49, which transfers to DonA responsibility for investigating allegations of abuse, neglect, or financial exploitation of disabled adults ages 18-59 living in domestic settings (these investigations were formerly performed by the Department of Human Services' Office of Inspector General). The rulemaking changes the name of the Part and renames DonA's Elder Abuse and Neglect Program as Adult Protective Services (APS). Fatality review teams are added to the services and activities provided by APS.

Definitions are added or revised, and existing features of the Elder Abuse and Neglect Program are expanded, to include adults with disabilities. A companion emergency rule published at 38 Ill Reg 2357 expired on 5/29/14. Changes since 1st Notice add a definition of a verified report; establish legal immunity for DonA employees and agents who maintain or submit reports to the APS registry in good faith; require a caregiver's identity to be reported to the APS registry if a coroner, medical examiner or law enforcement agency declares a death to have been caused by a caregiver's abuse or neglect; clarify when DonA may act directly or appoint a substitute agency if a regional Agency on Aging cannot adequately administer the APS program in its area; and add provisions for obtaining individual financial and

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Proposed Rulemakings

■ FISHING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to Sport Fishing Regulations for the Waters of Illinois (17 IAC 810; 39 Ill Reg 1867) that set the 2015 Free Fishing Days for June 5-8, create separate permit rules for bowfishing tournaments and hook and line fishing tournaments, restrict bowfishing in certain public waters, and update various site-specific fishing rules. With regard to hook-and-line fishing tournaments, the rulemaking distinguishes between a fishing derby (a non-competitive, primarily educational or recreational event), which does not require a permit, and a fishing tournament (competitive event that awards prizes or trophies) that requires a permit. For bowfishing

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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

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health records from a care provider or facility when they are relevant to an abuse investigation. Those affected by this rulemaking include residential care facilities or homes for adults with disabilities, caregivers of disabled adults, and agencies or persons working with APS.

Questions/requests for copies: Karen Alice Kloppe, DonA, One Natural Resources Way, Suite 100, Springfield IL 62702-1271, 217/785-3346.

■ NONPUBLIC SCHOOLS

The STATE BOARD OF EDUCATION adopted amendments to Voluntary Registration and Recognition of Nonpublic Schools (23 IAC 425; 38 Ill Reg 19502), effective 1/22/15, that require nonpublic schools seeking SBE recognition to provide evidence of their non-profit status and to meet annually with local first responders to review or revise their emergency/crisis response plans. The rulemaking also clarifies that

nonpublic schools are required by law to conduct daily recitations of the Pledge of Allegiance only if they receive public funds. Since 1st Notice, SBE removed a proposed requirement that a nonpublic school produce a copy of its non-profit organization certificate filed with the Secretary of State as proof of its non-profit status. (Only the SOS file number assigned to the non-profit entity need be provided.) Nonpublic K-12 schools seeking SBE recognition are affected.

Questions/requests for copies: Melina Wright, SBE, 100 W. Randolph, Suite 14-300, Chicago IL 60602, 312/814-2804.

PUBLIC INFORMATION

SBE also adopted rules titled Access to Information of the State Board of Education under the Freedom of Information Act (2 IAC 5001; 39 Ill Reg 2213) effective 1/21/15, under the required rulemaking procedure in Section 5-15 of the Illinois Administrative Procedure Act. The rulemaking updates SBE's procedures for responding to public requests for

information or documents to align with recent Public Acts.

Questions/requests for copies: Matt Vanover, SBE, 100 N. First St., S-404, Springfield IL 62777, 217/782-4648.

■ FORECLOSURES

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY adopted a new Part titled Foreclosure Prevention Program Graduated Fund (47 IAC 386; 38 Ill Reg 18332), effective 1/23/15, establishing procedures for administering the Foreclosure Prevention Program, which is funded in part by the State's fee on foreclosure filings. The rules address applicant eligibility, appropriate uses for grant funds, application requirements, review criteria, and requirements for grant administration and reporting. Agencies that receive IHDA grants for foreclosure prevention programs will be affected.

Questions/requests for copies: Kristi S. Poskus, Esq., IHDA, 401 N. Michigan Ave., Suite 700, Chicago IL 60611, 312/836-7416.

Proposed Rulemakings

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tournaments, site-specific catch limits must be observed unless the permit specifically waives these limits. For both bowfishing and hook and line tournament permits, applications must be received at least 30 days (currently 60 days) prior to the opening of the tournament, and

a permit denial can be appealed in writing within 10 days after the denial is received. The rulemaking lists areas along the Mississippi, Ohio, Illinois, Wabash, and various tributary rivers that are closed to bowfishing at all times or during specified periods (e.g., duck hunting season). A Statewide

catch limit of 2 paddlefish per day is established, except where site-specific regulations state otherwise. Those affected by these rulemakings include bowfishermen and sponsors of fishing tournaments.

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Proposed Rulemakings

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Questions/requests for copies/comments through 3/23/15: Jacob Smallhorn, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/785-8283.

■ PEST CONTROL

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Structural Pest Control Code (77 IAC 830; 39 Ill Reg 2010), concerning management of records and penalties for violations of licensing rules. The rulemaking clarifies that each day during which the same violation exists will be counted as a separate violation. Operating without a license is transferred from the Type A violation penalty schedule (maximum fine of \$7,500 per violation) to the Type B schedule (maximum fine of \$2,000 per violation) and failure to provide information upon request is moved from the Type C schedule (maximum fine of \$350 per violation) to the Type B schedule. Employee training records must be kept until the employee becomes certified or is no longer employed. Service records of certified technicians no longer require review by another certified technician, while records of uncertified technicians may be reviewed in electronic format by certified technicians. The rulemaking also requires the estimated amount of pesticides recorded on service records to be within 10% of the actual amount applied. Copies of service records must be

provided upon request of the owner, manager or tenant of the property serviced. Accurate diagrams must also be included in service records for termite treatment. Pest control businesses, their owners and employees are affected.

DPH REPEALERS

DPH also proposed repeal of two Parts titled Reference for Rules in Administrative Hearings under Sections 2-110(d) and 3-410 of the Nursing Home Care Act (77 IAC 430; 39 Ill Reg 1985) and Blood Labeling Code (77 IAC 460; 39 Ill Reg 1990). Part 430 is being repealed because its remaining provisions are included in 77 IAC 100. Part 460 is being repealed because its statutory authority, the Blood Labeling Act, has been repealed and replaced by the Illinois Clinical Laboratory and Blood Bank Act.

Questions/requests for copies/comments on the 3 DPH rulemakings through 3/23/15: Elizabeth Paton, DPH, 535 W. Jefferson, 5th Fl., Springfield Il 62761, 217/782-2043, dph.rules@illinois.gov

■ CHARTER SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Charter Schools (23 IAC 650; 39 Ill Reg 2034) implementing two Public Acts. The rulemaking cross-references PA 98-783, which addresses disposition of unspent funds and other assets upon closure of a

charter school. Other amendments implement PA 98-1048, which allows material revisions to a charter contract to take effect immediately if agreed to by both parties (formerly, SBE was required to review all charter revisions for compliance with the Charter Schools Law), although one or both parties to a charter contract may still request SBE review. The rulemaking addresses the timing and content of submissions to SBE when review is requested, places rules for certification of contract renewals and certification of revisions in separate Sections, and clarifies that any new charter application approved by the State Charter School Commission must also be certified by SBE before it takes effect. Non-profit charter school organizations are affected by this rulemaking.

SBE REPEALER

SBE also proposed repeal of the Part titled Procurement by the State Board of Education (44 IAC 1105; 39 Ill Reg 2050) since procurement for SBE is now handled by the Chief Procurement Officer for General Services.

Questions/requests for copies/comments on the 2 SBE rulemakings through 3/23/15: Shelley Helton, SBE, 100 N. First St. S-493, Springfield IL 62777-0001, 217/782-5270, rules@isbe.net

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Proposed Rulemakings

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■ ELECTIONS

The STATE BOARD OF ELECTIONS proposed amendments to Campaign Financing (26 IAC 100; 39 III Reg 2056) and Practice and Procedure (26 IAC 125; 39 III Reg 2106) implementing provisions of Public Act 97-766, which amended the Illinois Campaign Finance Act. The Part 100 rulemaking implements new provisions for independent expenditure committees, which fund advocacy efforts independent from those directed or coordinated by a particular candidate. Independent expenditures now may include those made in support of, or in opposition to, public policy referendum votes. The rulemaking also clarifies the election cycles for candidates running in consolidated primary and general elections and establishes procedures for political committees that support candidates running for multiple offices. Procedures are also established for political committees that were organized to support public officials who subsequently left office, or to support officeholders or candidates who have since died. Other provisions concern prohibited contributions by business entities who contract with the State; civil penalties against committees that exceed statutory contribution limits; conditions under which a political party committee may receive contributions for a

primary election; and exemptions from contribution limits that apply to self-funding candidates and independent expenditure committees. Amendments to Part 125 establish penalties for independent expenditure committees who make contributions not allowed by law; allow documents and motions to be filed by e-mail if all parties agree; and make technical changes regarding notice of penalties and third party complaints. Those affected by these rulemakings include candidates for public offices and political fundraising organizations.

SBEL also proposed amendments to Personnel (26 IAC 212; 39 III Reg 2124) concerning vacation and leave time earned by SBEL employees. The rulemaking allows the executive director and assistant director to accrue sick, vacation and personal time and reduces the minimum time increment that can be claimed to ¼ hour.

Questions/requests for copies/comments on the 3 SBEL rulemakings through 3/23/15: Ken Menzel, SBEL, 2329 S. MacArthur Blvd., Springfield IL 62708, 217/782-4141, fax 217/782-5959, kmenzel@elections.il.gov

PREPAID TUITION

The ILLINOIS STUDENT ASSISTANCE COMMISSION proposed amendments to Illinois Prepaid Tuition Program (23 IAC

2775; 39 III Reg 2133) implementing Public Act 98-1022. The rulemaking implements new statutory requirements for transparency in procurement of investment services and requires disclosure of diversity (ownership or participation by minority, female, or disabled persons) on the part of investment providers prior to their being awarded a contract. A new Section is also added that establishes competitive selection procedures for procurement of investment services.

Questions/requests for copies/comments through 3/23/15: Lynn Hynes, ISAC, 1755 Lake Cook Rd., Deerfield IL 60015, 847/948-8500, ext. 2305, fax 847/831-8299, lynn.hynes@isac.illinois.gov

New JCAR Members

The Joint Committee on Administrative Rules welcomes four new members from the 99th General Assembly: Sen. Bill Brady, R-Bloomington; Sen. Karen McConnaughay, R-St. Charles; Rep. Ron Sandack, R-Downers Grove; and Rep. Michael Tryon, R-Crystal Lake.

JCAR also thanks departing members Sen. Sue Rezin, R-Morris; Sen. Dale Righter, R-Mattoon; Rep. Donald Moffitt, R-Gilson; and former Rep. Timothy Schmitz, R-Batavia, for their service.

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 FINANCIAL AND PROFESSIONAL REGULATION

Illinois Controlled Substances Act (77 IAC 3100) proposed 3/7/14 (38 Ill Reg 5705)

DEPT OF INSURANCE

Confidential Supervisory Information (50 IAC 870) proposed 8/8/14 (38 Ill Reg 16523)

DEPT OF PUBLIC HEALTH

Control of Communicable Diseases Code (77 IAC 690) proposed 11/21/14 (38 Ill Reg 21756)

Food Service Sanitation Code (77 IAC 750) proposed 8/8/14 (38 Ill Reg 16682)

ILLINOIS GAMING BOARD

Riverboat Gambling (86 IAC 3000) proposed 11/14/14 (38 Ill Reg 21267)

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Greg Harris

Senator Bill Brady

Representative Lou Lang

Senator Karen McConnaughay

Representative David Leitch

Senator Don Harmon

Representative Ron Sandack

Senator Tony Muñoz

Representative André Thapedi

Senator Ira Silverstein

Representative Michael Tryon

**Vicki Thomas
Executive Director**