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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 11

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

■ PRESCRIPTION DRUGS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Illinois Controlled Substances Act (77 IAC 3100; 38 Ill Reg 5705), effective 2/27/15, to reflect changes in medical practice, security, and prescription procedures since the Part was last amended in 2004. Advanced practice nurses and physician assistants who have been granted clinical privileges at a hospital, hospital affiliate or ambulatory surgical treatment center are added to the list of persons who may be licensed to prescribe controlled substances. Exemption conditions for APNs, PAs and temporary license holders include verification by the employer institution that the institution's license allows them

to administer or prescribe drugs. All prescriptions issued under an institutional license must include the institution's registration number, the individual's specific internal code, and service identification number. APNs and PAs must meet the education requirements established in the Illinois Controlled Substances Act. A person who writes prescriptions without proper authority may be fined up to \$50 for each unauthorized prescription, and may be subject to other DFPR disciplinary actions. Licensees who wish to modify their licenses must follow the same procedures as applicants for new licenses. The criteria for terminating a license are updated to include change of status of the primary professional license. All changes in legal existence, business, professional practice

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Proposed Rulemakings

DRIVER'S LICENSES

The SECRETARY OF STATE proposed amendments to Cancellation, Revocation or Suspension of Licenses or Permits (92 IAC 1040; 37 Ill Reg 3635) to implement provisions from several Public Acts. PA 98-122, which created the Compassionate Use of Medical Cannabis Pilot Program, allows a registered user or his/her registered caregiver to legally possess no more than 2.5 ounces of usable cannabis during a 14-day period. The rulemaking provides that persons who legally possess medical cannabis under this Act will not be penalized with regard to their driver's licenses. PA 98-285 increases the penalty for driving with a suspended or revoked license to a Class 4 felony if the violation is not the

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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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and name or address must be reported to DFPR within 10 days after the change. Licenses for APNs and PAs who were delegated controlled substance prescriptive authority will terminate when the authority does. Security requirements are updated to require licensees to make available extra security evidence to DFPR upon request. Personal bags are not allowed in any area where controlled substances are handled or stored. Physical controls in a pharmacy must include an alarm system and a key to the licensed pharmacy area that is held by an employee who is a licensed pharmacist or registered or certified pharmacy technician. Criteria for evaluating security

systems are updated to include adequacy of supervision, having access to manufacturing and storage areas, and the applicability of federal, State and local security requirements. Record and inventorying requirements are updated to reflect the use of electronic prescriptions and requiring licensees to conduct annual inventories of actual count for Schedule II controlled substances (those with high potential for abuse or addiction) and approximate count for Schedule III, IV and V controlled substances. Copies of a federal DEA Report of Theft or Loss of Controlled Substances must be filed with DFPR. Also, all licensees must log every prescription for at least 5 years and keep the original transcript

or copy of each verbal prescription available for inspection. Criteria for alternative reporting are established. The rulemaking clarifies that practitioners can neither self-prescribe nor prescribe to immediate family members unless there is a bona fide practitioner-patient relationship. Provisions for electronic and printed prescriptions (in addition to written prescriptions) are added. Pharmacists may not change the date, name of patient, name of prescriber or the name of the drug on a schedule II prescription. Schedule III, IV or V controlled substance prescription refills may only be done at the request of the patient to contact the prescriber. Partial fillings of prescriptions are not considered refills and clarifies partial filling procedures for patients in long term care facilities or who are terminally ill. DFPR is allowed to grant variances from the rules in individual cases. Other updates reflect the federal regulations and remove obsolete and outdated Sections. Since 1st Notice, DFPR has changed the alarm system criteria to require only a basic alarm system that detects unauthorized entry into the pharmacy area and clarified that prescriptions for Schedule II controlled substances may be submitted via fax. Current controlled substance license holders will be affected by this rulemaking.

Proposed Rulemakings

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person's first and if the person is involved in an accident that causes bodily injury. PA 98-726 allows SOS to suspend or revoke the driving privileges of a person convicted by court-martial or through a non-judicial military punishment for violations in another state if the offense would have resulted in a suspension or revocation had it been committed in Illinois.

Questions/requests for copies through 4/27/15: Jennifer Egizii, SOS, Driver Services Department, 2701 S. Dirksen Parkway, Springfield IL 62723, 217/557-4462.

IEMA REPEALER

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed repeal of the Part titled Training and Education Program (29 IAC 110; 39 Ill Reg 3450) because the Part is obsolete. The Part has not been amended since its adoption in 1983 and concerns training for former Emergency Services and Disaster Agency (ESDA) programs.

Questions/requests for copies/comments through 4/27/15: Traci Burton, IEMA, 1035 Outer Park Dr., Springfield IL 62704, 217/785-9860, TDD 217/782-6133.

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New Rules

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

■ ELECTIONS

The STATE BOARD OF ELECTIONS adopted a new Part titled Procedures for Implementing the Electronic Canvass (26 IAC 219; 38 Ill Reg 20204), effective 2/27/15, which outlines procedures for electronic transmission of election results from election authorities to the State Board. No later than 22 days after each election, election authorities must submit to the Board both a paper canvass and electronic canvass of election results. Information that must be submitted includes: total registered voters for the jurisdiction and for each precinct; total ballots cast for the jurisdiction and each precinct; ballots cast for each party in a primary election; precinct level results for all offices and candidates; valid write-in candidates and valid votes cast for each candidate. Offices and candidates that are certified by the Board shall have identification numbers assigned to them by the Board, as well as party codes. New parties will have codes assigned to them as needed. Specific provisions apply for assignment of a party code for various tabulation, documenting write-in votes and transmission of canvass results to the Board of various methods used by election authorities (such

as WinEds, GEMS, Hart Intercivic Inc.). All results for candidates who filed a timely Declaration of Intent to be a write-in candidates must be submitted by the election authority in both the paper and electronic filings with the Board. Particular provisions are expressly added for reporting of write-in candidates. All jurisdictions must upload a verification file to ensure that all identification numbers and offices are properly loaded in their election database. Existing systems certified in Illinois will submit a file in a format specified in the rules. New systems certified in Illinois in the future will need to provide an export per the specifications of the Preferred Canvass File Format. Since 1st Notice, an Appendix (inadvertently omitted from the originally proposed version of the rulemaking) has been added explaining the Illinois eCanvass file format.

Questions/requests for copies: Kenneth R. Menzel, SBEL, 2329 S. MacArthur, Springfield IL 62704, 217/782-0608.

■ DRINKING WATER

The POLLUTION CONTROL BOARD adopted amendments to Primary Drinking Water Standards (35 IAC 611; 38 Ill Reg 21513) effective 2/24/15 updating the Part to reflect USEPA amendments to federal drinking water rules issued from 1/1/14 to 6/30/14. In addition to several corrections, USEPA added 21 alternative analytical methods

that can be used to demonstrate compliance with its drinking water standards. Several technical corrections and clarifying changes are also included in this rulemaking.

■ WATER POLLUTION

PCB also adopted amendments to Standards and Requirements for Potable Water Supply Well Surveys and for Community Relations Activities Performed in Conjunction with Agency Notices of Threats from Contamination (35 IAC 1600; 38 Ill Reg 22411), effective 2/26/15, updating the Part to comply with new statutory and rule changes that classify soil gas (in addition to soil and groundwater) as a possible vehicle for contaminant exposure. The rulemaking requires notice to the public if offsite soil gas contamination from the site of a contaminant release, or from volatile chemicals that could escape the water in gaseous form and be inhaled, exceed acceptable levels of exposure. Changes since 1st Notice clarify community relations/notification requirements, clarify who must be included in a contact list, and require a contact person to be listed on the fact sheet provided to the community for use in the event of a release. Those affected by this rulemaking include businesses and municipalities from whose property a contaminant release occurs.

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New Rules

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Questions/requests for copies of the 2 PCB rulemakings: Michael McCambridge (312/814-6924) for Part 611 and Tim Fox (312/814-6085) for Part 1600, PCB, 100 W. Randolph St. Suite 11-500, Chicago IL 60601. Copies of the Board's opinions and orders can be obtained at <http://www.ipcb.state.il.us> or 312/814-3620. Please reference docket R15-6 for Part 611 and docket R14-23 for Part 1600.

■ WATER WELLS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Water Well Construction Code (77 IAC 920; 38 Ill Reg 15874), effective 3/2/15, adding a definition of "storm sewer"; reflecting the agreement between DPH and closed loop and water well drilling industries regarding the setback requirements between such wells and sources of contamination, specifically sewers. Changes since 1st Notice clarify footnotes regarding the drilling of boreholes. This rulemaking may have an effect on closed loop well contractors.

Questions/requests for copies: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761-0001, 217/782-2043, e-mail: dph.rules@illinois.gov.

SCHOOLS

The STATE BOARD OF EDUCATION adopted amendments to Programs for the

Preparation of Principals in Illinois (23 IAC 30; 38 Ill Reg 20632), effective 2/24/15, implementing Public Act 98-917. The PA and the rulemaking allow school support personnel (currently, only holders of educator licenses with teaching endorsements) to be admitted to principal preparation programs until 6/30/19.

Questions/requests for copies: Kellee Sullivan, SBE, 100 N. First St. S-306, Springfield IL 62777-0001, 217/557-6763.

■ 9-1-1 SYSTEM GRANTS

The ILLINOIS COMMERCE COMMISSION adopted amendments to Administration of Funds Created by the Wireless Emergency Telephone Safety Act (83 IAC 729; 38 Ill Reg 19585), effective 2/25/15. A companion emergency rulemaking, effective 10/1/14, appeared in the *Illinois Register* at 38 Ill Reg 19792. The rulemaking implements Public Act 98-634, which requires emergency telephone systems boards or governmental entities that receive grants from the Wireless Service Emergency Fund (supported by customer surcharges collected by phone providers) to file initial financial reports with ICC by 10/1/14. A second financial report is due by 1/31/16 and subsequent reports are due each Jan. 31. The rule gives ICC authority to withhold grants from noncompliant providers that fail to file financial reports by the statutory deadline or file reports that are not in the manner and form prescribed by

ICC. Grants may be withheld until the provider complies, or if the provider does not comply within 12 months, forfeited and awarded to compliant providers. The rulemaking also implements provisions for administering the fund, transmitting surcharge moneys and distributing moneys collected for the fund. Telephone service providers and local governments may be affected by this rulemaking.

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

■ PROCUREMENT

The AUDITOR GENERAL adopted amendments to Purchases and Contracts (44 IAC 500; 38 Ill Reg 22295), effective 3/1/15, to align the Office's procurement rules with recent statutory revisions. The terms "subcontract" and "sub-contractor" are clarified to refer to contracts with a total value of more than \$50,000 and which do not provide goods or services incidental to the performance of a contract. In providing required notice of subcontractors, a subcontractor or contractor may identify information that is deemed proprietary or confidential and the Procurement Officer, after review, shall redact or exclude the information. Various notice periods are clarified (e.g., 14 calendar days after publication but before the opening of bids

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New Rules

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in electronic bidding for reverse auctions). Each lease must provide for actual or liquidated damages in the event a lessor fails to make improvements agreed upon in the lease contract. The thresholds for categorization as a small business are raised from \$10 million in annual sales to \$13 million for wholesale businesses; from \$10 million to \$14 million for construction businesses; and from \$6 million to \$8 million for retail businesses or service entities. Sales thresholds for businesses

offering combined services or types of sales are also raised. Numerous procurement ethics provisions are being revised in accordance with statute to trigger compliance requirements regarding offers as well as bids for various types of activity. This rulemaking will affect small businesses seeking contracts with the Auditor General's office.

Questions/requests for copies: Rebecca Patton, OAG, 740 E. Ash St., Springfield IL 62703, 217/782-6698, Fax: 217/785-8222, TTY 888/261-2887.

STATE TRAVEL

The HIGHER EDUCATION TRAVEL CONTROL BOARD adopted amendments to Higher Education Travel (80 IAC 2900; 38 Ill Reg 5927), effective 2/27/15, implementing Public Act 96-240. The PA makes federal mileage reimbursement rate changes effective immediately (formerly, on the following July 1).

Questions/requests for copies: Cathy Young, University of Illinois, Illini Plaza, Suite 210, 1817 S. Neil St., Champaign IL 61820, 217/244-8750, fax: 217/239-6683, cyoung45@uillinois.edu.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The Department of Agriculture rulemaking will be considered at the Committee's March 17, 2015 meeting at the Stratton Office Building, Springfield. The remaining rulemakings will be considered at the April 14, 2015 meeting. 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 AGRICULTURE

Weights and Measures Act (8 IAC 600) proposed 4/18/14 (38 Ill Reg 8057)

DEPT OF INSURANCE

Annual Financial Reporting (50 IAC 925) proposed 12/26/14 (38 Ill Reg 23955)

Health Maintenance Organization (50 IAC 5421) proposed 12/26/14 (38 Ill Reg 23993)

ILLINOIS COMMERCE COMMISSION

Rate Case Expense (83 IAC 288) proposed 8/8/14 (38 Ill Reg 16456)

DEPT OF PUBLIC HEALTH

Visa Waiver Program for International Medical Graduates (77 IAC 591)
proposed 10/24/14 (38 Ill Reg 20133)