

Elaine Spencer  
Editor

Joint Committee on Administrative Rules  
Illinois General Assembly

700 Stratton Bldg. Springfield IL 62706  
217/785-2254 [ilga.gov/commission/jcar](http://ilga.gov/commission/jcar)

VOL. 39

July 31, 2015

Issue 31

*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

### ■ FARMER'S MARKETS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Food Service Sanitation Code (77 IAC 750; 39 Ill Reg 4865) effective 7/15/15 that implement Public Acts 97-394 and 98-660 by establishing a certificate issuance process for persons who handle or distribute food product samples at farmer's markets. Persons who perform tasks such as unpackaging, cutting, slicing, preparing or distributing free samples of food products to consumers at farmer's markets must possess either a valid Food Service Sanitation Manager (FSSM) Certificate or a Food Product Sampling Handler (FPSH) certificate, which is obtained by documenting completion of a food handler training course and the Department's farmer's market food sampling handler training. FPSH certificates are valid for 36

months and must be displayed at the point of sale. The certificate fee is \$10 for applicants with FSSM certification and \$40 for applicants without such certification. DPH or a local health department may suspend certificates for violations creating potential health hazards. Two or more suspensions within a 12-month period will result in revocation of the certificate.

### **Emergency Rule, page 2** **DHS Public Hearings, page 3**

Vendors who hold food service establishment permits from their local health departments are exempt from these requirements. Since 1<sup>st</sup> Notice, DPH has clarified that FPSH certificates are non-transferable. Those affected by this rulemaking include farmer's market participants and local health departments.

(cont. page 2)

## Proposed Rulemakings

### ■ DAY CARE HOMES

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to Licensing Standards for Day Care Homes (89 IAC 406; 39 Ill Reg 10500) and Licensing Standards for Group Day Care Homes (89 IAC 408; 39 Ill Reg 10540) implementing recent Public Acts and other changes. Both rulemakings require licensed day care homes to post "no firearms" signs in accordance with the Firearm Concealed Carry Act, prohibit use of swimming pools during child care hours unless the care provider has a license from the Department of Public Health to operate a swimming pool, and prohibit caregivers from working outside the home during the hours that the day care home is licensed to operate. Other

(cont. page 3)

**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](http://www.cyberdriveillinois.com)) and General Assembly ([www.ilga.gov](http://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.

## Emergency Rule

---

### LABOR RELATIONS HEARINGS

The ILLINOIS LABOR RELATIONS BOARD adopted an emergency amendment to General Procedures (80 IAC 1200; 39 Ill Reg 10641) effective 7/15/15 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 39 Ill Reg 10617. The emergency and proposed amendment require all parties to ILRB hearings at which

oral argument or testimony is offered to share equally all costs charged to the Board by the stenographer or court reporting service that transcribes the hearings. An individual, self-represented litigant may request in writing that ILRB pay his or her portion of this cost, but the Board has sole discretion to pay all or part of the individual's cost or to refuse the request. If ILRB requests oral arguments, it will bear the cost of the producing the

transcript of those arguments, but will not do so if oral arguments are requested by another party. Individuals and groups that are parties to ILRB actions may be affected.

Questions/requests for copies/comments on the proposed rulemaking through 9/14/15:

Sarah Kerley, ILRB, One Natural Resources Way, 1<sup>st</sup> Fl., Springfield IL 62702-1271, 217/785-4004, [Sarah.R.Kerley@Illinois.gov](mailto:Sarah.R.Kerley@Illinois.gov)

## New Rules

---

(cont. from page 1)

Questions/requests for copies: Elizabeth Paton, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761, 217/782-2043, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

### HORSE RACING

The ILLINOIS RACING BOARD adopted an amendment to Entries, Subscriptions, and Declarations (11 IAC 1413; 39 Ill

Reg 3415) effective 7/17/15. A companion emergency amendment effective 2/20/15 appeared in the *Illinois Register* at 39 Ill Reg 3435. The amendment allows two or more horses in the same race that belong to the same owner to be treated as separate entries for wagering purposes at thoroughbred racing tracks. (Formerly, multiple horses belonging to the same owner were generally treated as a

single entry, with a wager on one horse treated as a wager on all.) Since 1<sup>st</sup> Notice, IRB repealed a Section on uncoupled entries because its subject matter was addressed in another existing Section.

Questions/requests for copies: Mickey Ezzo, IRB, 100 W. Randolph, Suite 5-700, Chicago IL 60601, 312/814-5017, [Mickey.ezzo@illinois.gov](mailto:Mickey.ezzo@illinois.gov)

## 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 August 11, 2015 meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

### BOARD OF HIGHER EDUCATION

Dual Credit Courses (23 IAC 1009; 39 Ill Reg 5945) proposed 5/1/15

Higher Education Distance Learning and Interstate Reciprocity (23 IAC 1033; 39 Ill Reg 6985) proposed 5/22/15

# Proposed Rulemakings

(cont. from page 1)

provisions require emergency preparedness plans to include procedures for notifying parents and reuniting them with their children in case of an evacuation, and to include procedures for evacuating children at or below 30 months of age and special needs children. Day care staff licensed to care for infants must also undergo training regarding Sudden Infant Death Syndrome (SIDS), Sudden Unexplained Infant Death (SUID), safe sleep, and Shaken Baby Syndrome when their licenses are renewed every 3 years, as well as prior to initial licensure. Finally, a college or vocational school diploma may be accepted in place of a high school diploma for day care staff required to hold at least a high school diploma. Day care home owners and operators are affected by these rulemakings.

Questions/requests for copies/comments concerning the 2 DCFS rulemakings through 9/14/15: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983, TDD: 217/524-3715, fax 217/557-0692, e-mail: [CFPolicy@idcfs.state.il.us](mailto:CFPolicy@idcfs.state.il.us)

## MENTAL HEALTH FACILITIES

The HEALTH FACILITIES AND SERVICES REVIEW BOARD proposed a new Part titled Specialized Mental Health Rehabilitation Facilities (SMHRFs) (77 IAC 1126; 39 Ill Reg 10577) establishing review criteria for relocation of existing SMHRFs to planning areas that

## DHS Public Hearings

The DEPARTMENT OF HUMAN SERVICES will hold public hearings on three proposed rulemakings at the following times and locations:

— **Tuesday, Aug. 25, 10 a.m.-noon**, Michael J. Howlett Bldg. Auditorium, Second and Edwards Streets, Springfield.

— **Wednesday, Aug. 26, 1 to 3 p.m.**, Michael A. Bilandic Bldg., Room C-500, 5<sup>th</sup> Floor, 160 N. La Salle St., Chicago.

The hearings concern proposed amendments to Practice in Administrative Hearings (89 IAC 14; 39 Ill Reg 7332), Appeals and Hearings (89 IAC 510; 39 Ill Reg 7372), and Program Definitions (89 IAC 521; 39 Ill Reg 7396), all of

which were published in the 5/29/15 *Illinois Register*: These rulemakings affect appeal procedures for clients of DHS-administered programs including TANF, SNAP, Home Services and Vocational Rehabilitation, as well as clients of Medicaid, All Kids and other medical assistance programs administered by the Department of Healthcare and Family Services.

Questions/comments regarding these 3 DHS rulemakings or the public hearings: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

do not currently have SMHRF services. The new Part notes that after 6/16/14, no new facilities may be licensed under the Specialized Mental Health Rehabilitation Act of 2013, but existing facilities may be relocated. An SMHRF that is being relocated must undergo the Certificate of Need review process and demonstrate that the proposed project is the most effective or least costly means of meeting specialized mental health rehabilitation needs among the population to be served. Information to be reviewed by HFSRB includes the number of SMHRF beds and other services to be discontinued at the existing location; the anticipated date of closure of the existing location; the disposition

of the current facility and its medical records; and the impact that the closure will have upon area residents. Other provisions outline information to be submitted regarding the new facility location (e.g. number of beds, project costs, need determination). Specialized mental health rehabilitation facilities, hospitals, long-term care facilities, and other medical providers are affected by this rulemaking.

Questions/requests for copies/comments through 9/14/15: Claire Burman, HFSRB, 69 W. Washington St., Suite 3501, Chicago IL 60602, 312/814-8814, [Claire.Burman@illinois.gov](mailto:Claire.Burman@illinois.gov)