

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

November 6, 2015

Issue 45

*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

### ■ OCCUPATIONAL THERAPY

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Illinois Occupational Therapy Practice Act (68 IAC 1315; 39 Ill Reg 11167), effective 11/6/15, implementing Public Act 98-624, which renewed the Illinois Occupational Therapy Practice Act [225 ILCS 75]. The amendments add programs approved by the National Board for Occupational Therapy to the list of approved occupational therapy (OT) and occupational therapy assistant (OTA) programs; update continuing education requirements to include at least one contact hour per renewal period in ethics; clarify that there is no restriction on the number of CE hours that can be earned via courses from an accredited higher education institution; add distance learning

courses, professional study groups, and volunteer service as CE options; and add licensed hospitals, State agencies, and educational institutions that provide OT services as CE sponsors. Restoration of an expired or inactive license requires proof of completion of at least 12 CE hours for each year the license has been inactive, up to a maximum of 60 hours (currently, 24 CE hours within the previous 24 months are required). Additional restoration criteria for persons whose licenses have been inactive for 5 years or more may include proof of completion of an OT or OTA re-entry program offered by an accredited college or university. Other provisions update the types of therapy techniques and training required; add statutory requirements for confidentiality in DFPR investigations of licensees or

### Proposed Rulemakings

### ■ PLUMBERS

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Plumbers Licensing Code (68 IAC 750; 39 Ill Reg 14297) concerning licensure examinations, responsibilities of plumbing inspectors and other changes updating the Part to align with current statute. The rulemaking requires local ordinances that are more stringent than the Illinois Plumbing Code to be reviewed and approved by DPH before they can be formally adopted by the local government unit. It also includes provisions for making reasonable accommodations under the Americans with Disabilities Act for persons with disabilities seeking to take the licensure exam; provides that persons who cheat on the licensure exam will be

(cont. page 2)

(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.

# New Rules

---

(cont. from page 1)

applicants; clarify requirements for supervision of OTAs; and permit use of the terms “occupational therapy technician” or “occupational therapy paraprofessional” in reference to non-licensed OT aides who work under the direct supervision of an OT or OTA. Those affected by this rulemaking include OTs, OTAs, their employers, and CE sponsors.

## DISQUALIFYING OFFENSES

DFPR adopted an amendment to Administrative Procedures for General Professional Regulation under the Administrative Code (68 IAC 1130; 39 Ill Reg 11161) effective 11/6/15 clarifying that forcible felony convictions that disqualify persons from obtaining or holding professional licenses include out-of-State convictions. References to the Criminal Code of 1961 are also updated to reflect the Criminal Code of 2012.

## BANKS

DFPR also adopted amendments to Bank Branches and Subsidiaries (38 IAC 305; 39 Ill Reg 10336) effective 10/22/15. The rulemaking exempts state banks from the requirement to submit notice to DFPR to establish a subsidiary pursuant to Section 5(12) of the Illinois Banking Act when a bank has a controlling interest in the subsidiary.

Questions/requests for copies of the 3 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington, 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, Fax: 217/557-4451.

## ■ DEER HUNTING

The DEPARTMENT OF NATURAL RESOURCES adopted an amendment to White-Tailed Deer Hunting By Use of Bow and Arrow (17 IAC 670; 39 Ill Reg 8873), effective 10/20/15, that discontinues over-the-counter sales of single antlerless-only archery deer hunting permits to non-Illinois residents. (Non-residents may still purchase other types of archery deer hunting permits directly from DNR or through other sources.)

## YOUTH HUNTING

DNR adopted amendments to the Part titled Youth Hunting Seasons (17 Ill Adm Code 685; 39 Ill Reg 10374) effective 10/20/15. A hunter with an unfilled, valid Youth Deer Permit may hunt during the first firearm deer season before Thanksgiving as long as; the permit is not used on a public land site where the number of hunters is limited by a site permit quota (only unrestricted access may be hunted); the hunter must use only firearms allowed in Section .30 (i.e.-20 gauge shotguns and muzzleloaders greater than .45 caliber); and no misuse of the youth permit or hunting laws and regulation. The adult supervisor of the youth permit holder may also hunt during the first firearm deer season as long as they

have the appropriate licenses and permits. In counties where CWD surveillance is occurring the proposed rulemaking describes special check in, tagging and reporting procedures.

## ■ COMMERCIAL FISHING

DNR also adopted an amendment to Commercial Fishing and Musseling in Certain Waters of the State (17 IAC 830; 39 Ill Reg 11215), effective 10/20/15, adding restrictions on catfish harvesting in the Wabash and Ohio rivers in order to align DNR's rules with those of Indiana and Kentucky. Catfish less than 13 inches in length may not be taken from either river. For channel catfish 28 inches or more in length, or blue or flathead catfish 35 inches or more in length, only one fish of each species may be harvested per day. Commercial fishermen may be affected.

Questions/requests for copies of the 3 DNR rulemakings: Parts 670 and 685, Shelly Knuppel; Part 830, Anne Mergen, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to Construction and Filing of Life Insurance and Annuity Forms (50 IAC 1405; 39 Ill Reg 8677), effective 10/22/15, adding new permissible policy titles such as Indexed, Equity

(cont. page 4)

# Proposed Rulemakings

(cont. from page 1)

immediately expelled from the exam and barred from retesting for at least 6 months (instead of requiring an appearance before the Board of Plumbing Examiners prior to imposition of the penalty); permits Illinois licensed professional engineers, as well as licensed plumbers, to teach courses in plumbing; clarifies the duties of plumbing inspectors; and expands the grounds for disciplinary action against plumbing inspectors to include failure to follow any directive or order of DPH, or "any other form of misconduct". Those affected by this rulemaking include licensed plumbers, their employers, and local governments.

## ■ EMERGENCY SERVICES

DPH also proposed amendments to Emergency Medical Services, Trauma Center, Primary Stroke Center and Emergent Stroke Ready Hospital Code (77 IAC 515; 39 Ill Reg 14321) implementing two Public Acts. The rulemaking changes the Emergent Stroke Ready Hospital designation to Acute Stroke-Ready Hospital, adds a new designation for Comprehensive Stroke Centers, and changes the name of the Part to reflect these designations. It also provides for licensure of pre-hospital registered nurses, emergency communications RNs and emergency medical responders. Other amendments update the Part to meet current national pediatric medical

standards and allow physicians with many years of pediatric emergency room experience to continue working in ERs that have been designated as Emergency Department Approved for Pediatrics (EDAP). Waiver provisions for board certified ER physicians are removed. Finally, out of State hospitals that participate in an Illinois EMS system may utilize any healthcare professional who is licensed in the state where the facility is located; dual licensing is no longer required. Hospitals, healthcare professionals, and emergency responders are affected by this rulemaking.

Questions/requests for copies/ comments on the 2 DPH rulemakings through 12/21/15: 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)

## SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 39 Ill Reg 14480) and Voluntary Registration and Recognition of Nonpublic Schools (23 IAC 425; 39 Ill Reg 14491) implementing Public Act 99-480. Both rulemakings authorize school nurses or other trained personnel to administer an opioid antagonist (medication that counteracts the effects of heroin or other opioid drugs) to any person whom the nurse or trained person has reason to believe is

experiencing an opioid overdose. It also specifies additional training requirements for nurses or other personnel who administer opioid antagonists. The Part 425 rulemaking also extends to nonpublic schools, as a condition of SBE recognition, the same requirements for use of undesignated epinephrine auto-injectors and implementation of concussion policies that currently apply to public schools.

SBE also proposed amendments to Regional Offices of Education and Intermediate Services (23 IAC 525; 39 Ill Reg 14502) removing an obsolete School Code requirement that the 10 smallest ROEs in Illinois work in cooperation with larger ROEs to provide programs and services. SBE states that consolidation of ROEs in recent years has made this requirement unnecessary and prompted its removal from statute.

Questions/requests for copies/ comments on the 3 SBE rulemakings through 12/21/15: Shelly Helton, SBE, 100 N. First St., S-493, Springfield IL 62777-0001, 217/782-5270, [rules@isbe.net](mailto:rules@isbe.net)

## ■ PRESCRIPTION DRUGS

The DEPARTMENT OF HUMAN SERVICES proposed an amendment to Electronic Prescription Monitoring Program (77 IAC 2080; 39 Ill Reg 14212) shortening the timeframe for pharmacies and other entities to

(cont. page 5)

# New Rules

(cont. from page 2)

Indexed, Index Linked, and Modified Guaranteed Annuity, to existing titles such as Universal, Term, etc. The rulemaking also requires that the electronic tracking number of a policy be included when a policy form is submitted to DOI for approval. DOI also adopted an amendment to Variable Contracts (50 IAC 1451; 39 Ill Reg 8684) effective 10/22/15 correcting the spelling of “reverse” to “reserve” liability for variable insurance contracts. Finally, DOI repealed the Part titled Family Group Life Insurance Policy Forms (50 IAC 1603; 39 Ill Reg 10357), effective 10/22/15. This Part had been adopted in 1958 and never amended since. DOI states that the subject matter of this Part is covered by 50 IAC 1403, which has an identical title.

Questions/requests for copies of the 3 DOI rulemakings: Parts 1405 and 1603, Cindy Colonius (217/782-4572); Part 1451, Susan Christy (217/782-1759); DOI, 320 W. Washington St., Springfield IL 62767-0001.

## ■ SALES TAX

The DEPARTMENT OF REVENUE adopted amendments to Retailers' Occupation Tax (86 IAC 130; 39 Ill Reg 9126) effective 10/22/15, implementing various PAs concerning exemptions from the tax. The rulemaking includes a new process for documenting the building materials exemption and the reporting of incentives in enterprise zones and high

impact businesses. It also removes obsolete (pre-2002) provisions for the building materials exemption. Two new exemptions are created for building materials used to construct the South Suburban Airport and the Illiana Expressway. The rulemaking also clarifies that exemptions for items used or consumed in manufacturing or assembly of goods for wholesale or retail sale, and for repair and replacement parts for machinery used in the manufacturing/assembly process, do not apply to items used or consumed in the generation of electricity or natural gas or the treatment of water. Other amendments provide clearer explanations of existing rules. Since 1<sup>st</sup> Notice, examples of “reasonable cause” that may delay DOR issuance of an exemption certificate have been added. Businesses subject to retailers' occupation tax are affected.

## ■ LIQUOR TAXES

DOR adopted amendments to Liquor Control Act (86 IAC 420; 39 Ill Reg 8879), effective 10/22/15, implementing several Public Acts. The rulemaking updates tax rates on wine, beer, cider and other alcoholic spirits to reflect tax increases enacted on 9/1/09; requires out-of-State wineries that are licensed to ship wine directly to Illinois residents for personal use to register under the Use Tax Act and collect and pay Illinois use tax on each gallon of wine sold to Illinois residents; and lowers the annual tax liability

threshold (from \$200,000 to \$20,000) that requires a business to make all tax payments to DOR by electronic funds transfer. Businesses that sell or produce alcoholic beverages or spirits are affected by this rulemaking.

## ■ TOBACCO TAXES

DOR also adopted an amendment to Cigarette Tax Act (86 IAC 440; 39 Ill Reg 8897) effective 10/22/15 concerning sales of “little cigars”. The rulemaking allows persons licensed as distributors under the Tobacco Products Tax Act to obtain a parallel license under the Cigarette Tax Act, and obtain the necessary tax stamps for selling unstamped packages of little cigars, without having to document their ability to purchase cigarettes directly from at least 3 major cigarette manufacturers. The 3-manufacturer requirement still applies to persons who wish to stamp and sell unstamped packages of cigarettes. Businesses that sell tobacco products are affected by this rulemaking.

## ■ MOTOR FUEL TAX

DOR adopted amendments to Motor Fuel Tax (86 IAC 500; 39 Ill Reg 8742), effective 10/23/15, that require electronic filing of forms and electronic payment of tax effective 1/1/16. Claims for refunds may also be filed electronically. Studies used to

(cont. page 6)

# Proposed Rulemakings

---

(cont. from page 3)

report dispensing of prescription drugs to the DHS Prescription Monitoring Program. Dispensers will be required to report new or renewed prescriptions no later than the next business day after the drugs are dispensed (currently, within 7 days after dispensing). Those affected by this rulemaking include pharmacies and hospitals.

Questions/requests for copies/ comments through 12/21/15: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## INSURANCE RECORDS

The DEPARTMENT OF INSURANCE proposed an amendment to Destruction of Records (50 IAC 901; 39 Ill Reg 14218) removing the current requirement that companies request permission in writing from DOI before destroying or disposing of records. The rulemaking grants companies authority to dispose of records that are no longer needed in the transaction of current business. Records of final disposition of insurance claims and records used to document the financial condition of the company since its last audit/examination may be disposed of provided that these records are more than 7 years old.

Questions/requests for copies/ comments through 12/21/15: Diana Villamil Zuver, DOI, 122 S.

Michigan Ave., 19<sup>th</sup> Fl., Chicago IL 60603, 312/814-8135 or Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767, 217/558-0957.

## ■ PUBLIC WATER SUPPLIES

The POLLUTION CONTROL BOARD proposed amendments to Introduction (35 IAC 601; 39 Ill Reg 14224), Permits (35 IAC 602; 39 Ill Reg 14239) and Ownership and Responsible Personnel (35 IAC 603; 39 Ill Reg 14289) concerning design standards, permitting procedures, and operation of public water systems. Amendments to Part 601 incorporate by reference various national standards for design and construction of water systems, which must be met in order to qualify for a construction permit. The Part 602 rulemaking consolidates the PCB and IEPA water supply permitting rules (currently found in 35 IAC 652) into this Part. Amendments to Part 603 implement recent statutory changes by requiring community water supplies to designate a "responsible operator in charge" (ROINC) and delineating the duties and responsibilities of the ROINC. This rulemaking also allows community water supplies to designate an administrative contact to serve as the agent of the owner or official custodian and receive notices in place of the owner or custodian. Those affected by these rulemakings include municipal water systems.

Questions/requests for copies/ comments on the 3 PCB rulemakings through 12/21/15: John Thierriault, Clerk (312/814-3620) or Jason James, Hearing Officer (312/814-6929), PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. Copies of the Board's opinion and order may be downloaded at [www.ipcb.state.il.us](http://www.ipcb.state.il.us). Please reference docket R15-22.

## DCFS RULE WITHDRAWAL

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES has withdrawn proposed amendments to Intercountry Adoption Services (89 IAC 333; 39 Ill Reg 6073) that were published in the 5/8/15 *Illinois Register*. The rulemaking would have limited (subject to waiver by DCFS) the number of children under 18 that may reside in a home in which the parents are applying to adopt children from a foreign country. It also changed the timeframe for DCFS to issue endorsement or denial letters after a child welfare agency completes its home study and changed the appeal process for denial letters.

# New Rules

(cont. from page 4)

support a refund claim for undyed diesel fuel used by power take-off equipment (e.g., farm implements attached to a tractor) may be extended, at the taxpayer's request, for up to 2 years, but no study may be relied upon for more than 4 years. Claims for refund of fees paid for motor fuel tax decals shall be made electronically. Persons who are required to file bonds shall file payment electronically to DOR. The 2 year grace period given to International Fuel Tax Agreement (IFTA) carriers to renew applications is incumbent on the carrier submitting an application by 12/31. The rulemaking also sets new interest rate penalties for failure to pay or file for IFTA licenses as implemented by PA 98-964.

Questions/requests for copies of the 4 DOR rulemakings: Parts 130, 420 and 440, Richard Wolters; Part 500, Jerilynn Troxell Gorden, DOR, 101 W. Jefferson St, Springfield IL 62794, 217/782-2844.

## SPECIAL EDUCATION

The STATE BOARD OF EDUCATION adopted amendments to Special Education Facilities under Section 14-7.02 of the School Code (23 IAC 401; 39 Ill Reg 8973), effective 10/22/15, implementing recent Public Acts. The amendments concern SBE's approval criteria for freestanding special education facilities that

contract with school districts to provide special education services for students who cannot be served in the district's facilities. The rulemaking extends, from every 24 months to every 36 months, the timeframe for undergoing periodic life-safety inspections by the Office of the State Fire Marshal. If an OSFM inspection cannot be scheduled within the 36-month timeframe, SBE will accept an inspection and report from a local government agency (e.g., fire department) that was completed within 12 months prior to the facility's initial application or renewal and shows no evidence of violations. The rulemaking also updates references to teacher certification to reflect the current system of educator licensure. School districts, special education cooperatives, and special education facilities will be affected by these rulemakings.

Questions/requests for copies: David Andel, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-4870.

## ENVIRONMENTAL LABS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Certification and Operation of Environmental Laboratories (77 IAC 465; 39 Ill Reg 10685) effective 10/23/15 that add proficiency drinking water testing providers for microbiology drinking water recognized by The NELAC Institute (TNI), in addition to drinking water testing laboratories accredited by the

American Association for Laboratory Accreditation, to the list of acceptable drinking water testing vendors. Laboratories will not be required to use the vendors but may use the vendor it determines will best benefit the laboratory operation. Also, the rulemaking approves the TECTA EC/TC Automated Microbiology System as an alternate test procedure for detecting coliform and E. coli in water samples and changes references to the General Education Development (GED) test to high school equivalency certificate.

Questions/requests for copies: Elizabeth Paton, DPH, 535 W. Jefferson St., 5<sup>th</sup> Flr., Springfield IL, 62761, 217/782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@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 November 17, 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.

### **CAPITAL DEVELOPMENT BOARD**

Illinois Energy Conservation Code (71 IAC 600; 39 Ill Reg 12425) proposed 9/11/15

### **DEPT OF HEALTHCARE AND FAMILY SERVICES**

Hospital Services (89 IAC 148; 39 Ill Reg 10334) proposed 7/24/15

### **DEPT OF FINANCIAL AND PROFESSIONAL REGULATION**

Illinois Architecture Practice Act of 1989 (68 IAC 1150; 39 Ill Reg 9759) proposed 7/17/15

### **DEPT OF REVENUE**

Income Tax (86 IAC 100; 38 Ill Reg 21758) proposed 11/21/14

## **Joint Committee on Administrative Rules**

**Senator Pamela Althoff**

**Representative Greg Harris**

**Senator Bill Brady**

**Representative Lou Lang**

**Senator Don Harmon**

**Representative David Leitch**

**Senator Karen McConnaughay**

**Representative Ron Sandack**

**Senator Tony Muñoz**

**Representative André Thapedi**

**Senator Ira Silverstein**

**Representative Mike Tryon**

**Vicki Thomas  
Executive Director**