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Illinois General Assembly

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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

■ MEDICATION AIDES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Nurse Practice Act (68 IAC 1300; 38 Ill Reg 22373) effective 11/24/15, implementing PA 98-990, which creates a Medication Aide Pilot Program for nursing homes. The application fee for a medication aide is \$50 while the application fee for participating as a qualified facility is \$500. The pilot program will run from 7/1/16 through 6/30/19, and applications from facilities wishing to participate will be accepted from 1/1/16 through 3/31/16. Participation will be limited to 10 qualified skilled nursing care facilities (2 in each of the 5 Appellate Court Districts). Medication aide applicants must be licensed certified nursing assistants (CNAs), show proof of 2,000 hours of practice as a CNA

within 3 years before application, show proof of completing a medication aide education program, have current CPR certification, verify fingerprint processing, show proof of employment at a qualified facility, pay the fee, and provide proof of a high school diploma or GED. All applicants must pass the

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Medication Aide Certification Examination. Qualified facilities must meet the following criteria in order to be considered for the program: be a licensed skilled nursing facility by DPH, have a Five Star Quality rating of 3 or better from the Centers for Medicare and Medicaid Services website, certify employment of a medication aide will not replace or diminish employment of a

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Proposed Rulemakings

■ COURT OF CLAIMS

The COURT OF CLAIMS proposed amendments to Court of Claims Regulations (74 IAC 790; 39 Ill Reg 15649) concerning its procedures for handling monetary or property claims against the State. The rulemaking reduces the number of copies of relevant documents that must be filed with the Clerk; clarifies appearance requirements for out of State attorneys; allows attorneys to verify pleadings; codifies Court precedent regarding confidential communications between the Court and the Commissioner who hears a case; removes a requirement that the Clerk prepare a calendar of cases set for hearing during the 10 days prior to the beginning of Court sessions; and clarifies appearance requirements for

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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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registered nurse or licensed practical nurse, certify an RN will be on duty and present to delegate to and supervise the medication aide, and certify it will provide information regarding patient safety, efficiency and errors. Applicants for qualified facilities must also submit a sample curriculum, course schedule, instructors, education materials and copies of the 2 most recent DPH annual surveys. Additional factors that DFPR may use to select qualified facilities include the geographic location, number of beds and length of time the facility has been licensed. The rulemaking establishes criteria to terminate qualified facilities that include failure to adhere to the medication aide plan submitted and failure to ensure that certified medication aides do not have access to Schedule II Controlled Substances (medications with a high potential for abuse or addiction, e.g., codeine, morphine, hydrocodone). DFPR or DPH may conduct site visits. The rulemaking outlines the requirements for the 60 hour certified medication aide curriculum that includes hours for medication fundamentals and safety. Qualified facilities must submit quarterly reports that must include the listed materials (e.g., medication errors and the outcome, costs and other financial implications, benefits of the program). Numerous changes since 1st Notice include changes to the dates of the pilot

program (originally, 1/1/16 through 12/31/18) and the dates for facilities to apply for the program. References to “nursing homes” have been changed to “skilled nursing facilities”. Facilities that apply for the pilot program must be free of any Type A or B violations, and a list of approved qualified facilities will be submitted to DPH and listed on DFPR’s website. Program administrators must be Illinois-licensed RNs with at least a bachelor’s degree in nursing and 2 years clinical experience in a long term care facility. Other changes and clarifications affect the application process for CNA’s wishing to become medication aides, participating facilities’ quarterly reports, and approved curricula that may be used by participating facilities. CNAs and licensed skilled nursing facilities that wish to participate in the pilot program are affected.

■ ARCHITECTS

DFPR also adopted amendments to Illinois Architecture Practice Act of 1989 (68 Ill Adm Code 1150; 39 Ill Reg 9759), effective 12/11/15, implementing various Public Acts. The rulemaking exempts candidates whose first language is not English from taking the Test of English as a Foreign Language if they have earned an advanced degree from an accredited U.S. institution; updates National Council of Architectural Registration Boards (NCARB) requirements; extends acceptance of pre-professional

degrees to 1/1/16; and allow electronic signatures. Since 1st Notice, DFPR has allowed licensure applicants whose degrees were not granted by a nationally accredited institution to continue to qualify for licensure if they can prove they have fulfilled NCARB educational standards (as originally proposed, only degrees from nationally accredited institutions would be accepted starting 1/1/16). Another change since 1st Notice replaces certain listed criteria for proof of qualification when seeking licensure by endorsement with references to the NCARB Certificate Guidelines. Architectural firms, schools and training programs are affected by this rulemaking.

Questions/requests for copies of the 2 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington, 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

LABOR RELATIONS HEARINGS

The ILLINOIS LABOR RELATIONS BOARD adopted an amendment to General Procedures (80 IAC 1200; 39 Ill Reg 10617) effective 11/25/15. A companion emergency amendment effective 7/15/15 appeared in the *Illinois Register* at 39 Ill Reg 10641. The rulemaking requires 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

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Proposed Rulemakings

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out-of-State attorneys, oral argument procedure, rehearing procedure, filing fees and waiver procedures. Individuals and businesses who have, or intend to file, claims against the State with the Court of Claims will be affected by this rulemaking.

Questions/requests for copies/comments through 1/25/16: Bradley R. Bucher, Illinois Court of Claims, 630 S. College, Springfield IL 62756, 217/782-0111.

■ LAND CONSERVATION

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to Conservation Reserve Enhancement Program (CREP) (17 IAC 1515; 39 Ill Reg 15664) aligning the Part with federal mandates and State statute. The rulemaking adds a new definitions Section that lists various State and federal conservation agencies and programs, in addition to defining terms such as wetlands, 100-year floodplain (an area adjacent to a body of water that has a 1% chance of being flooded in any given year) and Conservation Practices (specific methods outlined in the National Handbook of Conservation Practices issued by the USDA's Natural Resources Conservation Service). The rulemaking clarifies CREP's management structure and lists the Soil and Water Conservation Districts (SWCDs) that serve CREP-eligible lands and intake program applications.

Peremptory Rule

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to Pay Plan (80 IAC 310; 39 Ill Reg 15807), effective 11/25/15, implementing a 4-year collective bargaining agreement with International Brotherhood of Teamsters Local 25 (Downstate). The agreement, effective 7/1/15 through 6/30/19, freezes all base salaries and in-hire rates for the duration of the contract. It includes provisions for merit-based bonuses and for gain sharing programs under which individuals or departments that propose cost-saving initiatives may receive a portion of the funds saved as a bonus. Merit bonuses and gain sharing will be paid as one-time bonuses that do not count toward an employee's salary for pension calculation

purposes. Compliance with policies for merit bonus and gain sharing programs will be subject to grievance and arbitration procedures. Also, effective 1/1/16, newly hired employees covered by this agreement can receive a vacation payout of no more than 45 days. This peremptory rule affects 1,412 highway maintainers, lift bridge/ferry operators, deck hands, maintenance workers and equipment operators at CMS, the Department of Transportation, the Department of Corrections, the Department of Human Services, the Department of Natural Resources, and the Department of Veteran's Affairs.

Questions/requests for copies: Jason Doggett, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7964, fax 217/524-4570, CMS.PayPlan@illinois.gov

Landowners must allow DNR and the applicable SWCD access to the enrolled property once a year for verification of ownership and at least once every 3 years for site monitoring and photographs. Other provisions specify the documents to be submitted with a completed CREP enrollment application; outline procedures for reviewing CREP applications; address how landowners will be paid when an existing 15- or 35-year easement is amended to a longer term or made permanent; and add new

Sections addressing allowable modifications to CREP easements and transfers of easements. Those affected by this rulemaking include certain SWCDs, landowners enrolled in or seeking enrollment in CREP, and local governments planning public works projects that may impact CREP lands.

Questions/requests for copies/comments through 1/25/16: Virginia Yang, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

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 January 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.

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Medical Practice Act of 1987 (68 IAC 1285; 39 Ill Reg 10341) proposed 7/24/15

SECRETARY OF STATE

Illinois State Library Grant Program (23 IAC 3035; 39 Ill Reg 13147) proposed 9/25/15

New Rules

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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. In such cases, the Board will pay all or part of these costs, subject to appropriation of funds. If ILRB requests oral arguments, it will bear the cost of the producing the transcript of those arguments, but it will not do so if oral arguments are requested by another party. Since 1st Notice, ILRB has removed language allowing the Board "sole discretion" regarding payment of an individual's transcription costs. Individuals and groups that are parties to ILRB actions may be affected.

Questions/requests for copies: Sarah Kerley, ILRB, One Natural Resources Way, Springfield IL 62702-1271, 217/785-3155, Sarah.R.Kerley@Illinois.gov

■ RADIOACTIVE MATERIAL

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments to Financial Assurance Requirements (32 IAC 326; 39 Ill Reg 12037), Licensing of Radioactive Material (32 IAC 330; 39 Ill Reg 12046), Licensing Requirements for Source Material Milling Facilities (32 IAC 332; 39 Ill Reg 12059) and Standards for Protection Against Radiation (32 IAC 340; 39 Ill Reg 12068), all effective 11/24/15, aligning these Parts with federal Nuclear Regulatory Commission rules adopted in 2011. The amendments to Part 326 concern information to be submitted by a licensee when estimating the cost of a reclamation plan; the Part 330 rulemaking addresses requirements for transferring licensed radioactive material from one entity to another; the Part 332 amendments require additional information for financial surety cost estimates;

and the Part 340 rulemaking requires additional surveys of subsurface areas that are potentially contaminated from facility operations. Records of these surveys must be kept until the facility's license is terminated in order to facilitate cleanup and decommissioning of the site when it closes. Businesses licensed to handle radioactive materials or radioactive waste are affected by these rulemakings.

Questions/requests for copies of the 4 IEMA rulemakings: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860.

New JCAR Member

The Joint Committee on Administrative Rules welcomes **Sen. Matt Murphy**, R-Palatine, as its newest member from the 99th General Assembly. He replaces **Sen. Pamela Althoff**, R-Mc Henry, whom JCAR thanks for her service.