

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

■ HEALTH FACILITIES

The HEALTH FACILITIES AND SERVICES REVIEW BOARD adopted amendments to Health Facilities and Services Review Operational Rules (77 IAC 1130; 39 Ill Reg 16277), effective 10/14/16, implementing recent statutory changes. The rulemaking adds Specialized Mental Health Rehabilitation Facilities (SMHRFs) and skilled- or intermediate-care facilities for the developmentally disabled (ICF/DDs) to the list of facilities subject to the Certificate of Need process. A requirement that HFSRB notify applicants in writing if they have not yet paid the full application processing fee is removed (HFSRB will continue to notify applicants of outstanding fees by other means). Capital expenditure thresholds that determine whether a project requires a permit are adjusted for inflation (from \$12.2 to \$12.8

million for hospitals, \$6.9 to \$7.2 million for long term care facilities, and from \$3.2 to \$3.3 million for all other applicants). Projects that HFSRB may exempt from its permitting requirements now include discontinuation of any health care facility or category of service other than county nursing homes or facilities maintained by the State or State agencies. Applicants seeking an exemption for a change of ownership may submit key terms of the transaction to HFSRB in place of the entire final transaction document, but the exemption will be invalid if the change of ownership is not completed according to those terms. The notice by publication period for change of ownership applications is reduced from 3 days to 1 day and applicants must pay the cost of publication. Other provisions of this

(cont. page 2)

Proposed Rulemakings

■ CLINICAL PSYCHOLOGISTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed the repeal of the Part titled Clinical Psychologist Licensing Act (68 IAC 1400; 40 Ill Reg 14490) and proposed a new Part with the same title (68 IAC 1400; 40 Ill Reg 14519), implementing provisions of Public Act 98-668. PA 98-668 created a new license for prescribing psychologists, specified educational requirements for licensure as a prescribing psychologist, and addressed the delegation of prescriptive authority by a physician through collaborative agreements. The rulemaking adds a new definitions Section; implements licensure requirements for initial licensure, licensure renewals and licensure

(cont. page 2)

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

(cont. from page 1)

rulemaking concern the Board Chair's authority to grant exemptions for change of ownership; deadlines for submitting financial commitment reports when the Board has extended an applicant's financial commitment period; and accrual of fines for permit holders who fail to comply with post-permit reporting requirements. Since 1st Notice, HFSRB has retained existing application-processing fees for exemptions and permits instead of raising them, retained the existing permit exemption for neonatal intensive care unit projects, and clarified that projects requiring permits are not considered complete until the facility is licensed. Hospitals, long-term care facilities, and other facilities subject to the HFSRB permitting process are affected.

Questions/requests for copies: Jeannie Mitchell, HFSRB, 69 W. Washington, Ste. 3501, Chicago IL 60602, 312/814-6226, Jeannie.Mitchell@illinois.gov

Proposed Rulemakings

(cont. from page 1)

restoration; and sets fees for prescribing psychologist licensure applications, renewals, and restoration. The new Part also establishes continuing education requirements necessary prior to licensure renewals, prescribing psychologist licensure qualifications, and a licensure by examination application process.

INCOME TAX

The DEPARTMENT OF REVENUE adopted an amendment to Income Tax (86 IAC 100; 40 Ill Reg 7522), effective 10/12/16, explaining how to claim a subtraction modification due to an itemized federal income tax deduction, or how to claim income tax credit in lieu of a deduction, as a result of repaying an amount that had been included in a previous year's taxable income under the "claim of right" doctrine. (The claim of right doctrine requires a taxpayer to claim income when they receive it, whether or not they have a fixed right to the income.)

Questions/requests for copies: Brian Stocker, DOR Legal Services, 101 W. Jefferson St, Springfield IL 62796, 217/ 782-2844.

POLICE PENSIONS

The DEPARTMENT OF INSURANCE adopted amendments to Portability of Creditable Service Time for

Downstate and Suburban Police Pension Funds (50 IAC 4404; 40 Ill Reg 5817), effective 10/17/16. The rulemaking implements Public Act 96-1495, which created a second benefit tier for downstate and suburban police officers initially hired on or after 1/1/11. The form used by DOI to document a transfer of creditable service is revised to include both Tier 1 and Tier 2.

Questions/requests for copies: Daniel Rozkuszka, DOI, 122 S. Michigan Ave., 19th Fl., Chicago IL 60603, 312/814-2246.

PUBLIC INFORMATION

The ILLINOIS LABOR RELATIONS BOARD adopted an amendment to General Information (2 IAC 2500; 40 Ill Reg 14757) effective 10/12/16, updating the Board's Springfield office address.

Questions/requests for copies: Anna Hamburg-Gal, ILRB, 160 N. La Salle St., Ste. 400, Chicago IL 60601, 312/793-6380, Anna.Hamburg-Gal@illinois.gov

It includes clinical rotation training requirements for prescribing psychologists, a DFPR approval process for clinical rotation programs, and statutory collaborative agreement and endorsement requirements for prescribing psychologists. An example of a collaborative agreement for prescribing psychologists and collaborating physicians is also included in an

appendix. Clinical psychologists, collaborating physicians, and their employers are affected by these rulemakings.

CREDIT UNIONS

DFPR also proposed amendments to Illinois Credit Union Act

(cont. page 3)

Proposed Rulemakings

(cont. from page 2)

(38 IAC 190; 40 Ill Reg 14443) that revise its policies regarding credit union business loan practices to reflect recent rule changes by the National Credit Union Administration (NCUA). The rulemaking defines an “associated borrower” as any other person or entity that shares ownership or interest with the main borrower and derives a direct benefit from the loan (with some qualified exceptions for partnerships, joint ventures and associations). Other new definitions include “commercial loan” (a loan for commercial or professional but not personal purposes, with some specified exceptions, e.g., a loan from one credit union to another is not considered a commercial loan); “common enterprise” (exists when each borrower shares the same expected source of repayment, the borrowers are related directly through common control, and substantial financial interdependence exists among the borrowers); “control” (a person or entity controlling more than 25% of the voting stock of an entity or that has a majority control over an entity), and “credit rating system” (a formal process that assigns a credit risk score to a loan in a credit union’s portfolio), among others. Credit unions must implement comprehensive written commercial loan policies that address loan procedures, risk management, borrower qualifications, underwriting, and the qualifications and experience credentials of loan personnel. Rules for construction and development loans include the follow-

ing: a loan to finance maintenance, repairs or improvements on property is not considered a construction or development loan; the credit union’s underlying commercial loan policy must include adequate provisions for establishing collateral value; and qualified personnel must review and approve any line item construction budget prior to closing the loan. Prohibited loan activities include loans to any senior management employee of a credit union involved in the credit union’s underwriting, serving or collection process and loans to any compensated director (unless the board permitted it and the director receiving the loan was recused from the board’s decision making process). Any third party reviewing a loan must not have an interest in or be party to the loan. Also, a loan may not be granted if any additional income received by the credit union or its senior management is tied to the sale or profit of any business enterprise that benefits from the proceeds of the loan. Business loan limits are linked with federal statutory limits (the aggregate limit on a federally insured credit union’s net member loan balances is the lesser of 1.75 times the net worth of the credit union or 1.75 times the minimum net worth required under federal law). Finally, the rulemaking also repeals a provision on reverse mortgages that is now codified in statute. Credit unions and small businesses or non-profits seeking loans from credit unions are affected by this rulemaking.

Questions/requests for copies/comments concerning the 3 DFPR rulemakings through 12/12/16: Craig Cellini, DFPR, 320 W. Washington, 3rd Fl., Springfield IL 62786, 217/785-0813 Fax: 217/557-4451.

LABOR RELATIONS BOARD

The ILLINOIS LABOR RELATIONS BOARD proposed amendments to General Procedures (80 IAC 1200; 40 Ill Reg 14568) and Impasse Resolution (80 IAC 1230; 40 Ill. Reg 14574). The Part 1200 amendments update the address of the Board’s Springfield office and clarify that when the deadline for a document filing or other action falls on a Saturday, Sunday or legal holiday, the period for filing does not extend to the next business day. The amendment to Part 1230 corrects an incorrect Administrative Code citation.

Questions/requests for copies/comments on the 2 ILRB rulemakings through 12/12/16: Anna Hamburg-Gal, ILRB, 160 N. LaSalle St., Ste. 400, Chicago IL 60601, 312/793-6380, Anna.Hamburg-Gal@illinois.gov

WATER & SEWER GRANTS

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY proposed amendments to the Parts titled General Conditions of State of Illinois Grants for Sewage Treatment Works under the Anti-

(cont. page 4)

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 15, 2016 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.

CHIEF PROCUREMENT OFFICER FOR GENERAL SERVICES

Chief Procurement Officer for General Services
Standard Procurement (44 IAC 1; 40 Ill Reg 8884)
proposed 7/8/16

DEPT OF REVENUE

Real Estate Transfer Tax (86 IAC 120; 40 Ill Reg 11235) proposed 8/26/16

SEX OFFENDER MANAGEMENT BOARD

Adult Sex Offender Evaluation and Treatment (Repealer) (20 IAC 1905; 40 Ill Reg 10366) proposed 8/5/16

Adult Sex Offender Evaluation and Treatment (New Part) (20 IAC 1905; 40 Ill Reg 10408) proposed 8/5/16

Proposed Rulemakings

(cont. from page 3)

Pollution Bond Act of 1970 (35 IAC 360; 40 Ill Reg 14374), Procedure for Issuing Grants from the Anti-Pollution Bond Act and the Build Illinois Act for Sewage Treatment Works (35 IAC 363; 40 Ill Reg 14386), and General Conditions of Grants for the Financing and Construction of Public Water Supply Facilities (35 IAC 661; 40 Ill Reg 14404). The Part 360 amendments stipulate that an Anti-Pollution Fund grantee that becomes eligible for other State or federal funds must reimburse the Fund for any money received that exceeds 100% (currently, 70%) of the approved allowable cost of the project. Amendments to Part 363 raise the maximum amount a grantee may receive under the Anti-Pollution Bond Act or the Build Illinois Bond Act to 100% (currently 75%) of the

eligible project costs. Finally, the Part 661 amendments require recipients of grants to public water supplies for facility financing/construction to meet the statutory requirement for local matching funds (30% under 415 ILCS 5/4(x)(1)).

Questions/requests for copies/comments through 12/12/16: Rex L. Gradeless, IEPA, 1021 N. Grand Ave. East, P.O. Box 19276, Springfield IL 62794-9276; 217/7 8 2 - 5 5 4 4 ; Rex.Gradeless@illinois.gov.

WASTEWATER TREATMENT

The POLLUTION CONTROL BOARD proposed amendments to Sewer Discharge Criteria (35 IAC 307; 40 Ill Reg 14580) and Pretreatment Programs (35 IAC 310; 40 Ill Reg 14602) reflecting changes to corresponding USEPA regulations. The

amendments expand the scope of pretreatment requirements for wastewater from steam electric power generation facilities and adopt the portions of USEPA's mandatory digital reporting rules for NPDES-permitted facilities and indirect dischargers that apply to wastewater pretreatment.

Requests for copies/comments on the 2 PCB rulemakings through 12/12/16: John Thierriault, Clerk, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-3620. Questions: Michael McCambridge at the same address, 312/814-6924, Michael.McCambridge@illinois.gov. Please reference docket R16-9.