

*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

### ■ MEDICAL CANNABIS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Compassionate Use of Medical Cannabis Patient Registry (77 IAC 946; 40 Ill Reg 10571), effective 12/15/16, replacing emergency rulemakings effective 8/1/16 (40 Ill Reg 10992) and 9/16/16 (40 Ill Reg 13732). The rulemaking implements Public Act 99-519 by adding Post Traumatic Stress Disorder (PTSD) and terminal illnesses for which the patient's life expectancy is 6 months or less to the list of debilitating conditions for which patients may use medical cannabis. DPH has also removed the requirement that the patient's physician certify the "therapeutic or palliative benefit" of medical cannabis; now, the physician need only confirm that the patient has a qualifying debilitating condition. All fees and fingerprinting

requirements will be waived for terminally ill patients applying for inclusion in the DPH medical cannabis patient registry. The rulemakings also restructure the process of adding or removing qualifying conditions and add new options for documents proving a patient's Illinois residency. Since 1<sup>st</sup> Notice, DPH has changed the renewal period and fee structure for patient and caregiver registry cards, which may now be renewed and fees paid on a 1 year, 2 year or 3 year basis. Fees for qualifying patients are \$100 for 1 year, \$200 for 2 years, and \$250 for 3 years; for caregivers of patients under age 18, \$25, \$50, and \$75; for veterans and disabled persons eligible for reduced fees, \$50, \$100 and \$150. Persons who applied for and received 1-year registry cards prior to 9/12/16 may extend their current

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## Proposed Rulemakings

### ■ MEDICAL ASSISTANCE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Payment (89 IAC 140; 40 Ill Reg 16464) implementing Public Act 99-621, which allows licensed clinical psychologists (LCPs) and licensed clinical social workers (LCSWs) to enroll as providers in the Medical Assistance Program. For dates of service on or after 1/1/17, these providers will be reimbursed for diagnostic and therapeutic services, including family and group psychotherapy, on a fee-for-service basis at 75% of the physician reimbursement rate. LCPs will also be permitted to prescribe medications provided they are licensed to do so and have a current written collaborative agreement with a licensed physician.

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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](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

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registration to 2 or 3 years at their next renewal application by paying only the 1- or 2-year fee. Proof of identity and Illinois residency, along with a written physician's certification, must be submitted every 3 years, but is not required for 1- or 2-year renewals. Also, petitions for new debilitating conditions that were submitted to DPH in January 2016 will be reviewed in accordance with the rules in effect at that time. Medical cannabis patients and caregivers and their physicians are affected.

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)

## ■ UNCLAIMED PROPERTY

The OFFICE OF THE TREASURER adopted an amendment to the Part titled Uniform Disposition of Unclaimed Property Act (74 IAC 760; 40 Ill Reg 13538), effective 12/19/16, that simplifies and expedites the claims process for unclaimed property turned over to the State. The rulemaking allows claims to be filed online or via a written form prescribed by the Treasurer; requires claimants to prove ownership of the claimed property by a preponderance of the evidence; and requires claimant signatures to be notarized or guaranteed when the claimed property is valued at more than \$500 (formerly, more than \$100). A

claim is considered complete when all information and documentation requested by the Treasurer has been received and entered into the Treasurer's unclaimed property system; once a claim is complete, the Treasurer must issue a decision within 90 days. Claims for two-party checks will no longer require a surety bond if the check amount is \$500 or less, the original check is missing or destroyed, and the check issuer no longer has sufficient records to identify the owner. Finally, no person or company may claim a fee for discovering abandoned property unless the unclaimed property has been in the Treasurer's custody for at least 24 months.

Questions/requests for copies: G. Allen Mayer, Illinois State Treasurer's Office, 219 State House, Springfield IL 62706, 217/557-2673.

## ■ PREPAID TUITION

The ILLINOIS STUDENT ASSISTANCE COMMISSION adopted an amendment to Illinois Prepaid Tuition Program (23 IAC 2775; 40 Ill Reg 12942), effective 1/1/17, replacing an emergency amendment (40 Ill Reg 13029) effective 8/29/16. The rulemaking implements Public Act 99-842, which expands eligibility for the College Illinois! 529 Prepaid Tuition Program to include all educational institutions whose students are eligible for prepaid tuition benefits under section 529 of the federal Internal Revenue Code. Additional State criteria for

institutional eligibility regarding types of degrees offered, accreditation, and for-profit institutions have been removed. Since 1<sup>st</sup> Notice ISAC removed proposed changes that would have affected Illinois residency requirements for benefit recipients and purchasers.

Questions/requests for copies: Lynn Hynes, ISAC, 1755 Lake Cook Rd., Deerfield IL 60015, 847/948-9500, ext. 18032, [lynn.hynes@isac.illinois.gov](mailto:lynn.hynes@isac.illinois.gov)

## BANKING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Eligible State Bank (38 IAC 380; 40 Ill Reg 13106), effective 1/1/17, to permit State banks to satisfy State DFPR examination requirements if they have been examined by appropriate federal agencies (e.g., the FDIC, Federal Reserve Banks of Chicago or Saint Louis). Savings banks may also use federal examinations to meet State requirements if they have a composite CAMELS (Capital Adequacy/Asset Quality, Management, Earnings and Liquidity) Rating of 1 or 2, or a composite rating of 3 for a stable and improving institution if the composite rating is confirmed by an offsite review in which no adverse trends are noted.

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

# Proposed Rulemakings

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Questions/requests for copies/comments through 2/14/17: Mollie Zito, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 2 1 7 / 7 8 2 - 1 2 3 3 , [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)

## ■ ARCHITECTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to Illinois Architecture Practice Act of 1989 (68 IAC 1150; 40 Ill Reg 16413) reflecting the change from the Intern Development Program to the Architect Experience Program and eliminating the pre-professional degree, which will no longer be accepted. The rulemaking provides that an applicant with the required number of training hours may nonetheless be denied approval of training if that training is not diversified; removes additional licensure application requirements for those licensed in another jurisdiction; removes divisions in the ARE 3.1 examination and updates the divisions in the ARE 5.0 examination; and updates the dates during which both the ARE 4.0 and 5.0 will be offered. An applicant no longer must wait 6 months after failing a division test to repeat it, but examination review will not be allowed. The rulemaking also recognizes licensure in Canada by the CACB provided the individual has an NCARB Certificate Record. A professional design firm seeking restoration of a lapsed license

must pay the lapsed renewal fee plus a late fee and submit the following documents: certificate of Good Standing from the Illinois Secretary of State, or a copy of the letter or certificate from the county clerk where an assumed name has been filed; proof that the Managing Agent-in-Charge is still a member of the Board, a partner, or a member and a full time employee; a listing of all the firm's offices in Illinois; and the names and license numbers of the architects for each location. Licenses may now be obtained electronically through the Department's website. A professional design firm seeking to renew its license must certify that the firm is in good standing with the Illinois Secretary of State (if applicable) and has an active managing agent-in-charge. With regard to disciplinary actions and criminal records, each licensee must notify the Division of any disciplinary action and any conviction, or plea of guilty or nolo contendere, to the following offenses that have occurred since the last renewal: a felony under the laws of the United States or any state or territory, a misdemeanor that includes an essential element of dishonesty (e.g., fraud), or a crime that is directly related to the practice of the profession of architecture. The rulemaking also updates the Historical Summary of Minimum Requirements to Qualify for Examination for Licensure as an Architect in Illinois. Effective 1/1/16, the State requires either an NAAB accredited professional degree or a degree meeting the NCARB requirements for a

professional degree (CACB or EESA evaluation) for approval to sit for the ARE. Those affected by this rulemaking include any business, municipality, or non-for-profit corporation employing licensed architects.

Questions/requests for copies/comments through 2/14/17: Craig Cellini, DFPR, 320 W. Washington, 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, Fax: 217/557-4451.

## ■ INCOME TAX

The DEPARTMENT OF REVENUE proposed an amendment to Income Tax (86 IAC 100; 40 Ill Reg 16711) excluding from the sales factor gross receipts from the licensing, sale or other disposition of a patent, copyright, trademark or similar item of intangible personal property if gross receipts from licenses, sales associated with the item are less than 50% of gross receipts during the tax year and during each of the previous 2 years. Regarding sales of electricity, sales taking place on or before 12/31/08 are classified as sales of other than tangible personal property; those made from 1/1/09 through 7/15/09, as sales of service; and those made on or after 7/16/09, as sales of tangible personal property. Beginning 1/1/14, gross receipts from winnings under the Illinois Lottery Law are attributable to Illinois. The amendment further clarifies and includes examples of when

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# Proposed Rulemakings

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income is allocated to Illinois from sales or leases of real property, sales or rentals of tangible personal property, interest or net gains attributable to property located in Illinois, and sales of services.

Questions/requests for copies/comments through 2/14/17: Brian Stocker, DOR, 101 W. Jefferson St, Springfield IL 62796, 217/ 782-2844.

## ■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed an amendment to Video Gaming (General) (11 IAC 1800; 40 Ill Reg 16454) concerning information that licensees, license applicants, and persons with significant influence or control over a video gaming operation have a continuing duty to report to IGB. All such information must be reported within 21 days (currently, “promptly”). The duty to report any arrest, summons, citation or charge for a criminal offense other than a minor traffic violation is expanded to include any changes relating to an arrest or criminal history, whether the person was charged with an offense or not, and to include any arrest or disposition that has been expunged or sealed. Failure to report these actions is subject to a fine of \$250 for the first violation and \$500 for each subsequent violation. For failure to report a nonrenewal, revocation or other adverse action concerning a liquor

license, a fine may be imposed equal to the total net terminal income that the establishment earned while it operated without a valid liquor license. Fines imposed under either provision may be appealed and do not preclude the Board from initiating other disciplinary action. Video gaming establishments are affected by this rulemaking.

Questions/requests for copies/comments through 2/14/17: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, fax 312/814-7253, e-mail: [Agostino.lorenzini@igb.illinois.gov](mailto:Agostino.lorenzini@igb.illinois.gov).

## ■ FISH SALVAGE

The DEPARTMENT OF NATURAL RESOURCES amended the Part titled Fish Salvage (17 IAC 860; 40 Ill Reg 16640) to allow the DNR Director to authorize the relocation of aquatic life in danger of imminent injury or death due to human disturbance. Proposed construction projects in lakes, rivers and streams must be reviewed by DNR staff and relocation authorized by the project contractor if necessary. The rulemaking outlines basic methods for taking species for relocation and requires a report to be submitted to DNR within 45 days after the event. This rulemaking may affect units of local government and not-for-profits.

## ■ SPORT FISHING

DNR also amended the Part titled Sport Fishing Regulations for the Waters of Illinois (17 IAC 810; 40

Ill Reg 16514) to add the alligator gar and multiple species of catfish to the list of species that may be taken by bowfishing. Catfish species may only be taken in rivers and backwaters. Trotlines must be checked at least every 24 hours and tagged with identifying personal information. Other provisions exempt the Calumet Rivers system from the mandatory spring release of smallmouth bass; exempt from size and daily limits persons fishing in waters wholly within their private property; establish a new length and daily limit for muskellunge; and make numerous site specific changes.

## ■ FORESTRY

DNR proposed amendments to the Parts titled Forestry Development Cost-Share Program (17 IAC 1536; 40 Ill Reg 16645) and Forest Management Plan (17 IAC 1537; 40 Ill Reg 16680) to overhaul its forestry program. Both rulemakings phase out enrollment of plots smaller than 10 acres. The Part 1536 rulemaking adds new Sections concerning timber stand improvement; pruning hardwood crop trees; forestry best management practices; and allowable costs and procedures for invasive and exotic species control. Amendments to Part 1537 repeal the 10 year projected harvest schedule and repeal Sections concerning reforestation and afforestation; forest regeneration; soil and water

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## Proposed Rulemakings

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conservation goals; forest wildlife habitat enhancement; protection measures; estimates of practice costs; forest management plan approval; annual review process; and amended plans. This rulemaking adds new Sections concerning: certification forms; goals and objectives; soil information; stand practices; conservation opportunities, constraints and concerns; plan review; and the cancellation process. Landowners enrolled in the forestry program are affected by these rulemakings.

Questions/requests for copies/comments on the 4 DNR rulemakings through 2/14/17: Dan Nelson (Part 860) or Anne Mergen (Parts 810, 1536 and 1537), DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

### INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Insurance Department Consumer Complaints (50 IAC 926; 40 Ill Reg 16499) permitting DOI to share information related to a complaint against an insurer or insurance producer with criminal justice/law enforcement agencies or other governmental agencies if DOI finds that the reported conduct may be in violation of other laws or regulations.

DOI also proposed an amendment to Accident and

Health Reserves (50 IAC 2004; 40 Ill Reg 16504) updating its incorporation by reference of the reserve standards promulgated by the National Association of Insurance Commissioners (NAIC). The standards contained in the NAIC's 8/29/16 Valuation Manual will apply to policies issued and claims incurred on or after 1/1/17; for policies and claims prior to that date, applicable past editions of the NAIC Accounting Practices and Procedures Manual will apply.

DOI proposed an amendment to Personal Information Privacy Protection (50 IAC 4002; 40 Ill Reg 16509) implementing recent changes to the federal Gramm-Leach-Bliley Act. The rulemaking exempts financial institutions from the requirement to provide an annual privacy notice to customers if its policies regarding release of information to third parties meet specified criteria and if the institution has not changed its policies since its most recent disclosure statement.

Questions/requests for copies/comments on the 3 DOI rulemakings through 2/14/17: Susan Anders, DOI, 320 W. Washington St., 4<sup>th</sup> Fl., Springfield IL 62767-0001, 217/558-0957.

### PUBLIC INFORMATION

The ILLINOIS COMMUNITY COLLEGE BOARD proposed repeal of the Part titled Public Access to Information (2 IAC 5176; 40 Ill Reg 16386) and proposed a new Part titled

Access to Records of the Illinois Community College Board (2 IAC 5176; 40 Ill Reg 16391) implementing changes to the Illinois Freedom of Information Act (FOIA). The new Part includes current FOIA provisions regarding records that can be disclosed, records that are withheld from disclosure, procedures for requesting copies of records, the timeline for an agency response, provisions for appealing a denied request, and fees for copies in various formats.

Questions/requests for copies/comments concerning the 2 ICCB rulemakings through 2/14/17: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217/785-7411, fax 217/524-4981, e-mail: [Matt.berry@illinois.gov](mailto:Matt.berry@illinois.gov)

## Second Notices

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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 10, 2017 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 HUMAN SERVICES

Program Description (89 IAC 676; 40 Ill Reg 11079) proposed 8/19/16

Customer Rights and Responsibilities (89 IAC 677; 40 Ill Reg 11087) proposed 8/19/16

Service Planning and Provision (89 IAC 684; 40 Ill Reg 11093) proposed 8/19/16

Provider Requirements, Type Services, and Rates of Payment (89 IAC 686; 40 Ill Reg 11101)  
proposed 8/19/16

Schedule of Controlled Substances (77 IAC 2070; 40 Ill Reg 13502) proposed 9/30/16

### DEPT OF CENTRAL MANAGEMENT SERVICES

Pay Plan (80 IAC 310; 40 Ill Reg 14827) proposed 11/4/16

### DEPT OF CHILDREN AND FAMILY SERVICES

Intercountry Adoption Services (Repealer) (89 IAC 333; 40 Ill Reg 9308) proposed 7/15/16

### IL COMMERCE COMMISSION

Standards of Service for Local Telecommunications Carriers (83 IAC 730; 40 Ill Reg 8257)  
proposed 6/17/16

Wholesale Service Quality for Telecommunications Carriers (83 IAC 731; 40 Ill Reg 8264)  
proposed 6/17/16

Service Quality Requirements Applicable to Wireless Eligible Communications Carriers  
(83 IAC 736; 40 Ill Reg 8270) proposed 6/17/16

### OFFICE OF THE ATTORNEY GENERAL

Tobacco Products Manufacturers' Escrow Enforcement Act of 2003 (14 IAC 250; 40 Ill Reg 14817)  
proposed 11/4/16