

*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

### ■ CHILD CARE FACILITIES

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to the Part now titled Licensing Compliance Monitoring, Complaints and Enforcement (formerly Licensing Enforcement) (89 IAC 383; 41 Ill Reg 4544), effective 6/1/18, that clarify the role of the licensing supervisor and representative. The rulemaking provides that all types of licensed child care facilities, other than foster homes, shall be monitored by an authorized licensing representative at least annually, or more frequently when conditions warrant; foster homes shall be monitored at least twice a year. Facility permits shall be monitored by an authorized licensing representative at least once a month. The rulemaking expands the definition of a complaint to include allegations

that an unlicensed child care facility is operating under conditions that require licensing under the Child Care Act of 1969 (in addition to allegations that a licensed facility is operating in violation of the Act). All licensing complaints made to private supervising agencies must be reported to the Department licensing representative within 3 business days (currently, 72 hours); other notifications (e.g., whether a complaint has been deemed substantiated or unsubstantiated) must be made within 5 business days (currently, 5 calendar days). The rulemaking also addresses the handling of allegations that individual staff at child care facilities or child welfare agencies failed to report abuse or neglect of children within the facility (neglect by agency). In such cases the licensing

(cont. page 2)

## Proposed Rulemakings

### COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD proposed amendments to Administration of the Illinois Public Community College Act (23 IAC 1501; 42 Ill Reg 7990) implementing several Public Acts. The rulemaking codifies ICCB policies regarding the collection, use, security, confidentiality, and sharing of data, including student-level data, under shared data agreements and establishes data processing fees (\$1,900 to \$15,000 depending on the number of records requested) pursuant to PA 100-417. It also implements PA 98-306 and PA 99-309, under which students utilizing Post 9/11 GI Bill or All-Volunteer Force Educational Assistance program benefits must be charged in-district tuition, and PA 99-845, which

(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)

representative shall ensure that the facility takes immediate action (which may include additional training or other non-disciplinary actions) with the individual staff involved and documents its actions. The licensing representative must also determine whether the failure to report was an isolated incident, part of a larger incident involving other staff members, or indicative of a systemic problem within the facility or agency. Protective plans that limit or prohibit a license holder's, household member's, volunteer's or employee's contact with children in a child care program must be reviewed by the licensing representative and supervisor at least once a week (formerly, every 6 months). Corrective plans for remedying licensing violations are required if the violation can be corrected within 90 days (formerly, 60 days), with 30-day extensions permitted for good cause. Corrective plans for an agency that fails to report suspected abuse or neglect must include the use of supervisory teams to review the staff and facility's understanding of their reporting requirements. Other issues addressed in this rulemaking include supervisory reviews (undertaken when a licensee or permit holder disputes an alleged violation or disagrees with the Department's interpretation of the Act or its licensing standards); informal reviews; conditional licensing; notices of revocation,

nonrenewal or refusal to issue a full license; and voluntary surrender of a license or permit. Since 1<sup>st</sup> Notice, DCFS has clarified that supervisory review meetings may include the licensing representative; provided examples of non-disciplinary actions that may be taken when an allegation of neglect by agency is made; reinstated the criteria for determining whether a substantiated violation will be overturned after a supervisory review; and clarified that a licensee who fails to notify DCFS of a change of residence may reapply for licensure but cannot provide child care (other than license-exempt child care) until the new license is issued. Those affected by this rulemaking include foster homes, day care providers, and employees of child care facilities or child welfare agencies.

Questions/requests for copies: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983, TDD: 217/524-3715, e-mail: [cfpolicy@idcfs.state.il.us](mailto:cfpolicy@idcfs.state.il.us)

### ■ MENTAL HEALTH

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted a new Part titled Children's Behavioral Health (89 IAC 139; 41 Ill Reg 7754) and repealed the Part titled Individual Care Grants for Mentally Ill Children (59 IAC 135; 41 Ill Reg 14147), both effective 5/4/18. The repealed Part

contained rules for the Individual Care Grant program formerly administered by the Department of Human Services and transferred to HFS by Public Act 99-479. This program, which provides assistance to mentally ill youth and their families, has been renamed the Family Support Program (FSP) and its rules are now contained in 89 IAC 139. The new Part establishes the application process, clinical eligibility criteria, prior authorization requirements for residential treatment, and utilization review processes for FSP. It also implements PA 98-808, the Custody Relinquishment Prevention Act, by establishing a more intensive, 90-day Specialized Family Support Program (SFSP) for youth at risk of custody relinquishment to the Department of Children and Family Services because their parents or guardians have not been able to obtain suitable treatment for them. Changes since 1<sup>st</sup> Notice clarify that FSP youth must be enrolled in an educational program that satisfies the compulsory attendance requirements of the School Code (rather than a State Board of Education-approved program). Other clarifications include: who determines what is clinically appropriate in various contexts (e.g., treatment plans, readiness for residential facility discharge, utilization review); service availability to non-Medicaid populations; prioritization of services eligible

(cont. page 4)

# Proposed Rulemakings

(cont. from page 1)

applies in-district tuition rates to current or recently emancipated DCFS wards. The rulemaking defines and outlines ICCB policies regarding credit for prior learning and requires community colleges to submit their own credit for prior learning policies to ICCB for review annually by 3/31. These policies must include a specific policy addressing credit for military training or experience. At least 25% of required credits for a certificate, or 15 credit hours toward a degree, must be completed at the college before credit for prior learning can be awarded to a student. Eligibility for the Senior Citizen Tuition Waiver is clarified and enrollment in any course under this waiver is made contingent upon available classroom space and enrollment of a minimum number of tuition paying students. Administrative rules for the Lincoln's Challenge Scholarship Grant are updated to reflect current terminology and agency practice. Community colleges are authorized to award a General Education Core Curriculum (GECC) credential (37-41 transferable credit hours that satisfy general education requirements for 4-year degrees). Finally, the rulemaking provides an exemption to current rules on course credit hours and midterm class certifications for students with intensified or accelerated schedules.

Questions/requests for copies/comments through 7/2/18: Matt

Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217/785-7411, fax 217/524-4981, [matt.berry@illinois.gov](mailto:matt.berry@illinois.gov)

## ■ SPECIAL EDUCATION

The STATE BOARD OF EDUCATION proposed amendments to Determining Special Education Per Capita Tuition Charge (23 IAC 130; 42 Ill Reg 8183) implementing provisions of Public Act 100-465 (Evidence-Based Funding/Invest in Kids Act) that changed the State's system of funding special education personnel. Allowable expenditures that a school district or special ed cooperative can use to determine per capita cost include equipment expenditures of less than \$5,000 (formerly \$2,500) in one year, or more than \$5,000 (formerly \$2,500) over 5 years. Expenditures that cannot be included in the per capita cost include employee salaries and benefits that have been charged to State or federal grants or were included in the base funding minimum for State fiscal year 2017. Compensation for an aide assigned to serve one or more students may be included in individual costs for the affected students, but not in the per capita cost for the district or cooperative. School districts and special education cooperatives will be affected by this rulemaking.

Questions/requests for copies/comments through 7/2/18: Lindsay M. Bentivegna, SBE, 100 N. First St., S-493, Springfield IL

62777-0001, 217/782-5270, [rules@isbe.net](mailto:rules@isbe.net)

## ■ MEDICAL PAYMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Payment (89 IAC 140; 42 Ill Reg 8119) adding treatment of impacted maxillary central incisors to the list of orthodontic procedures that may be covered by medical assistance for patients under age 21. Orthodontists that accept medical assistance patients will be affected.

Questions/requests for copies/comments through 7/2/18: Christopher Gange, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)

## ■ WASTEWATER TREATMENT

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY proposed amendments to Procedure for the Certification of Operators of Wastewater Treatment Works (35 IAC 380; 42 Ill Reg 8033) aligning the Part with rules of the Public Water Supply Operator Program in 35 IAC 681. The rulemaking establishes 7 classes of wastewater operator Certificates of Technical Competency (Classes 1, 2, 3, 4, K, and R, and Collection System Certificate) based on the size and type of facility, and establishes general

(cont. page 5)

# New Rules

(cont. from page 2)

for federal Medicaid match over solely State-funded services when the Medicaid-eligible services are available and clinically appropriate; who is involved in the service planning process; which rates are established by the Purchased Care Review Board; deadlines for informal reviews; and the definitions of legal guardian and quality improvement organization. Those affected by this rulemaking include families of mentally ill children and youth, mental health providers, and youth services providers.

## MEDICAL ASSISTANCE

HFS also adopted amendments to Medical Assistance Programs (89 IAC 120; 41 Ill Reg 12692), effective 5/7/18, implementing Public Act 99-870, which establishes medical assistance eligibility for certain foreign-born victims of trafficking, torture or other serious crimes. Non-U.S. citizens applying for asylum status or refugee status as victims of torture or other crimes (U visa) or trafficking (T visa) victims, along with their immediate family members (spouse, children, parents, or siblings under age 18), are eligible if the victim provides a

sworn, written statement and credible written documentation of his or her status, resides in Illinois and meets income and asset limits. Related rulemakings were also adopted by the Department of Human Services (see below).

Questions/requests for copies of the 3 HFS rulemakings: Christopher Gange, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)

## TANF & SNAP

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Temporary Assistance for Needy Families (89 IAC 112; 41 Ill Reg 13175) and Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 41 Ill Reg 13190), effective 5/4/18, that extend eligibility for these programs under Public Act 99-870 to non-U.S. citizens residing in Illinois who are foreign-born victims of trafficking, torture or other serious crimes and to their immediate family members (parents, spouses, children, siblings under age 18). The applicant must have applied for or been granted a federal T visa (for victims of trafficking) or U visa (for victims of other crimes) or have sought or been granted asylum in the

U.S. Since 1<sup>st</sup> Notice, DHS has clarified that eligibility may be extended if a health crisis, inability to obtain needed information, or other extenuating circumstances have prevented the applicant from completing a formal application for a visa or for asylum status.

Questions/requests for copies of the 2 DHS rulemakings: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## ■ EMPLOYMENT AGENCIES

The DEPARTMENT OF LABOR adopted an amendment to Rules and Regulations Relating to the Operation of Private Employment Agencies (68 IAC 680; 42 Ill Reg 1987), effective 5/4/18, implementing Public Act 99-422, which requires DOL to adopt the statutory application fees for employment agency licensure in rule. Fees range from \$250 for an agency with no more than 2 employment counselors to \$500 for an agency with 11 or more counselors.

Questions/requests for copies: Chris Davis, DOL, 900 S. Spring St., Springfield IL 62704, 217/558-1270.

# Proposed Rulemakings

(cont. from page 3)

examination requirements and other eligibility criteria for each certificate. It also revises IEPA procedures for addressing citizen complaints and conducting sanction proceedings against wastewater operators to include review by a Board of Certification, which will issue a nonbinding recommendation to IEPA for its final decision. Other provisions address certificate renewal and restoration, training criteria and waivers, and reciprocal certification for operators certified in another jurisdiction or by the U.S. Armed Forces. Those affected by this rulemaking include small municipalities that employ wastewater treatment operators.

Questions/requests for copies/comments through 7/2/18: Rex L. Gradeless, IEPA, 1021 N. Grand

Ave. East, Springfield IL 62794-9276, 217/782-5544, [Rex.Gradeless@illinois.gov](mailto:Rex.Gradeless@illinois.gov)

## ■ INCOME TAX

The DEPARTMENT OF REVENUE proposed amendments to Income Tax (86 IAC 100; 42 Ill Reg 8144) that clarify the effect of the suspension of the carryover deduction for net losses by corporations during the tax years 2011 and 2012; explain deductions applicable to holders of residual interest in real estate mortgage investment companies; explain how cooperatives may deduct net losses; and address subtractions for payments to an attorney-in-fact and dividends from controlled foreign corporations. Some small businesses may be affected.

Questions/requests for copies/comments through 7/2/18: Brian Stocker, DOR, 101 W. Jefferson,

Springfield IL 62796, 217/782-2844.

## SAVINGS BANKS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Savings Bank Act (38 IAC 1075; 42 Ill Reg 8102) implementing Public Act 100-232 by eliminating hourly examination fees for savings banks and aligning quarterly supervisory fees and electronic data processing fees with those charged to State banks.

Questions/requests for copies/comments through 7/2/18: Craig Cellini, DFPR, 320 W. Washington St., 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

## Joint Committee on Administrative Rules

**Senator Pamela Althoff**  
**Senator Karen McConnaughay**  
**Senator Don Harmon**  
**Senator Tony Muñoz**  
**Senator Ira Silverstein**  
**Senator Chuck Weaver**

**Representative Peter Breen**  
**Representative Tom Demmer**  
**Representative Greg Harris**  
**Representative Lou Lang**  
**Representative André Thapedi**  
**Representative Keith Wheeler**

**Vicki Thomas**  
**Executive Director**

## JCAR Meeting Action

---

At its 5/15/18 meeting, the Joint Committee on Administrative Rules took the following actions:

### POSTPONEMENTS

Consideration of the following rulemakings, which are currently on extended Second Notice, was postponed to the 6/12/18 meeting:

Illinois Environmental Protection Agency, Procedures for Informational and Quasi-Legislative Public Hearings (35 IAC 164; 41 Ill Reg 14851), Procedures for Permit and Closure Plan Hearings (35 IAC 166; 41 Ill Reg 14856), and Public Participation in the Air Pollution Control Permit Program (35 IAC 252; 41 Ill Reg 14862)

Department of Human Services, Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 IAC 2060; 41 Ill Reg 14878)

## 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 June 12, 2018 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 HEALTHCARE AND FAMILY SERVICES

General Administrative Provisions (89 IAC 101; 41 Ill Reg 13526) proposed 11/13/17

Medical Payment (89 IAC 140; 41 Ill Reg 12709) proposed 10/13/17

Medical Payment (89 IAC 140; 41 Ill Reg 13532) proposed 11/13/17

Medical Payment (89 IAC 140; 42 Ill Reg 3040) proposed 2/16/18

### DEPT OF CENTRAL MANAGEMENT SERVICES

Pay Plan (80 IAC 310; 42 Ill Reg 5056) proposed 3/23/18

### DEPT OF REVENUE

Use Tax (86 IAC 150; 41 Ill Reg 10532) proposed 8/18/17

### SECRETARY OF STATE

Certificate of Title, Registration of Vehicles (92 IAC 1010; 42 Ill Reg 4497) proposed 3/9/18

General Not For Profit Corporations (14 IAC 160; 42 Ill Reg 4552) proposed 3/9/18