

Elaine Spencer, Editor
jcar@ilga.gov

Joint Committee on Administrative Rules
Illinois General Assembly

700 Stratton Bldg. Springfield IL 62706
217/785-2254 ilga.gov/commission/jcar

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Issue 22

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

■ EDUCATOR LICENSURE

The STATE BOARD OF EDUCATION adopted amendments to Educator Licensure (23 IAC 25; 41 Ill Reg 15582) effective 5/21/18, implementing 4 Public Acts affecting endorsements and license renewals. This rulemaking allows school support personnel who hold valid and comparable out of state certificates or licenses that allow them to work in public schools to work in Illinois public schools. Short-term emergency approvals in special education may be sought until 7/1/20 (the former end date was 9/1/18) and no longer require the applicant's plan to be approved by a higher education entity. Substitute teachers may renew licenses upon application and payment of a renewal fee, without having to pass the basic skills test again. Endorsements for teaching

specific subjects will require at least 32 semester hours of college/university credit in that subject (formerly, 32 semester hours or a major in that subject). Provisional endorsements will no longer require completion of the Teacher Performance Assessment, as long as the candidate has attempted the TPA and received a minimum score, completed an approved

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educator preparation program, passed the basic skills and applicable content area tests, and holds at least a bachelor's degree. New endorsements subsequently added to a provisional license or a license with stipulations will expire on the same date as the license. Other provisions clarify requirements for special

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Proposed Rulemakings

■ ACUPUNCTURISTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to Acupuncture Practice Act (68 IAC 1140; 42 Ill Reg 8683) reflecting the sunset reauthorization and update of the Act (PA 100-375). The rulemaking adds herbal therapy to the scope of practice; revises licensure requirements for applications submitted on or after 1/1/20; prescribes curriculum requirements for 4-year acupuncture study programs, including instruction in Oriental herbal medicine; and eliminates fees for issuance of a duplicate license or wall certificate. Acupuncturists and acupuncture education programs are affected.

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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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education endorsements; add requirements for endorsements in driver education, school marriage and family therapy, and internships in school marriage and family therapy; update requirements for license registration; update criteria for tests of basic skills; and update various deadlines to align with statute. Changes since 1st Notice update endorsement requirements for driver education and remove a requirement that all professional development be entered into the Educator Information Licensing System by August 31 for each school year.

■ DRIVER EDUCATION

SBE also adopted amendments to Driver Education (23 IAC 252; 41 Ill Reg 15702), effective 5/16/18, that allow greater use of electronic instruction for driver education classes, although face-to-face classroom instruction is preferred and the entire course cannot be offered electronically. Students who are absent for 10 days or more due to a medical condition that qualifies them for home or hospital instruction may be provided electronic instruction in place of classroom instruction. Absent students who are not home/hospital eligible but have not been identified as chronically truant may also be provided electronic instruction on a case-by-case basis for limited periods. Districts may also contract with licensed Secretary of State commercial driver training schools provided they

submit the contract reporting form to SBE. The rulemaking also removes the requirement that districts receive a waiver from SBE rules in order to contract with a commercial driving school. Commercial driving schools and school districts may be affected.

Questions/requests for copies of the 2 SBE rulemakings: Lindsay M. Bentivegna, SBE, 100 N. First St., S-493, Springfield IL 62777-0001, 217/782-5270, rules@isbe.net.

TOXICOLOGY TESTING

The DEPARTMENT OF STATE POLICE adopted a new Part titled Disclosure of Forensic Laboratory Toxicological Testing Results (20 IAC 1287; 41 Ill Reg 7916), effective 5/15/18, that is intended to establish a minimum standard for compliance concerning toxicology evidence without unduly limiting the collection of evidence. The new Part also contains definitions and outlines the toxicology information that will be provided to adverse parties. Since 1st Notice, a definition of toxicology evidence was added and elements of the information to be provided to adverse parties were clarified.

Questions/requests for copies: Matthew R. Rentschler, DSP, 801 S. Seventh St., Suite 1000-S, Springfield IL 62703, 217/782-7658.

PUBLIC INFORMATION

The CAPITAL DEVELOPMENT BOARD adopted amendments to

Rules of the Capital Development Board (2 IAC 1650; 42 Ill Reg 8819) and repealed the Part titled Organization, Rulemaking and Public Information (2 IAC 2650; 42 Ill Reg 8827), both effective 5/17/18. The Part 1650 rulemaking removes Sections related to the inactive Public Building Fund; requires proposed administrative rules to be reviewed by the Board only if they involve substantive changes; removes a requirement that the Executive Director provide a proposed operating budget to the Board; and updates CDB's organizational chart. The Part 2650 repealer eliminates organizational rules for the Illinois Asbestos Abatement Authority, which has been abolished by statute.

Questions/requests for copies of the 2 CDB rulemakings: Lauren Noll, CDB, 401 S. Spring St., 3rd Fl., Stratton Bldg., Springfield IL 62706, 217/782-0700, fax 217/524-0565.

Proposed Rulemakings

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Questions/requests for copies/comments through 7/16/18: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Hospital Reimbursement Changes (89 IAC 152; 42 Ill Reg 8711) amending HFS' Potentially Preventable Readmissions (PPR) policy to include encounter data from Medicaid Managed Care Organizations (MCOs). (PPR policies impose payment penalties upon hospitals that are deemed to have excessively high incidences of readmissions that could have been prevented had proper care been given during the original admission.) Although analyses will be performed on both fee-for-service and encounter rate data, and reported to both the MCO and the hospital, no penalty payments will be collected. The amendment also excludes admissions for treatment of sickle cell anemia from being included in PPR data.

Questions/requests for copies/comments through 7/16/18: Christopher Gange, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233.

Peremptory Rule

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a peremptory amendment to Pay Plan (80 IAC 310; 42 Ill Reg 8967) effective 5/16/18 updating pay rates, in accordance with existing collective bargaining agreements, for boiler safety specialists and boiler safety audit

specialists employed by the Office of the State Fire Marshal. These pay rates are based upon annually certified prevailing wages in three State regions.

Questions/requests for copies: Lisa Fendrich, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7976, fax 217/524-4570, CMS.PayPlan@illinois.gov

CIGARETTE TAXES

The DEPARTMENT OF REVENUE proposed amendments to the Parts titled Cigarette Tax Act (86 IAC 440; 42 Ill Reg 8777) and Cigarette Use Tax Act (86 IAC 450; 42 Ill Reg 8789) implementing several Public Acts. The rulemakings reflect the additional tax of 50 mills per cigarette (\$1 per pack) imposed by Public Act 97-688 in 2012 and explain the distributions of cigarette tax revenue to various State funds. Other provisions reflect statutory procedures for destroying forfeited packs of cigarettes and remove outdated or obsolete references.

with the written permission of DOR. Procedures for contesting denial of permission to alter an election are included.

OTHER TAXES

DOR also proposed amendments to the Parts titled Liquor Control Act (86 IAC 420; 42 Ill Reg 8755), Hotel Operators' Occupation Tax Act (86 IAC 480; 42 Ill Reg 8804) and Telecommunications Excise Tax (86 IAC 495; 42 Ill Reg 8810) that remove out of date and obsolete provisions. The Part 495 rulemaking additionally clarifies that the service address for a mobile phone or similar system without a defined location is the customer's place of primary use. Finally, DOR proposed repeal of the Part titled Cannabis and Controlled Substances Tax Act (86 IAC 428; 42 Ill Reg 8769) because the underlying statute was declared unconstitutional and is no longer enforced. (The tax imposed by the Act applied

INCOME TAX

DOR proposed an amendment to Income Tax (86 IAC 100; 42 Ill Reg 8737) reflecting PA 97-507, which allows reinsurance companies, for tax years 2011 and later, to change their method of determining the taxable portion of reinsurance premiums only

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Proposed Rulemakings

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to illegal cannabis and other controlled substances, not to medicinal cannabis.)

Questions/requests for copies/comments on the 7 DOR rulemakings through 7/16/18: Part 100, Brian Stocker; Parts 420, 428, 440, 450, and 495, Richard Wolters; Part 480, Debra Boggess, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

■ DISCRIMINATION CASES

The DEPARTMENT OF HUMAN RIGHTS proposed amendments to the Part titled Procedures of the Illinois Department of Human Rights (56 IAC 2520; 42 Ill Reg 8725) implementing Public Act 100-492. For cases filed prior to 9/8/17, the respondent (person

or entity accused of discrimination) must file a response to the allegations; for cases filed on or after that date, DHR may or may not require a response based on various circumstances listed in the rule. A respondent may choose to file a response even if DHR does not require it. The rulemaking also allows telefax or electronic delivery for all required documents (currently, certain documents cannot be telefaxed). Those affected by this rulemaking may include businesses with discrimination cases being heard by DHR.

Questions/requests for copies/comments through 7/16/18: Mary M. (Betsey) Madden, DHR, 100 W. Randolph St., Suite 10-100, Chicago IL 60601, 312/814-3386, TTY 866/740-3953.

DCEO REPEALERS

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed the repeal of three Parts titled Metropolitan Pier and Exposition Authority or Rosemont Incentive Fund Grant Program (14 IAC 511; 42 Ill Reg 8653), Illinois Network Opportunity Program (14 IAC 530; 42 Ill Reg 8666) and Employee Ownership Assistance Program (14 IAC 1230; 42 Ill Reg 8670). All 3 rulemakings eliminate rules for obsolete grant or loan programs that have been abolished by statute.

Questions/requests for copies/comments on the 3 DCEO rulemakings through 7/16/18: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, 217/557-1820, fax 217/524-3701, jolene.clarke@illinois.gov

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

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 NATURAL RESOURCES

General Hunting and Trapping on Department-Owned or -Managed Sites (17 IAC 510; 42 Ill Reg 4221) proposed 3/9/18

Cock Pheasant, Hungarian Partridge, Bobwhite Quail, and Rabbit Hunting (17 IAC 530; 42 Ill Reg 4229) proposed 3/9/18

Raccoon, Opossum, Striped Skunk, Red Fox, Gray Fox, Coyote, Bobcat and Woodchuck (Groundhog) Hunting (17 IAC 550; 42 Ill Reg 4259) proposed 3/9/18

Muskrat, Mink, Raccoon, Opossum, Striped Skunk, Weasel, Red Fox, Gray Fox, Coyote, Badger, River Otter, Beaver, Bobcat and Woodchuck (Groundhog) Trapping (17 IAC 570; 42 Ill Reg 4272) proposed 3/9/18

Duck, Goose and Coot Hunting (17 IAC 590; 42 Ill Reg 4286) proposed 3/9/18

White-Tailed Deer Hunting by Use of Firearms (17 IAC 650; 42 Ill Reg 4351) proposed 3/9/18

White-Tailed Deer Hunting by Use of Muzzleloading Rifles (17 IAC 660; 42 Ill Reg 4371) proposed 3/9/18

Special White-Tailed Deer Season for Disease Control (17 IAC 675; 42 Ill Reg 4377) proposed 3/9/18

Late-Winter Deer Hunting Season (17 IAC 680; 42 Ill Reg 4381) proposed 3/9/18

Youth Hunting Seasons (17 IAC 685; 42 Ill Reg 4387) proposed 3/9/18

Squirrel Hunting (17 IAC 690; 42 Ill Reg 4398) proposed 3/9/18

The Taking of Wild Turkeys – Spring Season (17 IAC 710; 42 Ill Reg 4411) proposed 3/9/18

The Taking of Wild Turkeys – Fall Gun Season (17 IAC 715; 42 Ill Reg 4436) proposed 3/9/18

The Taking of Wild Turkeys – Fall Archery Season (17 IAC 720; 42 Ill Reg 4445) proposed 3/9/18

Dove Hunting (17 IAC 730; 42 Ill Reg 4459) proposed 3/9/18.

Illinois Prescribed Burning Act (17 IAC 1565; 42 Ill Reg 4478) proposed 3/9/18

Designation of Restricted Waters in the State of Illinois (17 IAC 2030; 42 Ill Reg 5724) proposed 3/9/18

DEPT OF PUBLIC HEALTH

AIDS Drug Assistance Program (77 IAC 692; 42 Ill Reg 5167) proposed 3/23/18

EXECUTIVE ETHICS COMMISSION

Organization, Information, Rulemaking and Hearings (2 IAC 1620; 42 Ill Reg 4622) proposed 3/16/18