

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

■ SEXUAL HARASSMENT

The SECRETARY OF STATE adopted an amendment to Departmental Duties (2 IAC 552; 41 Ill Reg 14432) effective 5/22/18, replacing an emergency rulemaking that expired on 4/18/18. The rulemaking implements Public Act 100-554, which requires the SOS Office of Inspector General to review sexual harassment allegations against lobbyists registered with SOS. The SOS Deputy Inspector General must receive (in person or via telephone, letter, fax or e-mail) complaints regarding sexual harassment and evaluate all complaints to determine if they require further review. Procedures and criteria for reviewing allegations and gathering evidence are included. A completed summary review of each allegation completed by the Deputy IG will be submitted to the IG for final approval, then

forwarded to the Executive Ethics Commission. The complainant will be informed of this submission. Changes since 1st Notice align the definition of sexual harassment with statute, clarify the extent of the IG's jurisdiction over sexual harassment allegations, and require investigations that produce reasonable cause to believe an alleged offense was committed to be so identified. Registered lobbyists are affected by this rulemaking.

Questions/requests for copies: Paul Thompson, Office of SOS Inspector General, 342 W. Monroe St., Springfield IL 62704, 217/785-2012.

■ PROTECTIVE SERVICES

The DEPARTMENT ON AGING (DonA) adopted amendments to

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Proposed Rulemakings

■ LONG TERM CARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Payment (89 IAC 140; 42 Ill Reg 9052) implementing Public Act 100-449. The rulemaking requires long term care facilities to inform HFS of the death or discharge of Medicaid residents within 15 calendar days. For new admissions on or after 1/1/18, changes in patient credit or third party liability, or requests for enhanced care rates, information must be submitted within 45 days. Data must be submitted via either of HFS' two electronic portals (Medical Electronic Data Interchange (MEDI) or the Electronic Data Interchange Service Vendor (EDI), formerly the Recipient Eligibility Verification (REV) System); supporting

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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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Adult Protection and Advocacy Services (89 IAC 270; 41 Ill Reg 13864 and 42 Ill Reg 3774), effective 7/1/18, combining two separately proposed rulemakings. The amendments add self-neglect to the categories of actions that can be investigated by Adult Protective Services (APS) and establish an APS Registry recording the names of caregivers found to have abused, neglected or financially exploited an adult with disabilities ages 18 to 59, or any person age 60 or older, living in a non-institutional environment. The rulemaking also implements statutory changes allowing the following persons access to confidential records concerning reports of abuse, neglect, exploitation or self-neglect: representatives of a public guardian (when investigating or pursuing guardianship of an eligible adult); law enforcement agencies or State's Attorneys investigating known or suspected abuse/neglect cases; and law enforcement or fire protection agencies with which an APS agency has a written agreement to provide names or lists of eligible adults who may be at imminent risk of abuse/neglect. Other changes add verbal threats of physical harm to the list of actions that should be reported to APS; clarify the organization and responsibilities of DonA and regional agencies; and establish reporting priorities and procedures for instances of passive neglect or willful deprivation. Changes since 1st

Notice include clarification of DonA's policies regarding document retention and disposal by an APS agency. The rulemaking also outlines the procedures for placing a caregiver on the APS registry. When an allegation of abuse, neglect or financial exploitation is made and substantiated by an APS provider agency, DonA's Office of Adult Protective Services (APS Office) will review the victim's case record. Within 30 days, the APS Office will either concur with the finding and recommend that the caregiver be placed on the registry, or not concur and recommend against placement. The caregiver will be notified of the decision in either case. An appeal process that includes hearing procedures and rules for evidence and testimony is provided for caregivers who contest their placement on the registry. Caregivers placed on the registry for a single incident or report may request removal at any time, but are limited to one request per 3-year period and no more than 3 total requests. A caregiver seeking removal must prove by a preponderance of the evidence that removal from the registry is in the public interest. Caregivers cited for more than one incident cannot be removed from the registry. Access to the registry is limited to licensed direct care provider agencies (who are required to screen prospective employees for listing on the registry), DonA, DPH, the Department of Healthcare and Family Services, and the Department of Human Services. APS provider agencies must

notify DonA within 24 hours if there is imminent risk of abuse, neglect or financial exploitation of an eligible adult from a caregiver against whom a verified and substantiated finding has been made. If a victim moves to a long-term care or other health care facility, the APS provider agency must make reasonable efforts to inform the facility about any placement of a relevant caregiver on the registry. Those affected by this rulemaking include agencies providing adult protective services, caregivers of older or disabled adults, agencies which hire or supervise caregivers, and law enforcement and fire protection agencies.

Questions/requests for copies: Tracey Trigillo, DonA, One Natural Resources Way, Suite 100, Springfield IL 62701-1789, 217/7 8 5 - 3 3 4 6 , Tracey.Trigillo@illinois.gov

■ HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Hospital Licensing Requirements (77 IAC 250; 42 Ill Reg 2088), effective 5/24/18, implementing various Public Acts. The rulemaking requires that patients or, if applicable, their legal representatives be given written notice within 24 hours when the patient is placed under observation status rather than being admitted. The notice must advise the patient that observation status may affect

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Proposed Rulemakings

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documentation that cannot be submitted through either system must be submitted to Department of Human Services caseworkers. For new admissions, the 45-day period for submitting admissions data begins on the date the LTC provider receives the resident's pre-admission screening results or on the admission date entered by the provider, whichever is later. The provider must retain the confirmation number of the admission transaction to verify that it was timely submitted. LTC providers also must train employees to comply with these deadlines and maintain records of this training. Long term care providers and employees are affected.

Questions/requests for copies/comments through 7/23/18: Christopher Gange, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233, HFS.Rules@illinois.gov

■ FOOD SERVICE

The DEPARTMENT OF PUBLIC HEALTH proposed repeal of the Part titled Food Service Sanitation Code (77 IAC 750; 42 Ill Reg 9077) and proposed a new Part with the same title (77 IAC 750; 42 Ill Reg 9136). The new Part implements PA 100-194 with regard to certification of food service sanitation managers; updates the State's food establishment inspection report to align more closely with the federal Food and Drug

Administration's model report; and removes numerous provisions in the current Part that have either been repealed or replaced by other State or federal rules. Food service establishments, their employees, and local health departments are affected by this rulemaking.

Questions/requests for copies/comments through 7/23/18: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ INCOME TAX

The DEPARTMENT OF REVENUE proposed an amendment to Income Tax (86 IAC 100; 42 Ill Reg 9160) providing a definition of "transportation company" for purposes of calculating the amount of income subject to Illinois income tax liability for taxpayers who provide transportation services. Small businesses such as trucking or other transportation companies may be affected.

Questions/requests for copies/comments through 7/23/18: Brian Stocker, DOR, 101 W. Jefferson St., Springfield IL 62796, 217/782-2844.

SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 42 Ill Reg 9177) that adopt the World-

Readiness Standards created by the American Council on the Teaching of Foreign Languages as SBE's official standards for teaching foreign languages. Foreign language programs and teachers will be affected.

Questions/requests for copies/comments through 7/23/18: Lindsay M. Bentivegna, SBE, 100 N. First St., E-222, Springfield IL 62777-0001, 217/782-5270, rules@isbe.net

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to Pay Plan (80 IAC 310; 42 Ill Reg 8991) adding 3 new job titles approved by the Civil Service Commission (amusement ride safety inspector, corrections assessment specialist, and Internal Auditor II) and making technical corrections to rate and title tables.

Questions/requests for copies through 7/23/18: Lisa Fendrich, CMS, 504 Stratton Bldg., Springfield IL 62706, 217/782-7976, fax 217/524-4570, CMS.PayPlan@illinois.gov

New Rules

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private insurance, Medicare or Medicaid coverage for any services or medications they receive while in the hospital, as well as coverage of any subsequent discharge to a nursing home or to home- or community-based care. The notice also must advise the patient to contact his or her insurance provider to better understand the implications of being placed in observation status. (Since 1st Notice, DPH has added a requirement that hospitals develop written policies to address instances in which a patient in observation status is incapacitated and the hospital has been unable to contact his or her legal representative within the 24-hour timeframe.) DPH is also requiring hospitals to report emergency treatment of opioid overdoses within 48 hours of treatment; the report must indicate the age, sex, county of residence, race and ethnicity of the patient, the cause of the overdose (e.g., whether caused by heroin or by another opioid drug), and whether or not an opioid antagonist medication was administered. Other amendments permit advanced practice nurses or physician assistants with clinical privileges to admit patients; require hospitals to adopt protocols for screening and treatment of patients with sepsis or septic shock (including protocols specific to treatment of adults and treatment of children) and to update these protocols at least every 3 years; and require

hospitals to provide information on safe sleep environments to parents prior to discharge of a newborn infant. The rulemaking also updates incorporated National Fire Protection Association life safety codes and other incorporated materials.

Questions/requests for copies: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

SUPERINTENDENTS

The STATE BOARD OF EDUCATION adopted an amendment to Programs for the Preparation of Superintendents in Illinois (23 IAC 33; 41 Ill Reg 15697) effective 5/29/18. The rulemaking removes the requirement of 2 years administrative or supervisory experience before candidates may enter a superintendent preparation program. The 2-year requirement must still be met before receiving the superintendent endorsement.

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

ABLE ACCOUNTS

The OFFICE OF THE TREASURER adopted amendments to the Part titled Achieving a Better Life Experience (ABLE) Account Program (74 IAC 722; 42 Ill Reg 4488), effective 5/23/18, to clarify

that the parent of an adult with a disability can be recognized as the designated representative of the account beneficiary without having to be appointed by a court. The Office of State Guardian will also be recognized as a designated representative if a court has appointed it to represent an account beneficiary.

ADMINISTRATIVE HEARINGS

The Treasurer also adopted a new Part titled Rules of Practice in Administrative Hearings (74 IAC 730; 42 Ill Reg 3840), effective 5/23/18, setting forth rules for all administrative hearings conducted by the Treasurer that are not specifically addressed elsewhere in the Illinois Administrative Code. Procedures for requesting hearings, submitting documents, notice of hearings, motions, evidence, and testimony are included.

Questions/requests for copies of the 2 Treasurer rulemakings: Chris Flynn, Office of the Treasurer, 400 W. Monroe St., Suite 401, Springfield IL 62704, 217/558-0115.

STATE RETIREMENT SYSTEM

The STATE EMPLOYEES' RETIREMENT SYSTEM adopted amendments to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 42 Ill Reg 3903) effective 5/29/18 removing an obsolete provision

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New Rules

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that allowed certain lump sum salary payments for unused benefit time to count toward a member's pension (under current statute, these payments are not pensionable). The rulemaking also clarifies that SERS members qualify for disability benefits only if they are active employees at the time of incurring a disabling condition.

Questions/requests for copies: Jeff Houch, SERS, 2101 S. Veteran Pkwy., P.O. Box 19255, Springfield IL 62794-9255, 217/524-8105.

■ BUSINESS FEES

The SECRETARY OF STATE adopted amendments to Limited Liability Company Act (14 IAC 178; 42 Ill Reg 710) effective 5/

24/18, replacing an emergency amendment effective 12/29/17. The rulemaking allows refunds to be made for overpayments of fees. Since 1st Notice, SOS has removed obsolete provisions allowing refunds specifically for overpayments of document filing fees made during November and December, 2017, before the enactment of Public Act 100-571, which reduced these fees. Limited liability companies are affected.

Questions/requests for copies: Terry McConville, SOS, 100 W. Randolph St., #5-400, Chicago IL 60601, 312/814-2201, tmconville@ilsos.net

AIR & WATER POLLUTION

The POLLUTION CONTROL BOARD adopted amendments to

Air Quality Standards (35 IAC 243; 42 Ill Reg 3514; Docket R18-15) and Primary Drinking Water Standards (35 IAC 611; 42 Ill Reg 3524; Docket R18-9), both effective 5/29/18, implementing U.S. Environmental Protection Agency regulations for ambient air quality and drinking water adopted from 7/1/17 through 12/31/17, along with various corrections and clarifications.

Questions/requests for copies of the 2 PCB rulemakings: Michael J. McCambridge, PCB, Suite 11-500, 100 W. Randolph St., Chicago IL 60601, 312/814-6924, michael.mccambridge@illinois.gov. Copies of the Board's opinion and order can also be found at the PCB website, <http://www.ipcb.state.il.us>.

Joint Committee on Administrative Rules

Senator Pamela Althoff

Representative Peter Breen

Senator Karen McConnaughay

Representative Barbara Flynn Currie

Senator Don Harmon

Representative Tom Demmer

Senator Tony Muñoz

Representative Greg Harris

Senator Ira Silverstein

Representative André Thapedi

Senator Chuck Weaver

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. The IRB, DFPR and SBEL rulemakings will be considered at the Committee's June 12, 2018 meeting, while the Comptroller and DPH rulemakings will be considered at the July 17, 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.

IL RACING BOARD

General Licensee Rules (11 IAC 1313; 42 Ill Reg 6597) proposed 4/13/18

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Illinois Physical Therapy Act (68 IAC 1340; 42 Ill Reg 3239) proposed 2/23/18

STATE BOARD OF ELECTIONS

Campaign Financing (26 IAC 100; 42 Ill Reg 6612) proposed 4/13/18

OFFICE OF THE COMPTROLLER

Rules of Practice in Administrative Hearings (74 IAC 310; 42 Ill Reg 3818) proposed 3/2/18

DEPT OF PUBLIC HEALTH

Emergency Medical Services, Trauma Center, Comprehensive Stroke Center, Primary Stroke Center, and Acute Stroke Ready Hospital Code (77 IAC 515; 42 Ill Reg 6024) proposed 4/6/18