

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

■ ACCESSIBILITY RULES

The CAPITAL DEVELOPMENT BOARD repealed the Part titled Illinois Accessibility Code (71 IAC 400; 42 Ill Reg 2278) and adopted a new Part with the same name, Title and Part number (71 IAC 400; 42 Ill Reg 2448), both effective 10/23/18, setting forth rules for accessibility to persons with disabilities in Illinois public buildings and other facilities. The new Part incorporates the 2010 Federal ADA Standards for Accessible Design as required by the Environmental Barriers Act, and retains certain standards from the former Illinois Accessibility Code that are more stringent than the federal standards. Since 1st Notice, CDB removed provisions affecting public rights-of-way (sidewalks, crosswalks, curb ramps, pedestrian signals, parking and other features) and clarified numerous other

provisions. Those affected by these rulemakings include businesses, municipalities and non-profits that are constructing, adding to or renovating commercial and residential buildings or issuing building permits.

Questions/requests for copies: Lisa Hennigh, CDB, 401 S. Spring St., Stratton Bldg. 3rd Fl., Springfield IL 62706, 217/524-6408, lisa.hennigh@illinois.gov

■ FRACKING TAX

The DEPARTMENT OF REVENUE adopted a new Part titled Illinois Hydraulic Fracturing Tax Act (86 IAC 475; 42 Ill Reg 8453), effective 10/25/18, implementing Public Act 98-22, which implemented a tax on the production of oil and gas by hydraulic fracturing

(cont. page 2)

Proposed Rulemakings

■ MEDICAL PAYMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Payment (89 IAC 140; 42 Ill Reg 19557) implementing two Public Acts. PA 100-974 allows Federally Qualified Health Centers (FQHCs) to seek Medicaid reimbursement for services performed by dental hygienists. PA 100-646 clarifies the distinction between medi-car transportation (provided to wheelchair-bound patients who require a hydraulic or electric lift, but do not need medical observation or administration of medications or oxygen) and service car transportation (provided to patients that do not need ambulance or medi-car services). Those affected by this

(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) 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)

(fracking) from permitted wells that commenced production on or after 7/1/13. The tax (3% of the oil or gas value for the first 24 months of production; thereafter, 6% for gas and 3% to 6% for oil depending on the average daily production of the well) is collected and remitted to DOR by the purchaser, who deducts the amount of tax due from purchase payments to the producer. The tax rate may be reduced 0.25% if at least 50% of work hours at the well site are performed by Illinois construction workers being paid at or above prevailing wage. For wells that began operating before 7/1/13, an exemption certificate must be obtained if a first purchaser enters into a new contract with an operator after this rulemaking takes effect. Other provisions of this rulemaking address measurement and determination of average daily production, exemptions, withholding, filing of returns, recordkeeping, penalties for nonpayment, and hearings. Owners and operators of fracking wells and purchasers of oil or gas from fracking operations are affected.

Questions/requests for copies: Richard S. Wolters, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

■ PHARMACIES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled

Pharmacy Practice Act (68 IAC 1330; 41 Ill Reg 15130), effective 11/9/18, replacing State-specific standards for sterile and non-sterile compounding with the United States Pharmacopeia-National Formulary (USP-NF) now in use in more than 35 states. Pharmacies that compound drugs must keep compounding materials in a separate storage area, set aside areas exclusively for sterile and nonsterile compounding if they compound sterile products, and have access to a current USP Compounding Compendium. Other provisions allow pharmacies to sell limited quantities of non-sterile compounded products to doctors and other practitioners for office use under specified conditions (e.g., the drug may only be administered in the office, not dispensed for later use); permit sterile compounding of veterinary products for office use and veterinary dispensing from office stock; and allow pharmacists in charge of an automated dispensing system located in another facility to designate a licensed nurse or physician assistant to stock or restock automated dispensing and storage systems. Changes since 1st Notice remove a provision limiting veterinarians to dispensing no more than a 7-day supply of veterinary compounded drug products compounded by a pharmacy for office use; allow pharmacies to compound a reasonable quantity of sterile and nonsterile drug products for office use by a

veterinarian; specify that nonsterile, as well as sterile, drugs should be compounded in a designated area; and clarify other limitations and references. Pharmacists, medical practitioners and veterinarians are affected by this rulemaking.

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

VISION COVERAGE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment to Medical Payment (89 IAC 140; 42 Ill Reg 27), effective 10/26/18, implementing Public Act 100-135, which exempts new eyeglasses or lenses required as a result of eye surgery from the normal Medical Assistance limit of one pair of eyeglasses or set of lenses every 24 months for recipients age 21 and older.

Questions/requests for copies: Christopher Gange, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

■ DISABILITY SERVICES

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Administration of Medication in Community Settings (59 IAC 116; 42 Ill Reg

(cont. page 3)

Proposed Rulemakings

(cont. from page 1)

rulemaking include FQHCs and medical transportation providers.

Questions/requests for copies/comments through 12/24/18: Christopher Gange, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

■ INCOME TAX

The DEPARTMENT OF REVENUE proposed amendments to Income Tax (86 IAC 100; 42 Ill Reg 19605) implementing Public Act 100-22, which allows persons that must use different methods of apportioning income to belong to the same unitary business group (two or more corporations, financial institutions or insurance companies with closely interrelated operations and

majority ownership by one person. Formerly, persons required to use different apportionment methods were prohibited from belonging to the same unitary business group.). Examples of how to combine income and apportionment factors in these cases are provided. Some small businesses may be affected.

Questions/requests for copies/comments through 12/24/18: Brian Fliflet, DOR, 101 W. Jefferson St., MC 5-500, Springfield IL 62794, 217/782-2844.

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Internal Security Standards and Fidelity Bonds (50 IAC 3501; 42 Ill Reg 19595) to align DOI regulations for farm mutual insurance companies

with those applied to other companies in 50 IAC 904. The rulemaking reflects National Association of Insurance Commissioners (NAIC) guidelines and reflects the practice of writing fidelity and surety bonds on a claims-made basis rather than on an occurrence basis. Amounts of coverage are amended to match NAIC guidelines. An obsolete requirement for a one-year discovery period is also being removed, and investments in securities other than government bonds and obligations by farm mutual companies is being permitted. The rulemaking also adds definitions and makes technical updates.

Questions/requests for copies/comments through 12/24/18: Susan Anders, DOI, 320 W. Washington St., 4th Fl., Springfield IL 62767-0002, 217/558-0957.

New Rules

(cont. from page 2)

13422), effective 10/23/18, implementing Public Act 100-50 by including persons enrolled in community day services for the developmentally disabled within the scope of the Part. (Formerly, the Part applied only to residential facilities for the developmentally disabled that are licensed or certified by DHS or the Department of Public Health and house up to 16 persons.) The rulemaking also defines community day services

as services offered outside the participant's place of residence that are designed to promote self-help, socialization and adaptive skills. Residents and staff of community day services for persons with developmental disabilities may be affected by this rulemaking.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

■ COMMUNITY DEVELOPMENT

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted amendments to State Administration of the Federal Community Development Block Grant Program for Small Cities (47 IAC 110; 42 Ill Reg 14126), effective 10/29/18, aligning the Part with federal requirements, including Community Development Block Grant (CDBG) National Objective and

(cont. page 4)

New Rules

(cont. from page 3)

Procurement Standards. Changes include updating various cross-references to State and federal law; updating program objectives to define needs of “recent origin” as those which have arisen within the past 18 months; and allowing private development costs to be paid for with CDBG grant funds, rather than limiting those funds to cover only public infrastructure costs supporting job creation or retention. Those affected by this rulemaking include CDBG non-entitlement units of local government (those with populations under 50,000 for a city or 500,000 for a county).

Questions/requests for copies: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, 217/557-1820.

INSURANCE

The DEPARTMENT OF INSURANCE adopted amendments to License and Documents Necessary to Engage in Activities and Examinations (50 IAC 752; 42 Ill Reg 12382), Internal Security Standard and Fidelity Bonds (50 IAC 904; 42 Ill Reg 53), and Mid-Term Cancellations (50 IAC 940; 42 Ill Reg 12449), all effective 10/29/18. Amendments to Part 752 eliminate obsolete provisions and reflect a shift in certain licensure responsibilities from DOI’s Property and Casualty Compliance Unit to the Corporate Regulatory Section. The Part 904

rulemaking aligns the Part’s provisions with guidance issued by the National Association of Insurance Commissioners (NAIC) and removes time specifications for surety bonds. Bonds must be written to provide coverage on a discovery basis (currently, the discovery period must be at least 1 year) and provisions that current rules apply to surety bonds with less than a 3-year discovery period are extended to all surety bonds. Also, obsolete criteria for surety bond amounts, deductibles, self-insurance and other provisions are being removed. A change since 1st Notice clarifies that the minimum amount of surety bonds required will be no less than the suggested minimum amount contained in the 2018 NAIC Financial Condition Examiners Handbook. The Part 940 rulemaking removes a requirement that insurance companies file contract amendments omitting reinsurance coverage in addition to filing the reinsurance contract cancellation itself. DOI also repealed the Parts titled Illinois Insurance Exchange Annual Statement (50 IAC 551; 42 Ill Reg 12376), Uniform Accounting Instructions for Fire and Marine and Casualty and Surety Insurers (50 IAC 903; 42 Ill Reg 12387), and Admitted Assets (50 IAC 945; 42 Ill Reg 12454), all effective 10/29/18. DOI states that the rules contained in these Parts are obsolete due to changes in statute or changes in reporting and accounting procedures.

Questions/requests for copies of the 6 DOI rulemakings: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767, 217/558-0957.

HORSE RACING

The ILLINOIS RACING BOARD adopted amendments to Approval of Racing Officials (11 IAC 422; 42 Ill Reg 14109), effective 11/1/18, removing presiding and associate judges and breathalyzer operators from the list of officials requiring IRB approval prior to employment by a licensee or participation in a thoroughbred or harness race. Other racing officials must have appropriate occupational licenses, but provisions specifying the personal information to be included on an application for IRB approval (e.g., date of birth, Social Security number) are being removed. IRB also adopted an amendment to Licensing (11 IAC 502; 42 Ill Reg 14115) allowing a jockey agent to represent one apprentice jockey in addition to the two jockeys the agent may represent under existing rule.

Questions/requests for copies of the 2 IRB rulemakings: Mickey Ezzo, IRB, 100 W. Randolph St., Suite 5-700, Chicago IL 60601, 3 1 2 / 8 1 4 - 5 0 1 7 , mickey.ezzo@illinois.gov

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 December 11, 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 ON AGING

Adult Protection and Advocacy Services (89 IAC 270; 42 Ill Reg 14309) proposed 8/3/18

DEPT OF PUBLIC HEALTH

Lead Poisoning Prevention Code (77 IAC 845; 42 Ill Reg 15784) proposed 8/17/18

DEPT OF REVENUE

Income Tax (86 IAC 100; 41 Ill Reg 15198) proposed 12/26/17

SECRETARY OF STATE

Lobbyist Registration and Reports (2 IAC 560; 41 Ill Reg 15222) proposed 12/26/17

Joint Committee on Administrative Rules

Senator Don Harmon

Representative Peter Breen

Senator Tony Muñoz

Representative Barbara Flynn Currie

Senator Sue Rezin

Representative Tom Demmer

Senator Paul Schimpf

Representative Greg Harris

Senator Ira Silverstein

Representative André Thapedi

Senator Chuck Weaver

Representative Keith Wheeler

**Vicki Thomas
Executive Director**