

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

■ ALZHEIMER'S CARE

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled Alzheimer's Disease and Related Dementias Services Code (77 IAC 973; 42 Ill Reg 19510), effective 5/23/19, implementing two Public Acts that created the Alzheimer's Disease and Related Dementias Services Act [410 ILCS 406]. The Act and the new Part govern all facilities and services, including home health, assisted living, intermediate or skilled nursing, and hospice services, that serve persons with Alzheimer's Disease or related dementias. Services must be implemented in accordance with nationally recognized standards of care (e.g., Alzheimer's Association, National Institutes of Health). The new Part also lists qualifications and continuing education requirements for an Alzheimer's services director and training

requirements for staff with direct access to clients or patients. An entity that knowingly offers Alzheimer's/dementia services not in compliance with this Part and is licensed, certified or regulated by the State will be deemed in violation of its licensing/certification statutes and any contract or agreement it has with the State; non-licensed entities will be guilty of a business offense punishable by a fine of at least \$1,001. Those affected by this rulemaking include nursing homes, assisted living facilities, home care and hospice services, and other entities that care for persons with dementia.

Questions/requests for copies: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 2 1 7 / 7 8 2 - 2 0 4 3 , dph.rules@illinois.gov

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Proposed Rulemakings

■ AFFORDABLE HOUSING

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY proposed amendments to the Part titled State Housing Appeals Board (47 IAC 395; 43 Ill Reg 6712) aligning the Part with recent amendments to the Affordable Housing Planning and Appeal Act. Meetings of the Board must be held at least annually (currently, quarterly) and a meeting may be canceled if there are no appeals or other business to be heard. The rulemaking strikes a provision stating that the purpose of a meeting and the business to be transacted need not be specified when notice of the meeting is given. Notice of all meetings and meeting cancellations must be given in accordance with the Open Meetings Act. No Board member

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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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■ MENTAL HEALTH SERVICES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Medical Payment (89 IAC 140; 42 Ill Reg 14043), effective 5/28/19, concerning Medicaid mental health services. The rulemaking implements an Integrated Assessment and Treatment Planning (IATP) process, using a standardized assessment and service planning tool, for determining an individual's need for services. An IATP must be completed at least once every 180 days for an individual under a treatment plan; must utilize an HFS-approved planning tool; and must be reviewed, approved and signed by a licensed practitioner of the healing arts (LPHA, defined as a physician/psychiatrist, advanced practice nurse with psychiatric specialty, clinical psychologist, clinical professional counselor, marriage and family therapist, or clinical social worker). With regard to crisis services provided on a short-term, time-limited basis, for services rendered on or after 8/1/18, the rulemaking authorizes payment for services provided on a face-to-face basis by an LPHA or another mental health professional meeting specified qualifications. Criteria for mobile crisis response services and crisis stabilization services are also included. Finally, the rulemaking adds and clarifies requirements for providers that

offer crisis services (e.g., services must be available 24 hours a day, 365 days a year and must be provided face to face) and for community mental health centers that provide Assertive Community Treatment programs. Since 1st Notice, HFS has defined the necessary elements of a patient crisis safety plan; clarified that case management services may be provided up to 30 days prior to completion of an IATP; and included persons who have received behavioral health training through the U.S. Armed Forces in the definition of Mental Health Professionals. Those affected by this rulemaking include Medicaid mental health and substance abuse treatment providers and mental health professionals employed or contracted by these providers.

HFS also adopted an amendment to Specialized Health Care Delivery Systems (89 IAC 146; 42 Ill Reg 17309), effective 5/28/19, replacing an emergency amendment (42 Ill Reg 17935) that was effective 9/24/18 and expired 2/20/19. The rulemaking implements a provision of Public Act 100-587 (FY 2019 Budget Implementation) that increases reimbursement rates for Specialized Mental Health Rehabilitation Facilities (SMHRFs) by 4% for services provided on or after 7/1/18. Additionally, the rulemaking establishes rates for therapeutic visits to licensed or provisionally licensed SMHRFs. For services provided from 6/4/18 through 7/

26/18, the therapeutic visit rate is 75% of the facility rate in effect at that time; for services provided on and after 7/27/18, the therapeutic visit rate is 75% of the facility rate in effect on 7/27. Facilities may not be reimbursed for more than 20 days of therapeutic visits per State fiscal year, or for more than 10 consecutive days of therapeutic visits.

Questions/requests for copies of the 2 HFS rulemakings: Christopher Gange, HFS, 201 S. Grand Ave., 3rd Fl., Springfield IL 62763-0002, 217/782-1233, HFS.Rules@illinois.gov

■ ELECTION SECURITY

The STATE BOARD OF ELECTIONS adopted a new Part titled Cyber Navigator Program (26 IAC 213; 43 Ill Reg 1733), effective 5/21/19, implementing provisions of Public Act 100-587. The new Part replaces emergency rules covering the 2018 general election that were adopted on 8/30/18 and expired on 1/26/19. The PA and the rulemaking authorize SBEL and the Department of Innovation and Technology (DoIT) to create a Cyber Navigator Program to protect the State's election infrastructure against security breaches and cyber attacks. Cyber Navigators are DoIT personnel recruited to assess election-related systems and networks, perform risk assessments for each election

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Proposed Rulemakings

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may participate in a hearing or other proceeding regarding an affordable housing development in which that member has a direct or indirect financial interest. The rules of evidence followed in Illinois circuit courts will ordinarily be followed, but evidence not admissible under those rules can be admitted if it is not precluded by statute and would be relied upon by “reasonable” persons. Other changes clarify or detail the contents of notices of appeal, the grounds for dismissal of an appeal, and remove a requirement that the Governor designate the chairperson of the Board (who must be a retired circuit or appellate judge). Affordable housing developers and local governments may be affected by this rulemaking.

Questions/requests for copies/comments through 7/22/19: Karri E. Kartes, IHDA, 111 E. Wacker Dr., Suite 100, Chicago IL 60601.

■ CHEMICAL SAFETY

The ILLINOIS EMERGENCY MANAGEMENT AGENCY proposed amendments to the Part titled Development, Annual Review, Coordination of Chemical Safety Contingency Plans (29 IAC 610; 43 Ill Reg 6700) that align the Part (last amended in 1986) with current laws and practices for local emergency services agencies and update various definitions.

Questions/requests for copies/comments through 7/22/19: Traci Burton, IEMA, 1035 Outer Park Drive, Springfield IL 62704, 217/785-9860.

IRB RULE WITHDRAWAL

The ILLINOIS RACING BOARD, in response to a JCAR Objection, has withdrawn a proposed repeal of the Part titled Prohibited Conduct (11 IAC 423; 42 Ill Reg 23707) that appeared in the 12/21/18 *Illinois Register*. The repeal was originally proposed because IRB believed the Part was no longer necessary; JCAR objected because repeal of the Part would allow IRB to determine, outside of rule, what is considered prohibited conduct by a licensee. The Part will remain in effect.

New Rules

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jurisdiction, and increase the cybersecurity posture of all election jurisdictions. Election authorities must participate in the Cyber Navigator Program in order to qualify for federal grant funds intended to enhance election security. Among the measures SBEL will take is connecting all local election jurisdictions through the Illinois Century Network (ICN) to the statewide voter registration database. When all election jurisdictions are connected via ICN, all system traffic between SBEL and these jurisdictions will

be required to use private IP addressing. SBEL also will work with the Illinois State Police Statewide Terrorism and Intelligence Center to develop a cybersecurity outreach and awareness program for county election officials and election boards. The program will include information regarding best practices and training regarding common areas of vulnerability (e.g., phishing). The new Part also outlines other security measures to be taken by SBEL, including installation of a firewall, protection against Distributed Denial of Service (DDoS) attacks, and 24/7 monitoring by the DoIT

Security Operation Center. Local election authorities will be affected by this rulemaking.

Questions/requests for copies: Kenneth R. Menzel, SBEL, 2329 S. Macarthur Blvd., Springfield IL 62704, 217/782-4141, kmenzel@elections.il.gov

UNIVERSITY EMPLOYMENT

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM adopted amendments to the Part titled State Universities Civil Service System (80 IAC 250; 43 Ill Reg

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New Rules

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3129), effective 5/23/19, that outline procedures for appointing current or former officers of municipal, county or State police departments as university police officers. Applicants must have successfully completed at least 2 years of employment as a fulltime, sworn and certified officer; must satisfy the requirements of the Law Enforcement Training and Standards Board; and cannot have been suspended for

disciplinary reasons by the current or most recent employer. Applicants hired under these provisions must serve a probationary period of 12 months. No more than 2 positions at any university may be filled and occupied in this manner in any given 5-year period. For cases in which an employer has filed written charges for discharge against an employee and the employee has requested a hearing before the Merit Board, the rulemaking provides that under certain

circumstances, the employer may enter an agreement that includes a suspension of no more than 120 days for the disciplined employee (formerly, this suspension was limited to 30 days). The minimum number of days that the Merit Board can suspend an employee is reduced from 60 to 3 days.

Questions/requests for copies: Jeff Brownfield, SUCSS, 1717 Philo Road, Suite 24, Urbana IL 61802, 2 1 7 / 2 7 8 - 3 1 5 0, jeffb@sucss.illinois.gov.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The Illinois Commerce Commission rulemakings will be considered at the June 11, 2019 meeting, while the Department of Financial and Professional Regulation rulemaking will be considered at the July 16, 2019 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 FINANCIAL & PROFESSIONAL REGULATION

Rules of Practice in Administrative Hearings (68 IAC 1110; 43 Ill Reg 43) proposed 1/4/19

ILLINOIS COMMERCE COMMISSION

Qualifying Infrastructure Plant Surcharge (83 IAC 656; 42 Ill Reg 16789) proposed 9/21/18

Renewable Portfolio Standard and Clean Coal Standard for Alternative Retail Electric Suppliers and Utilities Operating Outside Their Service Areas (83 IAC 455; 42 Ill Reg 21566) proposed 12/7/18

Certification of Alternative Retail Electric Suppliers (83 IAC 451; 42 Ill Reg 21556) proposed 12/7/18

Environmental Disclosure (83 IAC 421; 42 Ill Reg 21546) proposed 12/7/18