

*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

### ■ COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD adopted amendments to Administration of the Illinois Public Community College Act (23 IAC 1501; 42 Ill Reg 20592) effective 6/20/19, implementing Public Act 99-692, which requires community college trustees elected or appointed after 1/1/17 to undergo leadership training during their first, third and fifth years in office. The rulemaking establishes the application process through which ICCB will approve providers of trustee leadership training. Entities pre-approved to offer this training include Illinois public community colleges, the Illinois Office of the Attorney General, the Illinois Minimum Continuing Legal Education Board, and continuing professional education sponsors for public accountants (if the sponsor is registered with the

Department of Financial and Professional Regulation). Other entities that offer professional development activities (e.g., training organizations, professional associations) may apply to ICCB for approval. The rulemaking specifies the information applicants must submit and the criteria for approval. Approved leadership training providers will be listed on the ICCB website and approval must be renewed every 2 years. Those affected by this rulemaking include community colleges and certain professional development/training organizations or firms.

Questions/requests for copies: 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)

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## Proposed Rulemakings

### ■ CHILD CARE

The DEPARTMENT OF HUMAN SERVICES proposed amendments to Child Care (89 IAC 50; 43 Ill Reg 7361) implementing a tiered income eligibility scale for new and continuing enrollees in the Child Care Assistance Program (CCAP) along with annual fiscal year updates to co-payment scales. The rulemaking establishes a gross income threshold of 200% of the Federal Poverty Level (e.g., \$4,292/month for a family of 4) for new applicants and 225% FPL (e.g., \$4,829/mo. for a 4-person family) for existing clients whose eligibility is being redetermined. Families whose income upon redetermination exceeds 225% FPL but does not exceed 85% of the State Median Income (SMI; currently, for a family of 4, the 85% level is \$6,333/mo.) may remain

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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](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

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## ■ NURSING SCHOOLS

The BOARD OF HIGHER EDUCATION adopted amendments to Nursing School Grant Program (23 IAC 1100; 43 Ill Reg 3106) effective 6/20/19, replacing an emergency rule that expired 1/2/19. The rulemaking combines what were formerly two categories of grants to nursing schools (expansion grants and improvement grants) into a single category, includes master's degree entry programs as well as bachelor's degree programs, establishes priorities for program appropriations, lists acceptable uses of grant funds, and outlines the competitive application and award determination process. Factors to be considered in awarding grants, and which must be included in the application, include performance measures from the previous 3 years such as the number of nursing degrees conferred, the first-year retention rate, the nursing exam pass rate for first-time test takers, and job placement within 6 months after degree completion. Since 1<sup>st</sup> Notice, BHE has clarified that Board considerations other than those specifically listed in rule will count toward 25% of the applicant's score during the evaluation process. Institutions of higher education that offer nursing degrees are affected by this rulemaking.

Questions/requests for copies: Karen Helland, BHE, 1 N. Old State Capitol Plaza, Suite 333,

Springfield IL 62701, 217/557-7358, fax 217/782-8548, e-mail: [Helland@ibhe.org](mailto:Helland@ibhe.org)

## ■ HORSE BREEDING

The DEPARTMENT OF AGRICULTURE adopted amendments to the Part titled Standardbred, Thoroughbred and Quarter Horse Breeding and Racing Program, Illinois (8 IAC 270; 43 Ill Reg 3054), effective 6/21/19, implementing provisions of the Horse Racing Act that provide a temporary exception to criteria that determine whether a foal can be registered in Illinois. Effective 1/1/18 through 12/31/21, foals conceived with semen from an Illinois stallion are eligible for registration even if the semen is transported out of State and the mare (dam) is not in Illinois at the time of conception or for 30 days before or after foaling. Beginning 1/1/22, semen from Illinois-certified stallions cannot be transported out of State and mares must be in Illinois at the time of the foal's conception for the foal to be eligible for Illinois registration. The rulemaking also allows registration certificates to be returned to a horse's owner via any mail delivery system with tracking capabilities (currently, registered mail). Owners and breeders of racing horses are affected by this rulemaking.

## ■ HERBICIDES

DOA adopted an amendment to the Part titled Illinois Pesticide Act (8 IAC 250; 43 Ill Reg 4045),

effective 6/21/19, replacing an emergency amendment (43 Ill Reg 4340) that was effective 3/22/19. The rulemaking stipulates that persons participating in supervised conservation job training programs (e.g., summer youth programs) who apply herbicide products for the control of invasive plants on public lands are not considered to be "receiving compensation" for this activity and are thereby exempt from the requirement to obtain a herbicide/pesticide applicator license from DOA. Those affected by this rulemaking include park districts and other sponsors of conservation job training programs.

## ■ URBAN AGRICULTURE

DOA also adopted a new Part titled Municipal Urban Agricultural Areas (8 IAC 955; 43 Ill Reg 4047), effective 6/21/19, establishing the definition of a "qualified farmer" eligible for inclusion in an urban agricultural area as defined in the Illinois Municipal Code (an area entirely within a municipality's boundaries, in which one or more qualifying farmers are producing locally-grown agricultural products). The rule defines various categories of qualified farmers, including beginning farmers (those who have operated a farm for no more than 10 years), small- or medium-sized farmers (those who have received microloans from the USDA), limited resource farmers

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# Proposed Rulemakings

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eligible for CCAP for no more than 90 days, after which they must reenroll and meet the 200% FPL threshold to qualify. Families whose income exceeds 85% of SMI will be terminated from the program within 10 calendar days. The rulemaking also implements federal regulations clarifying that children who turn 13 years old (19 for children with special needs) remain eligible for CCAP for the remainder of the eligibility period, instead of only through the end of their birthday month. Finally, the rulemaking stipulates that a client's grade point average for an educational program may fall below a "C", or below 2.0 or 2.5 on a 4.0 scale, for no more than one eligibility period (currently, one semester) in order to maintain satisfactory progress toward a diploma, certificate or degree. Child care providers participating in CCAP may be affected by this rulemaking.

Questions/requests for copies/comments through 8/19/19: Tracie Drew, DHS, 100 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

## SCHOOLS

The STATE BOARD OF EDUCATION proposed an amendment to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 43 Ill Reg 7389) implementing Public Act 100-726, which permits schools to keep a general stock of asthma

medications that are not designated for a specific person. The rulemaking adds "medication to treat respiratory distress" to the list of undesignated medications that school nurses or trained school personnel may administer when a student displays symptoms (currently, epinephrine and opioid antagonists may be administered in this manner). Schools must adopt standing protocols for administering these medications and school personnel who are not nurses or physicians must complete specific training and certification in their administration.

Questions/requests for copies/comments through 8/19/19: Cara Wiley, SBE, 100 N. First St., E-222, Springfield IL 62777-0001, 217/782-5270, [rules@isbe.net](mailto:rules@isbe.net)

## ■ PHYSICIAN ASSISTANTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Physician Assistant Practice Act of 1987 (68 IAC 1350; 43 Ill Reg 7335) implementing the sunset reauthorization of the Act (Public Act 100-453). The rulemaking replaces the term "supervising" physician with "collaborating" physician and changes "supervision agreement" to "collaborative agreement". A single physician may generally collaborate with up to 7 (currently, 2) full-time physician assistants; this limit may be exceeded if services are

being provided in a primary care health professional shortage area determined by the federal Department of Health and Human Services. Physician assistants are also granted authority to prescribe Schedule II through V controlled substances if this authority is granted by a hospital affiliate on the recommendation of the appropriate physician committee. Examples of unprofessional conduct subject to discipline under the Act have been added (e.g., failure to conform to standards of practice, violating professional boundaries), requirements for continuing education have been updated, and national guidelines for use of opioid analgesics promulgated by the Federation of State Medical Boards have been incorporated. Physician assistants and their employers are affected by this rulemaking.

Questions/requests for copies/comments through 8/19/19: Craig Cellini, DFPR, 320 W. Washington St. 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

## ■ MEAT INSPECTION

The DEPARTMENT OF AGRICULTURE proposed amendments to the Part titled Meat and Poultry Inspection Act (8 IAC 125; 43 Ill Reg 7323) implementing Public Act 100-1185. The rulemaking establishes the process by which Type I custom exempt

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## New Rules

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(those with household incomes and gross farm sales below specific thresholds), and socially disadvantaged farmers (farms at least 50% owned by American Indians/Alaskan Natives, Asians, African-Americans, Native Hawaiians/Pacific Islanders, or Hispanics). Urban agricultural area committees may request an opinion from DOA in writing as to whether an applicant meets any of the criteria for a qualifying farmer. The Director of DOA must notify the committee of his or her opinion within 90 days after receiving the request. Those affected by this rulemaking include farmers seeking inclusion in urban agricultural areas and municipalities that have established urban agricultural area committees.

Questions/requests for copies of the 3 DOA rulemakings: Albert A. Coll, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217/782-5051, fax 217/785-4505.

### STATE TRAVEL

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted an amendment to the Part titled The Travel Regulation Council (80 IAC 3000; 43 Ill Reg 3072), effective 7/1/19, increasing reimbursement rates for overnight lodging to \$95 (formerly \$80) in the Chicago metro area outside Cook County, \$85 (formerly \$70) in urban Downstate counties (e.g., Champaign, McLean, Peoria, Sangamon), and \$75 (formerly \$60) in all other Downstate counties.

Questions/requests for copies: Kelley Wells, Governor's Travel Control Board, 100 E. Converse, Springfield IL 62702, 217/782-4705.

### TAXES

The DEPARTMENT OF REVENUE adopted amendments to Gas Revenue Tax Act (86 IAC 470; 42 Ill Reg 16168), effective 6/18/19, removing obsolete language and making other technical changes to the Part (which concerns taxes on revenue earned from the sale of natural gas).

Questions/requests for copies: Debra M. Boggess, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

## Proposed Rulemakings

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establishments (those that slaughter or prepare meat or meat products for specific customers, in place of or in addition to preparing meat for general retail sale) may request the custom exemption on an annual basis. Animals intended for custom exemption slaughter must be segregated for those intended for inspected slaughter. Portions of a cattle carcass that may carry bovine spongiform encephalopathy (mad cow disease) cannot be used in any custom meat product. All custom exemption products must be

completely physically separated from inspected products throughout the production process and clearly stamped as "Not For Sale – Not Inspected". Records of each custom-slaughtered animal and of meat processing procedures (e.g., smoking or curing) must be kept for at least 2 years and made available upon request to inspection personnel. All exemption approvals expire annually on December 31. Type I establishments that have an existing custom exemption and wish to slaughter, receive or process uninspected meat outside of approved hours may

do so if they notify DOA after each occurrence. Businesses that custom slaughter or process meat are affected by this rulemaking.

Questions/requests for copies/comments through 8/19/19: Albert A. Coll, DOA, State Fairgrounds, P.O. Box 19281, Springfield IL 62794-9281, 217/524-6905, fax 217/785-4505.

### ■ DOR HEARINGS

The DEPARTMENT OF REVENUE proposed

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## Proposed Rulemakings

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amendments to Practice and Procedure for Hearings Before the Illinois Department of Revenue (86 IAC 200; 43 Ill Reg 7379) updating various notices and hearing procedures. Notices, orders, and office dispositions may be served by e-mail if the involved parties agree to such service. A Director's decision or an administrative law judge's recommendation that is approved by the Director can be delivered by personal service or regular U.S. mail (currently, registered or certified U.S. mail) if the decision or

recommendation is completely in the taxpayer's favor. Decisions or recommendations not completely favorable to the taxpayer must still be delivered in person or by registered or certified mail. Copies of decisions/recommendations may be sent by e-mail but will not be considered official for administrative review purposes. Other amendments address late discretionary hearings (held after a final assessment or Notice of Tax Liability has been issued) concerning amounts large enough to qualify for review by the Illinois Independent Tax Tribunal; clarify that property tax

exemption decisions for hearings that are open to the public will not be redacted to remove taxpayer identifying information when the decisions are posted on DOR's website (since this information is already public record); and remove obsolete provisions for providing electronic documents via floppy disk. Small businesses involved in DOR administrative hearings may be affected by this rulemaking.

Questions/requests for copies/comments through 8/19/19: Terry D. Charlton, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-6995.

## Second Notices

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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 August 13, 2019 JCAR meeting. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

### IL COMMERCE COMMISSION

The Waiver of Filing and the Approval of Certain Contracts and Arrangements with Affiliated Interests (83 IAC 310; 43 Ill Reg 3079) proposed 3/8/19

### IL HOUSING DEVELOPMENT AUTHORITY

Homeownership Mortgage Loan Program (47 IAC 300; 43 Ill Reg 5178) proposed 5/10/19

### IL RACING BOARD

Illinois Racing Board (11 IAC 200; 43 Ill Reg 5189) proposed 5/10/19

Identification of Horses (11 IAC 1307; 43 Ill Reg 5193) proposed 5/10/19

Drivers, Trainers, and Agents (11 IAC 1317; 43 Ill Reg 5198) proposed 5/10/19

### POLLUTION CONTROL BOARD

Control of Emissions from Large Combustion Sources (35 IAC 225; 42 Ill Reg 19158) proposed 10/26/19

General Provisions (35 IAC 1420; 43 Ill Reg 2966) proposed 3/1/19

Activity Standards (35 IAC 1421; 43 Ill Reg 2983) proposed 3/1/19

Design and Operation of Facilities (35 IAC 1422; 43 Ill Reg 2994) proposed 3/1/19

### STATE BOARD OF EDUCATION

Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 42 Ill Reg 18831) proposed 10/19/18