

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.

Proposed Rulemakings

■ GUN DEALER LICENSING

The ILLINOIS STATE POLICE proposed a new Part titled Firearm Dealer License Certification Act (20 IAC 1232; 44 Ill Reg 2446) implementing Public Act 100-1178, which requires all Illinois holders of a Federal Firearms License (FFL) to additionally receive certification from the State in order to sell, lease or otherwise transfer firearms. This proposed new Part replaces a previously proposed rule (43 Ill Reg 9084) that was withdrawn last week.

A public hearing on this proposed rule is scheduled for Thurs. Feb. 20, at 1:30 p.m. in the Auditorium of the Howlett Building, 501 S. Second St., Springfield (immediately south of the Capitol).

A companion emergency rule, effective 1/3/20 for a maximum of 150 days, appeared in the 1/17/20 *Illinois Register* at 44 Ill Reg 1681.

Clarifications

The new Part includes new and revised definitions clarifying who is considered to be engaged in the business of dealing, selling, leasing, or otherwise transferring firearms with the principal objective of livelihood and profit, which makes them subject to the Act and this Part.

Peremptory Rule, Page 3

Entities excluded from this definition and NOT subject to these rules include:

- gunsmiths who merely service or repair firearms and return them to the customer;
- collectors of firearms as curios or relics;
- firearms manufacturers or importers who do not sell, lease or transfer them at wholesale or retail to individual purchasers;

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New Rules

■ 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), effective 1/31/20, 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

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ADOPTED 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.

Adopted Rules

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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. Since 1st Notice, DFPR has required that a copy of prescriptive authority guidelines for physician assistants be made available upon request (originally, that it be kept at every location where a physician assistant practices). Physician assistants and their employers 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.

STATE POLICE

The STATE POLICE MERIT BOARD adopted an amendment to Procedures of the Department of State Police Merit Board (80 IAC 150; 43 Ill Reg 12971) effective 1/24/20, implementing Public Act 101-374 and replacing

an emergency rule that was effective 12/2/19. The rulemaking requires applicants for appointment as sworn State Police officers to have an associate degree or to have completed 60 credit hours of study at an accredited college or university. (Formerly, for applicants with less than a bachelor's degree, various combinations of education and police experience or military service were required.) The rulemaking also updates the list of commissions from which the college or university must have obtained its accreditation.

Questions/requests for copies: Daniel Dykstra, SPMB, 531 Sangamon Ave. East, Springfield IL 62702, fax 217/786-0181, ddykstra@ispmeritboard.org

■ WORKERS' COMPENSATION

The WORKERS' COMPENSATION COMMISSION adopted an amendment to the Part titled Miscellaneous (50 IAC 9110; 43 Ill Reg 9945), effective 1/24/20, implementing Public Act 100-1117, which sets standards for necessary data to be included in a payor's explanation of benefits explaining the basis for denial of a medical bill. The rulemaking defines what documents meet the criteria for an explanation of benefits in this situation and list the data elements that must be included. It also allows employers or payers and health care providers to exchange data in non-prescribed formats by mutual agreement and prohibits any party from rejecting a paper or

electronic transaction on the grounds that it contains data beyond that required for a complete bill. Health insurance companies are affected by this rulemaking.

Questions/requests for copies: Cole D. Garrett, WCC, 100 W. Randolph St., Suite 8-200, Chicago IL 60601, IWCC.Rules@illinois.gov

HOSPITALS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an amendment to Hospital Services (89 IAC 148; 43 Ill Reg 9318), effective 1/22/20, replacing an emergency amendment effective 8/26/19. The rulemaking implements PA 100-1181, which was effective 3/9/19, by providing a 23% increase in the statewide standardized outpatient services rate for critical access hospitals (located in rural areas, with no other hospital within 35 miles) for dates of service on and after 7/1/18. It also provides a one-time supplemental payment to Illinois critical access hospitals to compensate for the difference between the rate that was in effect as of 7/1/18 and the higher rate that took effect on 3/9/19.

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

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Proposed Rulemakings

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— pawnshops that acquire firearms only for bailment; and
— persons/entities engaging only in transactions not subject to a State or federal background check.

A “principal objective of livelihood and profit” means that the person engages in the sale/transfer of firearms as an income-generating business. It does not include persons whose primary objective is to improve or liquidate a personal collection, nor does it include persons who regularly purchase and dispose of firearms for criminal purposes.

Applications

Every FFL licensee shall file with ISP a copy of its FFL, along with a sworn affidavit indicating that the license is currently valid and belongs to the licensee. This State certification must be renewed every 3 years when the FFL is renewed. ISP may, in lieu of requiring an affidavit, verify the validity of an FFL via any authentication system or website approved by the federal Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF). Applicants for certification must also submit an affidavit listing the name and Firearm Owner’s Identification Card (FOID) number of each owner, employee, or other agent who sells or transfers firearms for the licensee and attesting that each of these persons is at least 21 years old, holds a currently valid FOID card and (if a certification is being renewed) has completed the training required by the Firearm Dealer License Certification Act.

Peremptory Rule

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a peremptory amendment to Pay Plan (80 IAC 310; 44 Ill Reg 2588) effective 1/17/20, implementing a collective bargaining agreement with the International Brotherhood of Boilermakers. The peremptory rule updates pay rates (based on

regional prevailing wages) for boiler safety specialists and boiler safety audit specialists employed by the Office of the State Fire Marshal in the Central and Southern regions effective 1/1/20.

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

Fees

For FFL licensees without a retail location, the application fee is \$300 for initial certification and \$100 for a renewal certification. For licensees with retail locations, the application fee is \$1,200 for initial certification and \$500 for renewal. Total fees for certification of multiple licenses (e.g., retail stores at different locations) cannot exceed \$40,000. Initial certification fees for new applicants who held current FFL licenses as of 1/18/19 shall be prorated based on the number of months remaining on the applicant’s current FFL. Overpayments will be credited toward the cost of the licensee’s next renewal, or may be refunded to the licensee upon written request.

Inspections

All certified licensees (CLs) shall allow inspection of their place of business by ISP and other law enforcement agencies during all hours of operation when firearms are sold, leased or transferred. All

records, documents and firearms shall be made accessible upon request of ISP or the LE agency. No more than one unannounced inspection may be conducted per year without good cause. A CL that is not open to the public, does not keep regular business hours or operates by appointment only shall advise ISP in writing of its hours of operation.

Investigations

ISP may initiate an investigation into a licensee when requested by a local, State or federal law enforcement agency or prompted by a citizen complaint submitted through ISP’s website. Licensees must respond within 24 hours to any request for information made by ISP to determine the disposition of one or more firearms as part of a criminal investigation. Certified licensees may continue to operate during the course of an investigation or hearing unless the ISP Director determines that the

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Adopted Rules

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■ RADIOLOGY

The ILLINOIS EMERGENCY MANAGEMENT AGENCY adopted amendments to the Part titled Accrediting Persons in the Practice of Medical Radiation Technology (32 IAC 401; 43 Ill Reg 12939), effective 1/22/20, updating various definitions, references and procedures to conform to current law and practice. References to the Radiologic Technologist Accreditation Advisory Board (abolished by statute) are removed and the list of approved programs for accreditation is updated. Organizations currently recognized as continuing education providers will be listed on IEMA's website (instead of in rule) and the process of obtaining accreditation as a radiologist assistant or nuclear medicine advanced associate is updated. Failure to repay educational loans guaranteed by the Illinois Student Assistance Commission is removed as a grounds for suspension,

revocation or denial or accreditation. With regard to applicants convicted of felonies, juvenile convictions shall not be considered; for adult convictions, IEMA must consider evidence of rehabilitation and mitigating factors before deciding that a conviction will disqualify the applicant. The examination fee for limited diagnostic radiography accreditation is increased from \$125 to \$140. Those affected by this rulemaking include radiologists, nuclear medicine technicians, and their employers.

Questions/requests for copies: Traci Burton, IEMA, 1035 Outer Park Dr., Springfield IL 62704, 217/785-9860.

■ COUNTY FAIRS

The DEPARTMENT OF AGRICULTURE adopted an amendment to the Part titled Fairs Operating Under the Agricultural Fair Act (8 IAC 260; 43 Ill Reg 11800), effective 1/27/20, that requires county fairs to submit their annual grand summary reports of

fair receipts, premiums and prizes awarded by 12/31. Fairs whose grand summary reports are not postmarked by that date will not be eligible to receive premium reimbursements for that year. County fairs and fair organizations are affected by this rulemaking.

Questions/requests for copies: Albert A. Coll, DOA, State Fairgrounds, PO Box 19281, Springfield IL 62794-9281, 217/782-5051.

INSURANCE

The DEPARTMENT OF INSURANCE adopted an amendment to Accident and Health Reserves (50 IAC 2004; 43 Ill Reg 12066), effective 1/21/20, updating the incorporated National Association of Insurance Commissioners Valuation Manual to the 2019 edition.

Questions/requests for copies: Eric Anderson, DOI, 320 W. Washington St., 4th Fl., Springfield IL 62767-0002, 217/782-6284.

Proposed Rulemakings

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public interest, safety or welfare requires emergency action.

Security

No later than 1/2/20, CLs that maintain an inventory of firearms for sale or transfer must be connected to an alarm system or service that notifies local law enforcement of any unauthorized intrusion. This system must include

features such as duress/holdup silent alarms and backup electrical power. By 1/2/21, all CLs operating retail locations must have a video surveillance system in place. This system must monitor all entrances and exits and any inside areas where firearms are stored, handled, sold or transferred. Video surveillance records and sound recordings obtained from them must be retained for at least 90 days.

Records

CLs operating retail locations on or after 1/2/20 must use electronic-based recordkeeping for all acquisition and disposition records currently required by federal law. The recordkeeping system must be searchable by the name of the purchaser, manufacturer or importer; the

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Proposed Rulemakings

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address of the purchaser; the serial number of the firearm; the acquisition date of the firearm; or the ATF transaction serial number. This system must also track any corrections or amendments to original entries and must be stored on a server or physical storage device that belongs to the licensee, or at a host facility (e.g., cloud storage or remote server) based in the U.S. and subject to U.S. legal processes. Retail sales and purchases must be recorded within 24 hours after the transaction. Shipments from manufacturers or wholesalers must be recorded within 24 hours after unpacking or 5 business days after shipping, whichever is earlier. Inventory, acquisition and disposition records must be made available to ISP or local law enforcement upon request. An alternate method of recordkeeping may be used with ISP approval if good cause is shown and the records can be clearly uploaded in a PDF format.

Storage

CLs with retail locations must develop and submit to ISP (using a form and method provided on the Department's website) their written plans for safe storage of firearms and ammunition during retail hours, after closing, and in the event of a disaster. All inventoried firearms must be kept in a secure gun storage or safety device (e.g., safe, vault, secured room or locked display) and in a location accessible only to specifically authorized personnel. All keys,

lock combinations, passwords or other security measures must be accessible only to specifically authorized personnel and ammunition must be stored securely out of the reach of customers. Any loss, theft or diversion of inventoried firearms from a retail location must be reported to ATF and local law enforcement within 48 hours and a copy of the notification must also be submitted to ISP.

Signage

Each location where a CL conducts business must post two signs (templates are provided in the rule and at ISP's website). One sign must notify patrons that the premises are under video surveillance and that their images may be recorded. The other sign must advise patrons that storing or leaving unsecured firearms where children can access them, selling or transferring firearms to someone else without receiving approval from ISP, and failing to report the loss or theft of a firearm to local law enforcement within 72 hours are unlawful.

Training

Every CL and employees who sell or transfer firearms must complete ISP-approved training (at a minimum, covering materials made available via the ISP website or other means) prior to certification and annually thereafter. Newly hired employees must complete this training before selling or transferring any firearms or ammunition. The CL must submit an affidavit to ISP verifying that the licensee and any

applicable employees have completed this training.

Penalties and Appeals

Disciplinary actions for any violation of the Act or this Part may include suspension or revocation of license certification, refusal to renew or restore a certification, or a reprimand. Additionally, a fine may be imposed based on the seriousness and frequency of the violation. Fines range from a maximum of \$200 for a first-time petty violation up to \$10,000 per offense for repeated major violations. Procedures for notifying CLs of violations and for CLs to request hearings or appeals are included in the Part. Those affected by this rulemaking include individuals and businesses licensed to sell firearms and local law enforcement entities.

*Questions/requests for copies/ comments through 3/23/20: Yvette C. Loizon, ISP, 801 S. Seventh St., Suite 1000-S, Springfield IL 62703, 217/782-7658. **Persons wishing to speak at the Feb. 20 hearing must submit their names and the organizations they represent to ISP.Rulemaking@illinois.gov in advance of the hearing. One member from each group may speak for a maximum of 3 minutes.***

JCAR MEMBERSHIP CHANGE

JCAR welcomes Sen. Bill Cunningham, D-Chicago, as its new co-chair. He succeeds Sen. Don Harmon, D-Oak Park, recently elected Senate President.

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 February 18, 2020 JCAR meeting. Other items not appearing 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.

CHIEF PROCUREMENT OFFICER FOR HIGHER EDUCATION

Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement (44 IAC 4; 43 Ill Reg 13841) proposed 12/6/19

DEPT OF INSURANCE

General Provisions (50 IAC 2500; 43 Ill Reg 13494) proposed 12/2/19

Fees and Charges (Repealer) (50 IAC 2505; 43 Ill Reg 13517) proposed 12/2/19

Annual Privilege Tax (Repealer) (50 IAC 2510; 43 Ill Reg 13530) proposed 12/2/19

Annual Retaliatory Tax (Repealer) (50 IAC 2515; 43 Ill Reg 13575) proposed 12/2/19

Annual State Fire Marshal Tax (Repealer) (50 IAC 2520; 43 Ill Reg 13607) proposed 12/2/19

Overpayments, Refunds, Amendments and Penalties (Repealer) (50 IAC 2525; 43 Ill Reg 13618) proposed 12/2/19

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Wholesale Drug Distribution Licensing Act (68 IAC 1510; 43 Ill Reg 13160) proposed 11/15/19

DEPT OF HEALTHCARE AND FAMILY SERVICES

Medical Payment (89 IAC 140; 43 Ill Reg 12000) proposed 10/25/19

DEPT OF NATURAL RESOURCES

Sport Fishing Regulations for the Waters of Illinois (17 IAC 810; 43 Ill Reg 13935) proposed 12/2/19

Commercial Fishing and Musseling in Certain Waters of the State (17 IAC 830; 43 Ill Reg 14050) proposed 12/6/19

Commercial Fishing in Lake Michigan (17 IAC 850; 43 Ill Reg 14060) proposed 12/6/19

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*
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Senator Tony Muñoz
Senator Sue Rezin
Senator Paul Schimpf
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