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*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 is designed to inform and involve the public in changes taking place in agency administration.*

## New Regulations

## Proposed Regulations

### DENTIST EDUCATION LOANS

The DEPARTMENT OF PUBLIC HEALTH adopted a new Part titled "Loan Repayment Assistance for Dentists" (77 Ill Adm Code 580; 32 Ill Reg 14455), effective 5/14/09, that implements Public Act 95-297. The new Part provides educational loan repayment assistance grants to Illinois dentists and dental specialists who practice in designated shortage areas in Illinois for a minimum of 2 years and who accept low-income or Medicaid patients. The total value of grants that a person may be awarded under the program must not exceed \$25,000 per yr. for a 4-year period. The rulemaking covers the application process, eligibility criteria, grant awards (no more than 4 per year), grant terms and obligations, and penalties for failure to fulfill the specified obligations. Changes since 1st Notice change all references to a "contract" to "grant agreement"; institute a May 15<sup>th</sup>–June 1<sup>st</sup> application period for 2009 only; specify that DPH will review all applications received; remove the number of low-income patients served by an applicant as a factor in determining who receives grant awards; and establish 2-year grant terms, with appli-

cants who receive an initial 2-year grant given priority for a second 2-year grant if they are still eligible. Those affected by this rulemaking include dentists and dental specialists seeking grants under this program.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761, 217/782-2043, e-mail: [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

### REAL ESTATE APPRAISERS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to "Real Estate Appraiser Licensing" (68 Ill Adm Code 1455; 32 Ill Reg 19279), effective 5/14/09. The rulemaking removes licensure requirements for state certified "general" real estate appraisers (both with and without experience prior to 7/1/05) and state certified "residential" real estate appraisers (with experience prior to 1/1/06). Real estate appraisers who have had a license for less than 185 days prior to its expiration are not subject to continuing education (CE) requirements; those who have held a license for more than 185 days but less than 2 years prior to expiration are subject to the 14-hour

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### AUTISM RESEARCH GRANTS

The DEPARTMENT OF HUMAN SERVICES proposed a new Part titled "Autism Research Fund Scientific Review Committee" (59 Ill Adm Code 270; 33 Ill Reg 7054) that implements Public Act 94-442 by creating a scientific review committee to review applications for Autism Research Fund grants. The Committee consists of 8 individuals: the clinical director of DHS' Division of Developmental Disabilities, who in turn chooses a doctoral level psychologist and an employee with 2 or more years experience in direct clinical services from within the division; the clinical director of DHS' Division of Mental Health, who in turn chooses a doctoral level psychologist and an employee with 2 or more years experience in direct clinical services from within that division; and 2 representatives from the advisory Autism Task Force. The rulemaking also lists some of the review committee's duties. Small businesses and not-for-profit corporations seeking funding for autism research may be affected by this rulemaking.

### PRESCRIPTION MONITORING

DHS also proposed amendments to "Electronic Prescription Monitoring Program" (77 Ill Adm Code 2080; 33 Ill Reg 7060). Part 2080 rules govern the program DHS currently has in place to record and monitor most prescrip-

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**NEW REGULATIONS:** Rules adopted by agencies this week.

**PROPOSED REGULATIONS:** Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.

**☞:** Symbol designating 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/RULE TEXT:** Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.

# New Regulations

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CE requirement. All real estate appraisers are required to take the 7-hour national Uniform Standards of Professional Appraisal Practice (USPAP) Update Course or equivalent as determined by the national Appraisal Qualification Board (AQB). In addition, DFPR removes the cap on the number of CE hours an individual may earn via distance learning. The rulemaking removes fees pertaining to conversion of a state licensed real estate appraiser (licenses issued prior to this Act) to an associate real estate appraiser and the education waiver request fee. Qualified instructors teaching USPAP courses are required to hold a current appraiser certification from a state in addition to being AQB-certified. DFPR replaces the core curriculum for pre-license, state-certified general and residential real estate appraisers with the core curriculum approved and revised by the AQB of the Appraisal Foundation and updates CE curriculum requirements to include a 7-hour National USPAP update course or an AQB-approved equivalent and revises the list of real estate-related appraisal topics covered. The rulemaking allows up to half of a licensee's CE requirement to be satisfied via participation in producing or conducting CE programs and removes Social Security numbers as required identifying data found in monthly CE reports and transcripts or certificates of completion. Changes since 1<sup>st</sup> Notice reinstate incorporations by reference to the most recent edition of USPAP and retain mandatory USPAP standards for complaint reviews. (The proposed version would have made these standards optional.) This rulemaking may impact small businesses that employ state-certified general or residential real estate appraisers or individual appraisers who own their own businesses.

## AUCTION LICENSES

DFPR also adopted amendments to "Auction License Act" (68 Ill Adm Code 1440; 32 Ill Reg 19235), effective 5/14/09, that implement changes made by

Public Act 95-572. DFPR updates the rulemaking to reflect the agency's title, and changes all references to the former Office of Banks and Real Estate to DFPR or its Division of Professional Regulation throughout the text. The rulemaking repeals obsolete provisions covering licensure applicants who practiced prior to the implementation of the Act and also removes obsolete examination exemptions from rule. DFPR will no longer allow auctioneer or associate auctioneer license applicants who have not passed an examination to conduct auctions on a 45-day permit sponsor card. All auctioneer and associate auctioneer licenses and internet auction listing service registrations issued under the Act will expire on 12/31/10 and expire on December 31<sup>st</sup> every 2 years after that. Further amendments remove outdated fees, set a cap for lapsed renewal application fees, and set the fee for certifying a licensee's record and requesting a waiver of continuing education requirements at \$25. The rulemaking also covers auction advertising disclosure requirements and exemptions, requirements for posting terms and conditions of the auction and buyer premium disclosure requirements, and auctions without reserve/absolute auction advertising requirements. Associate auctioneers are required to deliver all escrow funds to their managing auctioneer within 24 hours after receiving the funds and are prohibited from maintaining special accounts. Continuing education (CE) school application forms are streamlined and obsolete submission requirements stricken. CE providers are required to notify DFPR if no more than 6 CE hours are provided in any calendar day at least 2 weeks prior to the CE course offering. The rulemaking also provides a procedure for requesting a waiver or extension of CE requirements. Since 1<sup>st</sup> Notice, DFPR has chosen to retain most of the specific information currently required on applications to restore lapsed or expired licenses, including the applicant's Social Security number, birth date, license number, and proof of

continuing education. However, applicants will no longer be required to include their employment history since the expiration of their licenses. Auctioneers and auction houses that are small businesses may be affected by this rulemaking.

Questions/requests for copies of the 2 DFPR rulemakings above: Craig Cellini, DFPR, 320 W Washington, 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813.

## **WATER TESTING FEES**

The ENVIRONMENTAL PROTECTION AGENCY adopted an amendment to "Testing Fees for Analytical Services" (35 Ill Adm Code 691; 32 Ill Reg 18916), effective 5/13/09, to update citations to the Environmental Protection Act and to correct a typographical error in the definition of "public water supply".

Questions/requests for copies: Stefanie Diers, EPA, 1021 N. Grand Avenue E., Springfield IL 62794-9276, 217/782-5544, e-mail: [stefanie.diers@illinois.gov](mailto:stefanie.diers@illinois.gov)

## POOL & SPA SAFETY

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to "Illinois Swimming Pool and Bathing Beach Code" (77 Ill Adm Code 820; 33 Ill Reg 7177), effective 5/18/09, for a maximum of 150 days. DPH plans to file a companion proposed rulemaking at a later date. The emergency rulemaking implements the federal Virginia Graeme Baker Pool and Spa Safety Act (15 USC 8001), which requires public and commercial swimming pools and spas to install protective equipment to prevent small children from becoming trapped in drains and suction outlets. Certified safety covers that do not protrude more than 2 inches from the bottom or sides of a pool are now required for suction outlets, and all vacuum outlets in pools must have covers that automatically close and latch when the vacuum hose is removed. A shut-off valve must

## New Regulations

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be installed in the piping. All suction outlet covers must be clean and free of leaves or other debris that may restrict flow, and covers that are broken or missing must be immediately replaced. The rulemaking implements other federal requirements governing the types of drainage and overflow systems permitted, the safety features required for such systems, and the size and spacing of drains. The amend-

ments also reflect changes to the Illinois Swimming Facility Act [210 ILCS 125], formerly known as the Swimming Pool and Bathing Beach Act. New statutory definitions for "spa", "swimming facility", and "swimming pool" are added, while other definitions are updated and incorporations by reference added or updated. Those affected by this rulemaking include small businesses (e.g., motels, apart-

ment complexes), small municipalities, and non-profit organizations (e.g., clubs, camps, schools) that own swimming pools or spas open to their residents, members, or the public.

Questions/requests for copies/comments: Susan Meister at the DPH address and telephone number above.

## Proposed Regulations

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tions of Schedule II drugs as classified by the federal Drug Enforcement Administration. (Schedule II includes the strongest and most potentially addictive drugs that can be legally prescribed, e.g., opium-based drugs, methadone, Ritalin, OxyContin.) These amendments expand the monitoring program to cover drugs classified as Schedule III, IV, and V. These categories include less potentially addictive drugs such as Valium, Vicodin, and cough medicine with codeine. The rulemaking also expands the list of prescribers allowed to prescribe Schedule II, III, IV, and V drugs to include DFPR-licensed optometrists, nurse practitioners, and physician assistants. Schedule III, IV and V drug prescriptions are limited to a six-month maximum time period with a maximum of 5 refills within that period, and more than one Schedule III, IV, and V drug prescription may be present on the same prescription form. The rulemaking provides detailed instructions for coding patient identification information when properly filling a prescription. Prescription dispensers are required to transmit prescription information to DHS within 7 days (currently, 15 days) after dispensing the drug, and, in addition to currently required information, the dispenser must transmit the patient's identifica-

tion, gender, and birth date. The rulemaking also establishes a prescriber and dispenser inquiry system known as the Illinois Prescription Information Library (PIL), which is a database containing 6 months of controlled substance, retail, prescription information accessible only by prescribers and dispensers for tracking patient treatment usage. Additional amendments specify who may access PIL and for what reasons and the application process for PIL user applicants. Other states may request access to this prescription monitoring program but must enter a memorandum of understanding with DHS, be approved, comply with Illinois law, and allow reciprocity. Pharmacies may be impacted by this rulemaking.

Questions/requests for copies/comments concerning the 2 DHS rulemakings above through 7/13/09: Tracie Drew, DHS, 100 S. Grand Ave. E., 3<sup>rd</sup> Fl., Springfield IL 62762, 217/785-9772.

### WEIGHTS & MEASURES

The DEPARTMENT OF AGRICULTURE proposed amendments to "Weights and Measures Act" (8 Ill Adm Code 600; 33 Ill Reg 7047) increasing fees for inspecting commercial weighing

and measuring devices, as well as fees for metrology lab services. The rulemaking creates 5 categories for scale inspection fees based on the capacity of the scales, with fees ranging from \$20 to \$200 (currently, there are 3 categories with fees of \$18 to \$186). The fee for inspecting livestock scales increases from \$186 to \$300. Fees for inspection of railroad track scales, belt conveyor scales, liquefied petroleum gas meters, grain moisture meters, and motor fuel dispensers and meters are also increasing by \$6 to \$27. Finally, the cost for laboratory services to test the accuracy of a device increases from \$140 to \$155 per hour. The same \$155 per hour fee, plus travel expenses, will be charged for on-site field lab services. (In cities that conduct their own weight and measure inspections, the city, instead of DOA, collects the fees.) Small businesses that own or operate commercial scales, meters, or fuel pumps (e.g., grain elevators, gas stations) will be affected by this rulemaking.

Questions/requests for copies/comments through 7/13/09: Linda Rhodes, DOA, State Fairgrounds, Springfield IL 62794-9281, 217/785-5713.

# The Flinn Report

# Illinois Regulation

*Illinois General Assembly*

Joint Committee on Administrative Rules  
700 Stratton Building Springfield IL 62706

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## 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 JCAR's June 16, 2009 meeting.

### DEPARTMENT OF NATURAL RESOURCES

"Dam Safety Requirements" (17 Ill Adm Code 3703) proposed 9/5/08 (32 Ill Reg 14445)

### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Pay Plan" (80 Ill Adm Code 310) proposed 4/3/09 (33 Ill Reg 4588)