

*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

### ■ MEDICAL EQUIPMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Payment (89 IAC 140; 41 Ill Reg 3098) implementing Public Act 99-895, which affects Medicaid billing for medical equipment, supplies, and prosthetic/orthotic devices. Providers of these devices or equipment must be accredited by a healthcare accrediting body approved by the federal Centers for Medicare and Medicaid Services and recognized by HFS. The web address of a site listing accrediting bodies which meet these criteria is provided in the rule. The rulemaking also establishes the Medicare rate in the year the procedure code was established, minus 6%, as the basis of the Department's fee schedule for all medical equipment and supplies. For

wheelchairs, wheelchair parts and accessories, if no rate has been established on the Department's fee schedule, the maximum payment rate will be the manufacturer's suggested retail price minus 10%. For medical equipment other than wheelchairs and for medical supplies, the maximum rate if none is listed on HFS' fee

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schedule will be the lowest of: the average suggested retail price derived from providers' catalogs and price lists; the wholesale price plus 50%; or the Medicare allowable rate. Those affected by this rulemaking include providers of medical equipment and supplies.

Questions/requests for copies/ comments through 5/1/17: Mollie

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## New Rules

### STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted an amendment to Pay Plan (80 IAC 310; 40 Ill Reg 15444) effective 3/6/17 updating the pay rate table for boiler safety specialists and boiler safety audit specialists employed by the Office of the State Fire Marshal and represented by the International Brotherhood of Boiler Makers, Iron Shipbuilders, Blacksmiths, Forgers and Helpers. The new table lists each position by region (Northern, Central or Southern), date of hiring (before or on/after 12/1/13) and whether an alternative pension formula or maximum security rate applies.

Questions/requests for copies: Jason Doggett, CMS, 504 Stratton Bldg. Springfield IL 62706, 217/782-7964, fax 217/524-4570, e-mail: [CMS.PayPlan@illinois.gov](mailto:CMS.PayPlan@illinois.gov)

**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.

# Proposed Rulemakings

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## Emergency Rule

Zito, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Floor, Springfield IL 62763-0002, 217/782-1233, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)

### ■ SALES TAXES

The DEPARTMENT OF REVENUE proposed an amendment to Retailers' Occupation Tax (86 IAC 130; 41 Ill Reg 3168) implementing 2 Public Acts. PA 99-858 provided that FDA designated Class III medical devices that are used in cancer treatment shall be taxed at the 1% rate. Grooming and hygiene products do not qualify for the 1% rate and remain taxed at the 6.25% rate. PA 99-855 makes tampons, menstrual pads and cups exempt from sales tax, beginning 1/1/17 and ending 8/18/21.

Questions/requests for copies/comments through 5/1/17: Cara Bishop, DOR Legal Services, 101 W. Jefferson St, Springfield IL 62794, 217/ 782-2844.

### ■ NUISANCE WILDLIFE

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to Nuisance Wildlife Control Permits (17 IAC 525; 41 Ill Reg 3131) to expand and further delineate practices and DNR operational procedures, more accurately reflect federal law and practices, address changes in technology and reflect this rulemaking's interaction with other Parts,

### ■ IL NATIONAL GUARD

The DEPARTMENT OF MILITARY AFFAIRS adopted a new Part by emergency rulemaking titled Illinois Manual for Courts-Martial and Nonjudicial Punishment (95 IAC 400; 41 Ill Reg 3214), effective 3/2/17 for a maximum of 150 days, implementing Public Act 99-796. This emergency rulemaking addresses non-judicial punishment for actions by members of the Illinois National Guard that do not rise to the level of court-martials. Generally, this rulemaking outlines procedures for, and limitations upon,

statute, federal regulation, etc., that may be applicable. The rulemaking changes the structure of the classification system for permits and adds Classes D and E for commercial or governmental bodies that desire to remove migratory birds.

Questions/requests for copies/comments through 5/1/17: Javonna Ackerman, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

### ■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed an amendment to Video Gaming (General) (11 IAC 1800; 41 Ill Reg 3088) requiring video gaming terminals located in licensed establishments, including licensed fraternal or veterans' establishments, to be

commanders to administer punishment that may or may not include reprimands, forfeiture of pay, extra duties, reductions in rank and physical restrictions. The Part also includes authority to administer nonjudicial punishment to ING personnel, appeal procedures, forms/recordkeeping and notifications, and other matters.

Questions/requests for copies: Col. Robert C. Roth/Lt. Col. David D. Gorman, DMA, 1301 N. MacArthur Blvd., Springfield IL 62702-2317, 217/761-3366.

placed in areas where alcoholic liquor is prepared or served, with separate seating provided for customers/members apart from seating at the video gaming terminals. Those affected by this rulemaking include taverns, restaurants, fraternal and veterans' organizations that hold liquor licenses and video gaming licenses.

Questions/requests for copies/comments through 5/1/17: Agostino Lorenzini, IGB, 160 N. La Salle St., Chicago IL 60601, fax 312/814-7253, [Agostino.lorenzini@igb.illinois.gov](mailto:Agostino.lorenzini@igb.illinois.gov)

### ■ TELECOMMUNICATIONS

The ILLINOIS COMMERCE COMMISSION proposed repeal of the Part titled Presubscription

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## Proposed Rulemakings

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(83 IAC 773; 41 IR 3081; ICC Docket 17-0062). This Part regulated the process by which long distance customers could choose a different default long distance carrier than the one preferred by their local exchange carrier. ICC also proposed amendments to Money Pool Agreements (83 IAC 340; 41 IR 3070; ICC Docket 17-0098) eliminating the requirement (a holdover from the ratemaking process) that competitive telecom providers file quarterly reports on

money pool transfers among their corporate affiliates.

### 9-1-1 SERVICE

ICC also proposed amendments to Standards of Service and Customer Credits for Electing Providers and Competitive Non-Electing Providers (83 IAC 737; 41 IR 3075; ICC Docket 17-0061) eliminating two outage reporting requirements for 9-1-1 service: outages isolating mobile switching centers from 9-1-1 services (MSCs are used by wireless telecom networks, which

are not regulated by this Part) and outages requiring the physical staffing of 9-1-1 call boxes.

Comments concerning the 3 ICC rulemakings through 5/1/17: Elizabeth Rolando, Chief Clerk, Illinois Commerce Commission, 527 East Capitol Avenue, Springfield IL 62701; 217/782-7434. Please reference the appropriate docket number. Copies of these rulemakings and related ICC documents can be found at [icc.illinois.gov](http://icc.illinois.gov).

## 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 Committee's April 4, 2017 meeting.

### IL LABOR RELATIONS BOARD

General Procedures (80 IAC 1200; 40 Ill Reg 14568) proposed 10/28/16

### DEPT OF INSURANCE

Misrepresentation and False Warranties (50 IAC 941; 40 Ill Reg 11232) proposed 8/26/16

Personal Information Privacy Protection (50 IAC 4002; 40 Ill Reg 16509) proposed 12/30/16

## JCAR Meeting Action

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At its 3/14/17 meeting, the Joint Committee on Administrative Rules approved the following actions:

### RECOMMENDATIONS

With respect to the rulemaking titled Public Information, Rulemaking and Organization (2 IAC 2375; 40 Ill Reg 15337) JCAR recommends that the State Employees Retirement System of Illinois be more timely in updating its rules to reflect statutory changes. PA 96-6, which is being implemented in this rulemaking, became effective more than 6 years before SERS proposed this rulemaking.

With respect to the rulemaking of the Department of Natural Resources titled Forestry Management Plan (17 IAC 1537; 40 Ill Reg 16680), JCAR recommends that the agency clarify in this Part which elements of the program are mandatory requirements that the agency will enforce on participants and which are merely unenforced recommendations for good forestry management.

### EXTENSION

JCAR and the Illinois Gaming Board agree to extend Second Notice for the rulemaking titled Video Gaming (General) (11 IAC 1800; 40 Ill Reg 16454) an additional 45 days.