

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 LICENSES

The DEPARTMENT OF STATE POLICE proposed a new Part titled Firearm Dealer License Certification Act (20 IAC 1232; 43 Ill Reg 9084) 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. The new Part sets forth the conditions and process for obtaining State certification of an FFL as follows.

Applications

Every FFL licensee shall file with DSP 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. DSP 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.

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 \$1,500 for initial certification and \$500 for renewal.

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New Rules

■ HOME HEALTH SERVICES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Home Health, Home Services, and Home Nursing Agency Code (77 IAC 245; 43 Ill Reg 3321), effective 8/12/19, implementing Public Act 100-536, various provisions of the Alzheimer's Disease and Related Dementias Act, and federal regulations. The rulemaking requires home health agency administrators who are physicians, registered professional nurses (RNs), or qualified to serve as public health administrators to also have at least one year of supervisory or administrative experience in home health care or in related health provider programs. Individuals who meet this experience requirement but are not physicians, registered professional nurses or public health administrators must

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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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hold at least an undergraduate degree and have experience in health service administration. The rulemaking requires home health agencies to use Quality Assessment and Performance Improvement (QAPI) programs that track measurable quality indicators (e.g. the incidence of adverse patient events). Home health aides must maintain active Certified Nursing Assistant (CNA) certification by working at least one 8-hour shift every 24 months, performing nursing or nursing-related services for pay under the supervision of a licensed nurse. Home health agencies must maintain and document an infection control program that follows accepted standards of practice and standard precautions. In addition to the on-site supervisory visits already required in rule every 2 weeks for home health aide clients and every 90 days for home service worker clients, a supervisor must make on-site visits to observe and assess each home health aide or home service worker while he or she is performing care at least once a year, or whenever an area of concern is noted. The rulemaking clarifies that home service workers (who assist with tasks such as bathing, feeding, dressing, etc., but do not administer medication or therapy) may remind clients to monitor their heart rate, blood pressure, oxygen saturation, temperature, or weight and may assist clients in the application of monitoring devices, but cannot interpret the data or take clinical action based on

monitoring results. Competency evaluations of home health aides must include infection prevention; communication skills relating to persons who are hard of hearing or have dementia or other special needs; understanding of dementia and problem solving with dementia patients who exhibit challenging behavior; and recognizing and reporting changes in skin condition. Other provisions of this rulemaking align the definition of a home services agency with current statutes; update incorporations and cross references; clarify requirements for patient transfer and discharge documentation; update information required on an agency's application for licensure; and include sanctions related to unemployment insurance or worker's compensation as grounds for adverse licensure action. Since 1st Notice, DPH has removed a provision that required written summary reports to be submitted to a patient's physician or podiatrist every 60 days. Home health care, home nursing and home services agencies are affected by this rulemaking.

Questions/requests for copies: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/785-9212, dph.rules@illinois.gov

AABD BENEFITS

The DEPARTMENT OF HUMAN SERVICES adopted an amendment to Aid to the Aged, Blind or Disabled (89 IAC 113; 43 Ill Reg 4054), effective 8/9/19, replacing an emergency

amendment that was effective 3/20/19. The rulemaking clarifies that non-U.S. citizens whose deportation was withheld indefinitely under provisions of the federal Immigration and Naturalization Act (INA) that have been in effect since 9/30/96 are eligible for AABD. Previously, only the version of INA in effect before 9/30/96 had been cited in the rule.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

ELECTRIC SUPPLIERS

The ILLINOIS COMMERCE COMMISSION adopted an amendment to 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), effective 8/12/19, concerning information provided to customers and to ICC by alternative retail electric suppliers (ARES) and electric utilities. The rulemaking clarifies that a retail electric supplier does not need to file an annual report of energy purchased from a clean coal facility if it did not purchase energy from a facility meeting the criteria of the Illinois Power Agency Act.

Questions/requests for copies: Brian W. Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/558-2387.

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Total fees for certification of multiple licenses (e.g., retail stores at different locations) to a single applicant cannot exceed \$40,000. Initial certification fees for new applicants shall be prorated based on the number of months remaining on the applicant's current FFL. An overpayment 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) must allow inspection of their place of business by DSP 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 DSP 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 DSP in writing of its hours of operation.

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 24/7 closed circuit video surveillance system in place. The system must monitor all entrances and exits, parking areas, alleys adjacent to the building, and any inside areas (including areas not open to customers) where firearms are stored, displayed, handled, sold or transferred. Cameras must operate in a manner that permits facial recognition of anyone entering or leaving the retail location and that records license plates of vehicles in the parking area. Video recording systems shall be digital, include date and time stamps, and be able to alert the CL of any failure in the system. Security videos must be kept for at least 90 days (longer if needed to investigate a loss/theft of inventory or other incident) and must be backed up offsite via a server or cloud storage.

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. 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 DSP or local law enforcement upon request.

Storage

CLs with retail locations must develop and submit to DSP (using

a form and method provided on the Department's website) their written and detailed plans for safe storage of firearms and ammunition during retail hours, after closing, and in the event of a disaster. Storage procedures must include: keeping all inventoried firearms in a safe, vault, secured room or locked display and in a location accessible only to specifically authorized personnel; insuring that all keys, lock combinations, passwords or other security measures are accessible only to specifically authorized personnel; keeping ammunition stored separately from the firearms inventory and out of the reach of customers; and taking a complete firearms inventory, conducted by at least two persons, at least once per quarter. 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 DSP.

Signage

Each location where a CL conducts business must post two signs (templates are provided in the rule and at DSP'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 the following actions are unlawful: storing or leaving unsecured firearms where children can access them, selling or transferring firearms to someone else without

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Proposed Rulemakings

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receiving approval from DSP, and failing to report the loss or theft of a firearm to local law enforcement within 72 hours.

Training

Every CL and employees who sell or transfer firearms must complete DSP-approved training 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 DSP verifying that the licensee and any applicable employees have completed this training.

Penalties and Appeals

Disciplinary actions for violations of the Act or this Part may include a reprimand, refusal to renew or restore a certification, or suspension or revocation of license certification. A fine may also 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 by which DSP will notify CLs of violations and for CLs to request hearings or appeals are included in the Part.

Questions/requests for copies/comments through 10/7/19: Matthew R. Rentschler, DSP, 801 S. Seventh St., Suite 1000-S, Springfield IL 62703, 217/782-7658.

TAXES

The DEPARTMENT OF REVENUE proposed amendments to Uniform Penalty and Interest (86 IAC 700; 43 Ill Reg 9010) implementing various amendments to the Uniform Penalty and Interest Act [35 ILCS 735]. The rulemaking adds definitions of terms such as “accelerated tax payment”, “final assessment”, and “unprocessable return”; adds and clarifies examples; and clarifies the periods to which various interest rate and penalty calculations for late payments, etc. apply. Those affected by this rulemaking include individuals or businesses with late tax payments or that have incurred interest and penalties on Illinois tax liabilities.

Questions/requests for copies/comments through 10/7/19: Brian Fliflet, DOR, 101 W. Jefferson St., MC 5-500, Springfield IL 62794, 217/782-2844.

JUVENILE FACILITIES

The DEPARTMENT OF JUVENILE JUSTICE proposed amendments to the Parts titled School District #428 (20 IAC 2405; 43 Ill Reg 8964), Chaplaincy Services and Religious Practices (20 IAC 2425; 43 Ill Reg 8977), Volunteer Services (20 IAC 2435; 43 Ill Reg 8992) and Personal Property (20 IAC 2535; 43 Ill Reg 8999), updating various policies and reflecting the separation of DJJ from the adult Department of Corrections. Amendments to Part 2405 remove references to DOC and adult educational

programming; change “vocational” to “career and technical” education; and change “committed person” to “committed youth”. Provisions requiring committed persons to pay the cost of courses required to earn a degree are also being removed, since DJJ does not seek reimbursement. The Part 2425 rulemaking generally allows committed youth to attend activities of religions other than their own faith unless the youth center chaplain determines that the request is not operationally feasible. Provisions for a Religious Practice Advisory Board are repealed and decisions regarding religious practice (e.g., individual requests for dietary, clothing or other accommodations) are left to the center director. The director shall confer with faith representatives on matters such as religious grievances, requests for accommodation, requests for activities not currently offered, and issues involving training, screening or reimbursement of religious volunteers. Amendments to Part 2435 remove a provision subjecting volunteer service applicants to drug testing. Finally, the Part 2535 rulemaking removes a provision denying access to audio-visual equipment to youth in confinement for disciplinary violations.

Questions/requests for copies/comments on the 4 DJJ rulemakings through 10/7/19: Lindsay M. Bentivegna, DJJ, 2715 W. Monroe St., Springfield IL 62704, 217/557-1030, DJJ.Rules@illinois.gov

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 September 17, 2019 JCAR 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.

IL EMERGENCY MANAGEMENT AGENCY

Development, Annual Review, Coordination of Chemical Safety Contingency Plans (29 IAC 610; 43 Ill Reg 6700) proposed 6/7/19

DEPT OF PUBLIC HEALTH

Practice and Procedure in Administrative Hearings (77 IAC 100; 43 Ill Reg 7099) proposed 6/21/19

Joint Committee on Administrative Rules

Senator Don Harmon, *co-chair*

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**Vicki Thomas
Executive Director**