

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

■ LIQUOR SALES

ILLINOIS LIQUOR CONTROL COMMISSION proposed amendments to the Part titled The Illinois Liquor Control Commission (11 IAC 100; 38 Ill Reg 19615) concerning sales and returns of alcohol products among manufacturers, distributors, and retailers. The rulemaking prohibits manufacturers and distributors from making consignment sales or conditional sales in which the retailer is not obligated to pay for the product until it has been sold. Products delivered or sold to a retailer may not be replaced free of charge unless there is a bona fide business reason for replacement of a damaged or defective product. The rulemaking specifies the conditions under which alcohol products can and cannot be returned to the distributor or manufacturer due to

breakage or damage and lists acceptable "ordinary and usual" commercial reasons for returning alcohol products (e.g., errors in delivery, termination of business or franchise, a change in product composition or formula). Returns due to overstocking, slow sales, or limited or seasonal demand are specifically excluded from the

Emergency and Peremptory Rules, page 2

list of acceptable commercial reasons for returning an alcohol product. Liquor manufacturers, distributors, and retailers will be affected by this rulemaking.

Questions/requests for copies/comments through 11/24/14: Richard Haymaker, ILCC, 100 W. Randolph St., Suite 7-801, Chicago IL 60601, 312/814-1804.

(cont. page 4)

New Rules

■ PHYSICAL THERAPY

DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Illinois Physical Therapy Act (68 IAC 1340; 37 Ill Reg 19767) effective 10/10/14, concerning licensing requirements for physical therapists and physical therapy assistants. Applicants for licensing as physical therapists or physical therapy assistants will no longer need to achieve a grade of C or better in a course to qualify for credit. For all licensing applicants who graduated from programs outside of the United States, the Test of Spoken English (TSE) will no longer be accepted, and exam results from the Test of English as a Foreign Language (TOEFL) are no longer accepted for physical therapy assistant license applicants. Complete

(cont. page 3)

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.

Emergency Rules

MEDICAL ASSISTANCE

DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to Special Eligibility Groups (89 IAC 118; 38 Ill Reg 19799), effective 10/1/14 for a maximum of 150 days. The amendment implements a provision of Public Act 98-651 that authorizes medical assistance coverage of kidney transplants for non-U.S. citizens who are already receiving limited medical assistance coverage for dialysis; do not qualify for coverage under any other government-funded or private health insurance plan; meet Illinois residency requirements; and would otherwise qualify for medical assistance based on income, assets and other eligibility criteria. Transplants must be pre-certified and determined to be medically necessary. Payment to the provider shall be at a single bundled rate which covers the surgery and all associated services. Immunosuppressant drugs must be acquired through a provider approved by HFS specifically for this program and HFS will reimburse for these drugs separately. Hospitals that offer kidney transplant services may be affected.

Questions/requests for copies: Jeanette Badrov, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, 217/782-1233, HFS.Rules@illinois.gov

9-1-1 SYSTEM GRANTS

ILLINOIS COMMERCE COMMISSION adopted emergency amendments to Administration of Funds Created by the Wireless Emergency Telephone Safety Act (83 IAC 729; 38 Ill Reg 19792), effective 10/1/14 for a maximum of 150 days. A companion proposed amendment appears in this week's *Illinois Register* at 38 Ill Reg 19585. Both rulemakings implement Public Act 98-634, which requires emergency telephone systems boards or governmental entities that receive grants from the Wireless Service Emergency Fund (supported by customer surcharges collected by phone providers) to file initial financial reports with ICC by 10/1/14. The emergency rule gives ICC authority to withhold grants from noncompliant providers that fail

to file financial reports by the statutory deadline or file reports that are not in the manner and form prescribed by ICC. Grants may be withheld until the provider complies, or if the provider does not comply within 12 months, forfeited and awarded to compliant providers. The proposed rulemaking includes these provisions plus other provisions for fund administration, collection and distribution. Telephone service providers and local governments may be affected.

Questions/requests for copies/comments on the proposed rulemaking through 11/24/14: Elizabeth Rolando, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434. Copies of the emergency rule: Brian W. Allen, same address, 217/558-2387, fax 217/524-8928.

Peremptory Rules

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to Pay Plan (80 IAC 310; 38 Ill Reg 19086) effective 9/26/14. The amendments implement a memorandum of understanding with the Illinois Nurses Association that assigns a bargaining unit pay grade to the Corrections Nurse Trainee title and corrects erroneous pay rates that were effective 7/1/14 for other titles represented by the INA.

Questions/requests for copies: Jason Doggett, CMS, 504 Stratton Bldg., Spfld IL 62706, 217/782-7964, CMS.PayPlan@illinois.gov

SNAP ELIGIBILITY

DEPARTMENT OF HUMAN SERVICES adopted peremptory amendments to Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 38 Ill Reg 19831), effective 10/1/14, that implement federal fiscal year

(cont. page 3)

New Rules

(cont. from page 1)

work histories are no longer required for initial licensing applicants or for an endorsement for a person licensed in another jurisdiction. The fee for restoring a license is raised from \$20 to \$50. A licensee who is restoring his/her license must complete the required continuing education (CE) in the 24 months preceding restoration. Beginning with the September 2016 renewal for therapists and the September 2017 renewal for assistants, 3 hours of CE must be in ethics. Five hours of CE may be in skill certification with up to 2 hours in CPR and up to 3 hours in Basic Life Support for Healthcare Providers, Advanced Cardiac Life Support or Pediatric Advanced Life Support. The Federation of State Boards of Physical Therapy is being added as an approved CE sponsor and the American Physical Therapy Association's Code of Ethics is being updated to the July 2010 edition. Since 1st Notice, DFPR restored language (originally proposed to be stricken) that

allows both physical therapy and physical therapy assistant applicants to receive credit for courses graded lower than C. Also, DFPR clarified the amount of time an applicant has to take an examination and removed a provision that excluded training completed as a condition of employment from CE credit. Those affected by this rulemaking include physical therapists, physical therapy assistants, their employers and entities that train therapists.

■ SHORTHAND REPORTERS

DFPR also adopted amendments to the Part titled Illinois Certified Shorthand Reporters Act of 1984 (68 IAC 1200; 38 Ill Reg 10510), effective 10/10/14, increasing the restoration fee from \$10 to \$50, clarifying that applicants who fail a part of the shorthand reporter exam have 3 years to retake that portion, and increasing the time notes or transcripts must be retained from 5 to 10 years. The rulemaking repeals the requirement that the

Certified Shorthand Reporters Board must file an annual report, updates continuing education hours for writing articles to 2.5 – 5 hours of credit, and allows 2.5 hours of CE credit for passage of one of the following exams: Registered Merit Reporter, Certified Realtime Reporter, Certified Communication Access Realtime Translation Provider, Certified Broadcast Captioner, or Registered Diplomate Reporter. Shorthand reporters and their employers may be affected by this rulemaking.

Questions/requests for copies of the 2 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ PLUMBING LICENSES

DEPARTMENT OF PUBLIC HEALTH adopted amendments to Plumbers Licensing Code (68 IAC 750; 38 Ill Reg 8700) effective 9/23/14, implementing changes recommended by the Plumbing Code Advisory Council. The rulemaking increases examination and licensure fees and adds a new Section containing referenced materials. Changes since 1st Notice allow licensed plumbers who perform plumbing inspections for a unit of local government but have not yet met the requirements of Part 750 to continue to provide inspection services for up to 6 months after 10/1/14, after which they must meet the certification

(cont. page 5)

Peremptory Rules

(cont. from page 2)

2015 cost of living adjustments issued by the U.S. Department of Agriculture's Food and Nutrition Service. The peremptory rule increases maximum gross and net income standards, asset limits, the maximum shelter deduction, standard deduction by household size, and maximum benefit amounts.

Allowances for utilities are also increased, except for the air conditioning/heating allowance, which is reduced from \$380 to \$370 per month.

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

Proposed Rulemakings

(cont. from page 1)

■ MEDICAL STUDENT LOANS

DEPARTMENT OF PUBLIC HEALTH proposed a new Part titled Student Loan Repayment Program Code (77 IAC 582; 38 Ill Reg 19623) implementing rules for management and oversight of a federal student loan repayment program for health professionals who agree to work in underserved areas. The program is open to Illinois-licensed physicians, physician assistants, advanced practice nurses, certified nurse midwives, dentists, and psychiatrists. Participants must agree to 2 years of full-time service or 4 years of part-time service at a qualifying medical facility located in a Health Professional Shortage Area designated by the federal

Department of Health and Human Services. The rulemaking includes eligibility criteria for individuals and medical facilities to participate in the program; stipulations for a loan repayment agreement; and conditions for suspension or termination of a repayment agreement and payment of the remaining loan obligation. Health professionals and their employers may be affected by this rulemaking.

Questions/requests for copies/comments through 11/24/14: Susan Meister, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ ELEVATOR SAFETY

ELEVATOR SAFETY REVIEW BOARD proposed amendments

to Illinois Elevator Safety Rules (41 IAC 1000; 38 Ill Reg 19601) updating nationally recognized safety standards that are incorporated by reference in this Part. The rulemaking also requires inspector licensees to be certified by a nationally or internationally recognized independent organization as having met American Society of Mechanical Engineers (ASME) elevator inspector standards. Businesses and municipalities that have installed elevators or employ elevator inspectors or repair personnel will be affected by this rulemaking.

Questions/requests for copies/comments through 11/24/14: Bob Capuani, Elevator Safety Division, Office of the State Fire Marshal, 100 W. Randolph St., Suite 4-600, Chicago IL 60601, 312/814-8734.

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The Department of Insurance and Illinois Emergency Management Agency rulemakings will be considered at the Committee's October 14, 2014 meeting, while the Illinois Liquor Control Commission rulemaking will be considered at JCAR's November meeting (tentatively scheduled for November 19).

DEPT OF INSURANCE

Worker's Compensation Rate and Manual Filing (50 IAC 2902) proposed 6/27/14
(38 Ill Reg 13139)

ILLINOIS EMERGENCY MANAGEMENT AGENCY

Emergency and Written Notification of an Incident or Accident Involving a Reportable Hazardous Substance (29 IAC 430) proposed 8/15/14 (38 Ill Reg 17174)

ILLINOIS LIQUOR CONTROL COMMISSION

The Illinois Liquor Control Commission (11 IAC 100) proposed 8/8/14 (38 Ill Reg 16634)

New Rules

(cont. from page 3)

requirements in this Part. Also, DPH will schedule plumbing inspector certification examinations whenever it has sufficient applicants to warrant doing so (formerly, in May and November each year). Plumbers, plumbing apprentices and plumbing inspectors are affected.

Questions/requests for copies: Susan Meister, DPH, 535 W. Jefferson St., 5th Flr., Springfield IL 62761, 217/782-2043.

EDUCATOR EVALUATIONS

STATE BOARD OF EDUCATION adopted amendments to Evaluation of Certified Employees under Articles 24A and 34 of the School Code (23 IAC 50; 38 Ill Reg 8682) effective 9/29/14. The amendments require districts receiving Race to the Top funds (in addition to those receiving Title I school improvement grants) to implement a performance evaluation plan for teachers; use the average composite State assessment results from 2011 through 2013 (formerly, Spring 2014) to determine districts' student performance rankings; and make technical changes reflecting the shift from teacher certification to educator licensure.

Questions/requests for copies: Jason Helfer, SBE, 100 N. First St., Springfield IL 62777, 217/557-6763.

BILINGUAL EDUCATION

SBE also adopted amendments to Transitional Bilingual Education (23 IAC 228; 38 Ill Reg 11459) effective 9/29/14. The rulemaking incorporates by reference English language development standards for early childhood education, updates incorporations for the two prescribed screening instruments for assessment of bilingual education students' English language proficiency and requires transitional programs of instruction to include native language support when necessary. The rulemaking also requires school districts offering bilingual education or English as a Second or New Language (ESL or ENL) in a preschool setting to ensure that by 7/1/16 all educators assigned to teach them meet State requirements for bilingual education or ESL/ENL (as applicable). Districts not meeting this standard in the 2014-2015 and 2015-2016 school years must submit a plan to SBE describing past and current efforts to hire qualified educators and how they will meet the needs of English language learners in the absence of qualified staff. Since 1st Notice, SBE has added a definition of "school district" and clarified provisions for part-time placement of students, circumstances under which districts may limit native language instruction, and staffing plans for districts unable to hire fully qualified staff.

Questions/requests for copies: David Nieto Gonzalez, SBE, 100 W. Randolph, Suite 14-300, Chicago IL 60602, 312/814-3850.

TOLL HIGHWAYS

ILLINOIS STATE TOLL HIGHWAY AUTHORITY adopted amendments to State Toll Highway Rules (92 IAC 2520; 38 Ill Reg 13843) effective 9/25/14, increasing the time to pay tolls, fees and fines after a final order is entered from 14 calendar days to 30 calendar days. The time to respond to a certified report of pending suspension or a claim of immobilization, tow or impoundment is being increased from 21 days to 30 days. Since 1st Notice, ISTHA removed a provision that would have lowered the minimum truck length that requires a permit from 80 feet to 53 feet.

Questions/requests for copies: David A. Goldberg, ISTHA, 2700 Ogden Ave., Downers Grove IL 60515, 630/241-6800.