

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.

New Rules

■ OPTOMETRISTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Optometric Practice Act of 1987 (68 IAC 1320; 41 Ill Reg 5754), effective 9/8/17, implementing changes in federal and state law and in continuing education (CE) requirements. With regard to the general prohibition against optometrists prescribing Schedule II controlled substances, the rulemaking makes one exception: optometrists may prescribe dihydrocodeinone (hydrocodone) with one or more active, non-narcotic ingredients in a quantity sufficient to provide treatment for no more than 72 hours. Provisions for a one-year residency license (abolished by Public Act 99-43) and a requirement of current certification in cardiopulmonary

resuscitation (CPR) are removed. Optometrists must keep records of patients examined in residential care facilities such as nursing homes at both the facility and at the optometrist's office. Other changes adjust the maximum allowable CE credit for various activities (e.g., publishing research papers), require optometrists and their CE

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sponsors to maintain their CE certificates and records for 6 years (formerly 5 years), and amend requirements for out of state CE courses and licensure by endorsement of applicants from outside Illinois. Optometrists and their employers are affected by this rulemaking.

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Proposed Rulemakings

■ MANUFACTURED HOMES

The SECRETARY OF STATE proposed amendments to Dealers, Wreckers, Transporters and Rebuilders (92 IAC 1020; 41 Ill Reg 11263) requiring licensed manufactured home dealers and community-based manufactured home dealers to maintain an "established place of business" with an office in a permanent building on a fixed foundation (not a moveable trailer). The office must have its name posted on the front entrance door; include all necessary office equipment, machines and records; have an operating telephone with a number published online or in a telephone directory; and maintain regular hours with at least one employee on site a minimum of 3 days a week for community-based manufactured

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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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■ FUNERAL DIRECTORS

DFPR also adopted amendments to Funeral Directors and Embalmers Licensing Code (68 IAC 1250; 41 Ill Reg 5114) effective 9/8/17. This rulemaking amends internship requirements for funeral directors and embalmers, specifically, by addressing late intern case reports and clarifying timing for repeat intern applicants to avoid conflict with the statutory requirement that intern licenses cannot be renewed more than twice. Applications for a funeral director and embalmer license must include a statement of the place of practice, ownership, names and license numbers of all funeral directors and embalmers associated with the applicant. Other provisions require preparation rooms to include running water and electricity; clarify continuing education requirements; eliminate a \$50 fee for replacement licenses (which DFPR no longer issues); and make other technical and clarifying changes. Funeral directors and embalmers and persons applying to enter these professions are affected by this rulemaking.

■ MORTGAGE LENDERS

DFPR adopted amendments to Residential Mortgage License Act of 1987 (38 IAC 1050; 41 Ill Reg 5061), effective 8/28/17, repealing Sections that conflict with current statutes;

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted peremptory amendments to Pay Plan (80 IAC 310; 41 Ill Reg) effective 8/25/17, implementing recent memoranda of agreement with 13 trade unions representing various State employees whose pay is based on prevailing wages. The peremptory rule implements fiscal year 2018

implementing federal regulations regarding consumer/borrower notices, disclosures, loan estimates and payoff statements; allowing for electronic means of recordkeeping and issuing surety bonds; and repealing obsolete provisions for registration of mortgage loan originators (who are now required to be licensed). DFPR also adopted amendments to Sales Finance Agency Act (38 IAC 160; 41 Ill Reg 5022), and Illinois Credit Union Act (38 IAC 190; 41 Ill Reg 5041) effective 8/28/17, repealing obsolete provisions for high-risk home loans. Mortgage lenders and applicants may be affected by these rulemakings.

FINANCIAL INSTITUTIONS

Finally, DFPR adopted an amendment to Minimum Organizational Capital Requirements for Banks and Trust Companies (38 IAC 310; 41

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Ill Reg 4866) and repealed 4 Parts: Reverse Mortgage Loans (38 IAC 300; 41 Ill Reg 4862), High Risk Home Loans (38 IAC 345; 41 Ill Reg 4870), Predatory Lending Database (38 IAC 346; 41 Ill Reg 4890) and Savings Bank Act (38 IAC 1075; 41 Ill Reg 4899), all effective 8/28/17. The Part 310 rulemaking removes a Section that simply cross-references other rules. The repealers eliminate rules that are outdated, no longer have statutory authority or duplicate other rules.

Questions/requests for copies: Jason Doggett, CMS, 503 Stratton Bldg., Springfield IL 62706, 217/524-1055, fax 217/558-4497, CMS.PayPlan@illinois.gov

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Questions/requests for copies of the 10 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

DOI REPEALERS

The DEPARTMENT OF INSURANCE repealed 4 obsolete

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Proposed Rulemakings

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home dealers, or 5 days a week for other manufactured home dealers. Dealers that operate less than 12 months per calendar year must state on their license applications the months in which they are closed, and must also post their months of closure in the dealership office. Lots or other facilities where manufactured homes are displayed must be separate from other businesses not related to the sale of these homes, must be properly illuminated and must display visible signs. Other provisions in this rulemaking address supplemental lots (license fee of \$12.50 or \$25), trade shows, display exhibitions and off site sales. Violations of these rules or other applicable provisions of the Illinois Vehicle Code are subject to administrative citations with a \$50 fine per violation; the recipient of a citation has 90 days to appeal. Manufactured home communities and manufactured home dealers are affected by this rulemaking.

Questions/requests for copies/comments through 10/23/17: Carrie Leitner, SOS, 302 Howlett Bldg., Springfield IL 62756, 217/782-1947.

TOLLWAY RULES

The ILLINOIS STATE TOLL HIGHWAY AUTHORITY proposed amendments to State Toll Highway Rules (92 IAC 2520; 41 Ill Reg 11225) increasing speed limits on portions of the Jane Addams Memorial Tollway

(I-90) and providing that I-PASS customers will be charged for V-Tolls (video tolls incurred when a driver passes through a toll collection point without a functioning transponder) at the discounted I-PASS rate for the first 10 or fewer V-Tolls in a calendar month and at the cash rate for 11 or more V-Tolls in a calendar month.

Questions/requests for copies/comments through 10/23/17: Elizabeth Oplawski, ISTHA, 2700 Ogden Ave., Downers Grove IL 60515.

STATE CONTRACTS

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to Business Enterprise Program: Contracting with Businesses Owned and Controlled by Minorities, Females and Persons with Disabilities (44 IAC 10; 41 Ill Reg 11026) concerning procurement procedures for State agencies and higher education institutions under the Business Enterprise Program (BEP). A new Subpart establishes procedures for collecting evidence of past or present racial, gender or disability-based discrimination in awarding State contracts and for establishing narrowly tailored sheltered markets to address this discrimination. Other amendments increase the certification period from 5 to 7 years, require a faster response to requests for information from businesses that wish to participate in the program, and

direct reconsideration of denied contracts to the BEP Council Certification Committee (rather than to the BEP Secretary). Businesses that seek State contracts and are owned by minorities, females or persons with disabilities are affected by this rulemaking.

Questions/requests for copies/comments through 10/23/17: Benjamin G. Jones, CMS, 100 W. Randolph, Suite 4-500, Chicago IL 60601, 312'814-4689, fax 312/814-0911, e-mail: benjamin.jones@illinois.gov

STATE VEHICLES

CMS also proposed an amendment to State Vehicles and Garage (44 IAC 5040; 41 Ill Reg 11042) allowing State agencies to directly pay unpaid traffic tickets incurred by an employee while driving a State-owned or leased vehicle if it is impossible or unlikely that the employee will pay the ticket. The rulemaking also requires employees who receive traffic tickets while driving State vehicles to immediately report the ticket to the appropriate agency contact person; failure to do so may result in disciplinary action.

Questions/requests for copies/comments through 10/23/17: Kelly Weston, CMS, 720 Stratton Bldg., Springfield IL 62706, 217/524-7518, fax 217/558-2697.

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New Rules

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Parts: Reinsurance Ceded Contracts (50 IAC 1101; 41 Ill Reg 4925), Security Valuation Reserve (50 IAC 1401; 41 Ill Reg 4928), Actuarial Opinion and Memorandum (50 IAC 1408; 41 Ill Reg 4931), and Explanation of Special and Contingency Reserves (50 IAC 1701; 41 Ill Reg 4957) all effective 8/25/17. These Parts implement portions of the Illinois Insurance Code that have since been repealed or replaced, or concern insurance industry procedures and standards that are no longer used.

Questions/requests for copies of the 4 DOI rulemakings: Sara Ross, DOI, 320 W. Washington St.,

Springfield IL 62767, 217/782-9760.

ICCB REPEALERS

The ILLINOIS COMMUNITY COLLEGE BOARD repealed the Parts titled State Community College of East St. Louis (23 IAC 1600; 41 Ill Reg 5709) and Public Information, Rulemaking and Organization (2 IAC 5100; 41 Ill Reg 5690) and adopted amendments to the Part titled Administration of the Illinois Public Community College Act (23 IAC 1501; 41 Ill Reg 5698), all effective 8/28/17, to remove obsolete organizational rules for the defunct State Community College of East St. Louis (replaced in 1996 by the

Metropolitan Community College District, which was dissolved in 1999).

Questions/requests for copies of the 3 ICCB rulemakings: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217/785-7411, fax 217/524-4981, e-mail: Matt.berry@illinois.gov

JCAR MEMBERSHIP CHANGE

JCAR welcomes returning member Sen. Pamela Althoff, R-McHenry, who previously served on JCAR from January 2011 to November 2015. She replaces Sen. Bill Brady, R-Bloomington.

Proposed Rulemakings

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■ WATER QUALITY

The POLLUTION CONTROL BOARD proposed amendments to Regulatory Relief Mechanisms (35 IAC 104; 41 Ill Reg 11236) implementing Public Act 99-937, which allows PCB to issue time limited water quality standards (TLWQS) that enable compliance with federal regulations without placing an undue burden upon petitioners for regulatory relief. The rulemaking establishes procedures under which a single discharger or multiple dischargers may apply for a TLWQS, or a TLWQS may be adopted for a particular body of water or watershed. Procedures for petitions, public hearings, stays of enforcement, adoption of

a Board opinion and order, and other aspects of the TLQWS process are included.

Questions/requests for copies/comments through 10/23/17: Clerk's Office, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-3620. Please reference Docket R18-18. Copies of the Board's opinion and order can be downloaded from the PCB website at www.ipcb.state.il.us. Comments can also be filed electronically through the Clerk's Office On-Line at the PCB website.

IEPA REPEALERS

The ILLINOIS ENVIRONMENTAL PROTECTION AGENCY proposed repeal of 3 Parts titled

Procedures for Providing Financial Assistance From the Water Pollution Control Loan Program Under the American Recovery and Reinvestment Act of 2009 (35 IAC 369; 41 Ill Reg 11047), Combined Sewer Overflow Exception Criteria and First Flush Determination (35 IAC 375; 41 Ill Reg 11129) and Procedures for Providing Financial Assistance From the Public Water Supply Loan Program Under the American Recovery and Reinvestment Act of 2009 (35 IAC 664; 41 Ill Reg 11145). Parts 369 and 664 are being repealed since the ARRA (federal stimulus) loan program has been discontinued; Part 375 is being repealed because IEPA

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Proposed Rulemakings

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no longer accepts petitions for combined sewer overflow exceptions.

Questions/requests for copies/comments on the 3 IEPA rulemakings through 10/23/17: Sara Terranova, IEPA, 1021 N. Grand Ave. East, P. O. Box 19276, Springfield IL 62794-9276, 217/7 8 2 - 5 5 4 4 , sara.terranova@illinois.gov

DonA RULE WITHDRAWAL

The DEPARTMENT ON AGING has withdrawn a proposed new Part titled Community

Reinvestment Program (CRP) (89 IAC 237; 41 Ill Reg 3503) as well as proposed amendments to Community Care Program (89 IAC 240; 41 Ill Reg 3584), both published in the 3/31/17 *Illinois Register*. These rulemakings would have established a new program for non-Medicaid-eligible senior citizens currently served by the Community Care Program. DonA states that it withdrew these rules because no funding for the CRP was provided in the State's budget.

DOI RULE WITHDRAWAL

The DEPARTMENT OF INSURANCE withdrew proposed

amendments to Insurance Department Consumer Complaints (50 IAC 926; 40 Ill Reg 16499) that were published in the 12/30/16 *Illinois Register*. The rulemaking would have permitted DOI to share information related to a complaint against an insurer or insurance producer with criminal justice/law enforcement agencies or other governmental agencies if DOI found that the reported conduct may be in violation of other laws or regulations. DOI states that it is currently considering statutory measures that would make much of the proposed rulemaking redundant.

Second Notice

The following rulemaking was moved to Second Notice this week by the agency listed below, commencing the JCAR review period. This rulemaking will be considered at the Committee's September 12, 2017 meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning this rulemaking should be addressed to JCAR using the contact information on page 1.

DEPT OF REVENUE

Income Tax (86 IAC 100; 41 Ill Reg 7790) proposed 7/7/17

Joint Committee on Administrative Rules

Senator Pamela Althoff
Senator Karen McConnaughay
Senator Don Harmon
Senator Tony Muñoz
Senator Ira Silverstein
Senator Chuck Weaver

Representative Peter Breen
Representative Tom Demmer
Representative Greg Harris
Representative Lou Lang
Representative André Thapedi
Representative Keith Wheeler

Vicki Thomas
Executive Director