

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

■ DCFS APPEALS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to Appeals of Child Abuse and Neglect Investigation Findings (89 IAC 336; 40 Ill Reg 16013), effective 12/6/17, clarifying and updating administrative appeal processes for child care workers and others whom DCFS investigates for alleged child abuse or neglect. The rulemaking provides for an expedited appeal process for alleged perpetrators who are child care workers, or are awaiting licensure as a child care worker. A child may participate in and be heard in an appeal hearing, through the child's attorney or guardian ad litem, if the child is the victim named in the report that is the subject of the hearing, or if the child is the subject of a juvenile court proceeding. DCFS shall provide

written notification to the perpetrator of its final findings in any investigation and provide instructions for requesting an appeal of an "indicated" finding (that abuse/neglect did occur). Finally, the rulemaking provides that, when criminal court or juvenile court action is pending that concerns the actions that gave rise to an indicated report, the 60-day period for requesting an administrative appeal hearing on the indicated finding will not begin until the court action is concluded. Since 1st Notice, DCFS has clarified that the definition of a child care worker under this Part includes full-time nannies and anyone employed full- or part-time at a child care facility, child welfare agency, school, before/after school program, recreational program or summer camp; retained the definition of "credible evidence";

(cont. page 2)

Emergency Rulemaking

■ SEXUAL HARASSMENT

The SECRETARY OF STATE adopted an emergency amendment to Lobbyist Registration and Reports (2 IAC 560; 41 Ill Reg 15373) effective 12/8/17 for a maximum of 150 days, implementing Public Act 100-554. An identical proposed amendment appears in this week's *Illinois Register* at 41 Ill Reg 15222). The emergency rule implements the PA's definition of and prohibition against sexual harassment, requires lobbyists' employers to adopt (by 1/1/18) and maintain written sexual harassment policies, and requires the employer to insure that lobbyists receive copies of these policies. Employers also must recognize the authority of the SOS Inspector General to investigate and review any complaints concerning sexual

(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.

New Rules

(cont. from page 1)

allowed documents, as well as witnesses, to be subpoenaed; and clarified that agencies, as well as individuals, may appeal indicated findings. Child care workers, facilities, and agencies may be affected by this rulemaking.

Questions/requests for copies: Jeff Osowski, DCFS, 406 E. Monroe St., Station #65, Springfield IL 62701-1498, 217/524-1983, TDD: 217/524-3715, fax 217/557-0692, e-mail: CFPolicy@idcfs.state.il.us

ELDER SERVICES

The DEPARTMENT ON AGING adopted amendments to Community Care Program (89 IAC 240; 41 Ill Reg 3251) effective 1/1/18, concerning aspects of the program's automated medication dispenser (AMD) service. The rulemaking simplifies the minimum equipment specifications for AMD services and eliminates a fixed reimbursement rate for emergency home response services and AMD services furnished by the same provider. DonA states that these amendments are intended to encourage qualified providers to offer AMD services, since the CCP currently has no certified AMD providers.

Questions/requests for copies: Tracey Trigillo, DonA, One Natural Resources Way #100, Springfield IL 62702-1271, 217/785-3346.

MOTORCYCLE SAFETY

The DEPARTMENT OF TRANSPORTATION adopted amendments to the Part titled Illinois Cycle Rider Safety Training Program (92 IAC 455; 41 Ill Reg 10879), effective 12/5/17, that remove references to the IDOT Division of Traffic Safety (which was dissolved in 2016), remove regional centers no longer in operation (Northern Illinois University, De Kalb, and Illinois State University, Normal), add a new regional center (Harper College, Schaumburg), and realign the assignment of some counties to regional centers. The rulemaking also updates the program's mailing address, corrects a website address and updates documents incorporated by reference. Changes since 1st Notice update incorporated federal regulations to October 2017 and replace originally proposed rules regarding retention of records with a statement that all such records are subject to the State Records Act. Participants and instructors of the Cycle Rider Safety Training Program are affected.

Questions/requests for copies: Greg Stucka, DOT, 2300 S. Dirksen Pkwy., Rm. 317, Springfield IL 62764.

HEALTH CARE WORKERS

The HEALTH FACILITIES AND SERVICES REVIEW BOARD adopted amendments to Health Care Worker Self-Referral (77 IAC

1235; 41 Ill Reg 6317), effective 12/5/17, that revise exception application review procedures when determining if all required information has been submitted within 10 days of receiving the application for an exception (from HFSRB rules that, generally, forbid health care workers from referring patients to other health facilities in which the worker has an investment interest). If additional information was requested and submitted, Board staff will re-evaluate the application for completeness. Applications for exceptions that are not complete within 30 days of being deemed incomplete will be considered null and void and withdrawn.

Questions/requests for copies: Jeannie Mitchell, HFSRB, 69 W. Washington Street, Suite 3501, Chicago IL, 60602, 312/814-2678, e-mail: Jeannie.Mitchell@illinois.gov.

UNIVERSITIES RETIREMENT

The STATE UNIVERSITIES RETIREMENT SYSTEM adopted amendments to Universities Retirement (80 IAC 1600; 41 Ill Reg 10237), effective 12/5/17, revising its hearing rules to clarify the types of evidence that may be considered by a Claims Panel. Any evidence, argument or other information properly presented by SURS staff to a Claims Panel held in the absence of a claimant who waived his or her right to participate will not be deemed an

(cont. page 3)

Proposed Rulemakings

UNIVERSITY FURLOUGHS

The STATE UNIVERSITIES CIVIL SERVICE SYSTEM proposed amendments to the Part titled State Universities Civil Service System (80 IAC 250; 41 Ill Reg 15224) making permanent the provisions for employee furlough programs that originally were valid only through 9/30/17. Furloughs (temporary non-duty, unpaid status due to lack of funds) may not be used to impose permanent shutdowns, as substitutes for reduced or part-time employment, or as disciplinary measures. Student appointments shall be furloughed for the same amount of time that a traditional civil service employee would be furloughed, and temporary or extra help appointments shall be terminated, unless exceptions are granted for the following reasons: the affected positions receive mandated funding, or are considered essential to health,

welfare, public safety or maintenance of facilities; or the affected students' positions are part of their financial aid package or earn them academic credit. Furloughed employees will continue to accrue seniority and receive benefits such as sick leave, health insurance and vacation time. An employing university must report the following information to the SUCSS office within 10 calendar days after implementing a furlough program: number of furlough days being implemented; how many employees and what classifications of employees are affected; the approximate amount of funds saved due to the furlough; the impact on non-furloughed employees; an explanation of the temporary circumstances prompting the furlough; and other documentation requested by SUCSS.

Questions/requests for copies/comments through 2/8/18: Jeff Brownfield, SUCSS, 1717 Philo Rd., Suite 24, Urbana IL 61802, 217/278-3150, jeffb@sucss.illinois.gov or teresar@sucss.illinois.gov

■ PHARMACIES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Pharmacy Practice Act (68 IAC 1330; 41 Ill Reg 15130) replacing State-specific standards for sterile and non-sterile compounding with the United States Pharmacopeia-National Formulary (USP-NF) now in use in more than 35 states. Pharmacies that compound drugs must keep compounding materials in a separate storage area, set aside an area exclusively for sterile compounding if it compounds

(cont. page 4)

New Rules

(cont. from page 2)

ex parte communication. The rulemaking also revises SURS Board election rules to replace hardcopy mail transmission of election information to eligible voters with email transmission; however, an eligible voter who does not have a current email address on file with SURS will continue to receive election information by U.S. mail. Since 1st Notice, SURS has clarified that an eligible voter with a valid e-mail

address may still choose to receive paper balloting materials, and provided that paper ballots will be sent to eligible voters if the election vendor is notified that e-mail delivery was unsuccessful. Board candidate biographies will be posted on the SURS website at least 30 days prior to an election.

Questions/requests for copies: Albert Lee, SURS, 1901 Fox Dr., Champaign IL 61820, 217/378-8861.

Emergency Rule

(cont. from page 1)

harassment by a lobbyist. Businesses, municipalities, and non-profits that employ registered lobbyists are affected by this emergency rule.

Questions/requests for copies/comments on the proposed rulemaking through 2/8/18: Amy Williams, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, Awilliams3@ilsos.net

Proposed Rulemakings

(cont. from page 3)

sterile products, and have access to a current USP Compounding Compendium. Other provisions allow pharmacies to sell limited quantities of non-sterile compounded products to doctors and other practitioners for office use under specified conditions (e.g., the drug may only be administered in the office, not dispensed for later use, and sales cannot exceed 5% of the pharmacy's annual prescription purchases); permit sterile compounding of veterinary products for office use and limited veterinary dispensing from office stock; and allow pharmacists in charge of an automated dispensing system located in another facility to designate a licensed nurse or physician assistant to stock or restock automated dispensing and storage systems. Pharmacists, medical practitioners and veterinarians are affected by this rulemaking.

Questions/requests for copies/comments through 2/8/18: Craig Cellini, DFPR, 320 W. Washington St., 3rd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ INDIGENT BURIALS

The DEPARTMENT OF HUMAN SERVICES proposed an amendment to Related Program Provisions (89 IAC 117; 41 Ill Reg 15167) stating that claims for funerals and burials are subject to appropriations and may

(currently, will) be denied if not submitted within 180 days after the deceased person's death or resubmitted within 90 days after being returned for correction or completion. DHS states that this rule change will allow late claims to be paid if funds are available. Funeral service providers that accept public assistance claims for burial or cremation are affected.

Questions/requests for copies/comments through 2/8/18: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Fl., Springfield IL 62762, 217/785-9772.

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Infertility Coverage (50 IAC 2015; 41 Ill Reg 15176) and Registration of Worker's Compensation Utilization Review Organizations (50 IAC 2905; 41 Ill Reg 15182) and proposed repeal of the Parts titled Required Benefits for Mental, Emotional or Nervous Disorders (50 IAC 2006; 41 Ill Reg 15172) and Privacy of Personal Information (50 IAC 4001; 41 Ill Reg 15189). The Part 2015 amendments implement Public Act 99-421 by expanding the definition of infertility (currently, inability to conceive after one year of unprotected sexual intercourse or to sustain a successful pregnancy) to include inability to conceive after being diagnosed with a condition affecting fertility, or after one year of attempts to produce

conception. Coverage of treatment that involves oocyte retrieval (e.g., in vitro fertilization) must be provided for individuals who have been unable to either attain or maintain a viable pregnancy. These rules apply to insurers offering accident and health insurance to groups of more than 25 employees. Amendments to Part 2905 implement PA 99-111 by recognizing the Accreditation Association for Ambulatory Health Care as an organization that may accredit utilization review organizations, thereby qualifying them for reduced registration and renewal fees. The repeal of Part 2006 removes an obsolete definition of registered clinical psychologist (now, licensed clinical psychologist) and the Part 4001 repealer eliminates rules that duplicate provisions in Part 4002 (Personal Information Privacy Protection).

Questions/requests for copies/comments on the 4 DOI rulemakings through 2/8/18: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767, 217/558-0957.

■ INCOME TAX

The DEPARTMENT OF REVENUE proposed an amendment to Income Tax (86 IAC 100; 41 Ill Reg 15198) providing guidance for determining the amount of the subtraction from taxable income

(cont. page 5)

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 Committee's January 16, 2018 meeting. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

AUDITOR GENERAL

Purchases and Contracts (44 IAC 500; 41 Ill Reg 13137) proposed 10/27/17

DEPT OF REVENUE

Retailers' Occupation Tax (86 IAC 130; 41 Ill Reg 8239) proposed 7/14/17

IL COMMUNITY COLLEGE BOARD

Administration of the Illinois Public Community College Act (23 IAC 1501; 41 Ill Reg 7712) proposed 7/7/17

SECRETARY OF STATE

Issuance of Licenses (92 IAC 1030; 41 Ill Reg 11889) proposed 9/29/17

STATE BOARD OF EDUCATION

Special Education Facilities under Section 14-7.02 of the School Code (23 IAC 401; 41 Ill Reg 3831) proposed 3/31/17

Proposed Rulemakings

(cont. from page 4)

that a partnership may claim for personal service income or as a reasonable allowance for compensation for services rendered by partners. Small business partnerships may be affected.

Questions/requests for copies/comments through 2/8/18: Brian Stocker, DOR, 101 W. Jefferson, Springfield IL 62796, 217/782-2844.

LIQUOR CONTROL

The ILLINOIS LIQUOR CONTROL COMMISSION proposed an amendment to the Part titled The Illinois Liquor Control Commission (11 IAC 100; 41 Ill Reg 15193) adding provisions for continuance of

administrative hearings concerning suspension or revocation of liquor licenses to Section 100.180 so that all provisions concerning these hearings are contained in one Section.

Questions/requests for copies/comments through 2/8/18: Beverly Langenfeld, Illinois Department of Revenue, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

■ DOA RULE CORRECTION

The DEPARTMENT OF AGRICULTURE issued a Notice of Correction to a proposed rulemaking titled Standardbred, Thoroughbred and Quarter Horse Breeding and Racing Programs, Illinois (8 IAC 290; 41 Ill Reg 15390) that originally

appeared in the 11/27/17 *Illinois Register* at 41 Ill Reg 14139. The correction clarifies that semen from an Illinois-certified stallion may be transported out of State, but foals conceived from it will not qualify for Illinois-bred status. Since the language of the proposed rule (concerning procedures for verifying the Illinois conceived and foaled status of racehorses) has been substantially changed, the First Notice period restarts with this *Register* issue. Breeders of Illinois registered race horses are affected by this rulemaking.

Questions/requests for copies/comments through 2/8/18: Pamela Harmon, DOA, State Fairgrounds, P.O. Box 19281, Springfield IL 62794-9281, 217/524-6905, fax 217/785-4505.