

*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.*

## Emergency Rules

### ■ FLU VACCINATIONS

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Health Care Employee Vaccination Code (77 IAC 956; 42 Ill Reg 17942) effective 9/18/18 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 42 Ill Reg 17545. The emergency and proposed rules implement Public Act 100-1029, which clarifies the following circumstances under which health care employees may decline annual influenza vaccinations offered by their employers: if the employee has already been vaccinated, if the vaccine is medically contraindicated for the employee, or the vaccination is against the employee's religious belief. A general philosophical or moral objection to vaccination is not considered a basis for an

exemption. The rule also updates statutory and regulatory references to the types of health care settings subject to the Part. Persons working in the health care field and their employers are affected by these rules.

Questions/requests for copies/comments on the proposed rulemaking through 11/19/18: Erin Conley, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl., Springfield IL 62761, 217/782-2043, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

### ■ QUINCY VETERANS' HOME

The CAPITAL DEVELOPMENT BOARD adopted a new Part by emergency rulemaking titled Capital Development Board Procurement Practices for the Quincy Veterans' Home (44 IAC 930; 42 Ill Reg 17899), effective 9/13/18 for a maximum of 150 days. An identical proposed rule

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## Proposed Rulemakings

### ■ CREDIT UNIONS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed an amendment to the Part titled Illinois Credit Union Act (38 IAC 190; 42 Ill Reg 17285) implementing a recent change in federal law and National Credit Union Association rules. The rulemaking removes loans that are fully secured by a lien on a 1-to 4-family dwelling from the definition of a member business loan (MBL) so that they no longer count toward the aggregate MBL cap for federally insured credit unions.

Questions/requests for copies/comments through 11/19/18: Craig Cellini, DFPR, 320 W. Washington St., 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

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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](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.

# Emergency Rules

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appears in this week's *Illinois Register* at 42 Ill Reg 17282. The emergency and proposed rules implement Public Act 100-610, which requires CDB to promulgate procurement rules for renovation, restoration, rehabilitation and rebuilding of the Illinois Veterans' Home at Quincy (due to outbreaks of Legionnaires' Disease) and exempts procurements for these purposes from all requirements of the Illinois Procurement Code other than those specified in the PA. The provisions of the Procurement Code that apply to these procurements are listed in the rulemaking and include prevailing wage requirements, prohibited bidders and contracts, conflicts of interest, responsible bidder requirements, financial disclosure, prohibition of political contributions, lobbying restrictions, and disclosure of business in Iran. Procurement of construction and construction-related services shall be completed via the selection method determined by the Chief Procurement Officer (the Executive Director of CDB) to be most appropriate to the circumstances. Methods that may be used are outlined in the rulemaking and include design-build contracts, competitive contracts, small purchase contracts and emergency

contracts. Design services contracts with an estimated professional services fee of less than \$25,000, and any other contract not exceeding \$100,000, may be treated as a small purchase and will not require notice, competitive bidding or other measures outlined in this Part. For design-build contracts, the public members of the selection committee must include one resident of the Quincy Veteran's Home and one resident of the City of Quincy. For design services and construction management contracts, interviews are not required unless the basic services fee will exceed \$300,000. Those affected by this rulemaking include small businesses seeking contracts for Quincy Veterans' Home construction projects.

Questions/requests for copies/comments on the proposed rulemaking through 11/19/18: Amy Romano, CDB, 401 S. Spring St., 3<sup>rd</sup> Fl., Stratton Bldg., Springfield IL 62706, 217/782-0700, [amy.romano@illinois.gov](mailto:amy.romano@illinois.gov)

## ■ MENTAL HEALTH FACILITIES

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted an emergency amendment to Specialized Health Care Delivery Systems (89 IAC 146; 42 Ill Reg

17935) effective 9/24/18 for a maximum of 150 days. A companion proposed amendment appears in this week's *Illinois Register* at 42 Ill Reg 17309. The emergency rule implements a provision of Public Act 100-587 increasing reimbursement rates for Specialized Mental Health Rehabilitation Facilities (SMHRFs) by 4% for services provided on or after 7/1/18. The proposed rulemaking implements the 4% rate increase and also establishes rates for therapeutic visits to licensed or provisionally licensed SMHRFs. For services provided from 6/4/18 through 7/26/18, the therapeutic rate is 75% of the facility rate at that time; for services provided on and after 7/27/18, the therapeutic rate is 75% of the facility rate in effect on 7/27. Facilities may not be reimbursed for more than 20 days of therapeutic visits per fiscal year, or for more than 10 consecutive days of therapeutic visits. Specialized mental health rehabilitation facilities are affected by this emergency rule.

Questions/requests for copies/comments on the proposed rulemaking through 11/19/18: Christopher Gange, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)

# New Rules

## ■ HUNTING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to Duck, Goose and Coot Hunting (17 IAC 590; 42 Ill Reg 4286) effective 9/21/18, opening and closing various State-owned or –managed sites to waterfowl hunting and amending procedures at State sites. Since 1<sup>st</sup> Notice, in response to public comment, DNR has removed provisions restricting the types of materials that may be used to construct waterfowl blinds. DNR also adopted amendments to White-Tailed Deer Hunting By Use of Bow and Arrow (17 IAC 670; 42 Ill Reg 12526), effective 9/21/18, implementing Public Act 100-489, which allows crossbows to be used on the same basis as other archery equipment. The rulemaking also establishes a Restricted Archery Zone in Champaign, Douglas, Macon, Moultrie and Piatt counties, in which only antlered deer may be harvested between October 1 and October 15. Hunting outfitters may be affected by these rulemakings.

Questions/requests for copies of the 2 DNR rulemakings: Javonna Ackerman, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/557-0126.

## ■ EMERGENCY RESPONDERS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Emergency Medical Services,

Trauma Center, Comprehensive Stroke Center, Primary Stroke Center and Acute Stroke Ready Hospital Code (77 IAC 515; 42 Ill Reg 6024), effective 9/20/18, implementing the following Public Acts: PA 96-1469, which authorizes DPH to adopt minimum standards in rule for critical care providers; PA 98-973, which adopts new national EMS education standards and creates the Advanced Emergency Medical Technician (A-EMT) category in addition to the existing categories (EMT, EMT-Intermediate and Paramedic); PA 99-319, which replaces the advance directive term DNR (Do Not Resuscitate) with POLST (Practitioner Orders for Life-Sustaining Treatment, reflecting an individual’s wishes regarding CPR and other medical interventions); and PA 99-661, which amends several definitions. Since 1<sup>st</sup> Notice, DPH has added pediatric-specific EMS protocols. Those affected by this rulemaking include ambulance and medical transport services and units of local government that provide emergency responder services.

Questions/requests for copies: Erin Conley, DPH, 535 W. Jefferson St., 5<sup>th</sup> Fl. Springfield IL 62761, 217/782-2043, [dph.rules@illinois.gov](mailto:dph.rules@illinois.gov)

## ■ INCOME TAX

The DEPARTMENT OF REVENUE adopted

amendments to Income Tax (86 IAC 100; 42 Ill Reg 8144, 8387, and 8737) effective 9/24/18, combining three separately proposed rulemakings. The amendments clarify the effect of the suspension of the carryover deduction for net losses by corporations during the tax years 2011 and 2012; explain deductions applicable to holders of residual interest in real estate mortgage investment companies; explain how cooperatives may deduct net losses; and address subtractions for payments to an attorney-in-fact and dividends from controlled foreign corporations. Other provisions provide guidance on subtractions allowed to individuals, trusts and estates for refunds of State taxes and recoveries of itemized deductions that were subject to federal income tax but should not have been subject to State income tax. Finally, the rulemaking reflects PA 97-507, which allows reinsurance companies, for tax years 2011 and later, to change their method of determining the taxable portion of reinsurance premiums only with the written permission of DOR. Procedures for contesting denial of permission to alter an election are included. Some small businesses may be affected by this rulemaking.

Questions/requests for copies: Brian Stocker, DOR, 101 W. Jefferson St., Springfield IL 62796, 217/782-2844.

# Proposed Rulemakings

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## INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Prior Notification of Transactions (50 IAC 654; 42 Ill Reg 17316) implementing statutory changes and updates to the National Association of Insurance Commissioners (NAIC) Model Law. The rulemaking lists provisions to be included in agreements for cost sharing and management services; clarifies the information to be provided on Form D-1 for statutorily required notice to DOI of a proposed transaction; and adds a severability clause allowing other rules in the Part to remain in effect if any provision is struck down by a court. DOI also proposed amendments to Required Procedure for Filing and Security Approval of Policy Forms (50 IAC 916; 42 Ill Reg 17342) recognizing the Interstate Insurance Product Regulation Commission (IIPRC) as an additional authority for approving policy forms.

DOI proposed amendments to Internal Security Standard and Fidelity Bonds (50 IAC 904; 42 Ill Reg 17329) that add a definition of companies subject to the Part (domestic insurance companies, health maintenance organizations, limited health service organizations, dental service plans, and health services plan corporations) and amend rules for the assignment, sale, transfer or disposition of securities by these companies. For securities

transactions, a company may continue to require (in accord with current rule) signatures from at least two officers or employees approved by the company's board of directors to complete securities transactions, or (in accordance with this rulemaking) it may adopt an alternate policy listing the individuals, by name or job title, with authority to approve securities transactions; specifying the limits of their authority to approve these transactions; and segregating authorization, recording and reconciling securities transactions so that no individual performs more than one task.

DOI proposed amendments to Minimum Standards of Individual Accident and Health Insurance (50 IAC 2007; 42 Ill Reg 17349) removing a requirement that persons applying for individual hospital or other fixed indemnity insurance attest to already having "minimum essential coverage" under federal law. Applications for this type of insurance will continue to be required to include an advisory to the consumer that the policy will not meet minimum essential coverage requirements under federal law.

DOI proposed repeal of the Parts titled Correlated Sales of Life Insurance and Mutual Funds (50 IAC 910; 42 Ill Reg 17336) and Business Entities (50 IAC 3115; 42 Ill Reg 17489) and proposed amendments to Preferred Provider Programs (50 IAC 2051; 42 Ill Reg 17368), Producer Licensing (50 IAC 3121; 42 Ill Reg

17493), Payment of Annual Compliance Fees for Pension Funds (50 IAC 4415; 42 Ill Reg 17497), Noncompliance Notification and Penalties (50 IAC 4435; 42 Ill Reg 17501); Navigator, In-Person Counselor and Certified Application Counselor Certification (50 IAC 4515; 42 Ill Reg 17506) and Managed Care Reform & Patient Rights (50 IAC 4520; 42 Ill Reg 17521) to eliminate outdated rules, consolidate redundant rules and make technical corrections and clarifications. Part 910 was adopted in 1964 and never amended, while provisions now contained in Part 3115 will be added to Part 3121. Other amendments to Part 3121 clarify the effects of failure to adhere to the requirements of the Part and require business entities, at the time of application for an insurance producer license, to designate at least one individual to be responsible for the entity's compliance with the Illinois Insurance Code. Amendments to Parts 4415 clarify the legal and regulatory effects of late payment of fees, while the Part 4435 rulemaking removes the requirement of a hearing before a penalty can be assessed for late filing of an annual statement or late payment of an annual compliance fee. Amendments to Part 4515 replace State-sponsored training for ACA insurance navigators with federal training courses provided online, since the State of Illinois no longer offers insurance navigator training. Finally, amendments to

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## Proposed Rulemakings

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Part 4520 remove outdated examples of affidavit forms.

Questions/requests for copies/comments on the 12 DOI rulemakings through 11/19/18: Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767, 217/558-0957.

### HFS RULE WITHDRAWAL

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES has withdrawn a proposed amendment to Specialized Health Care Delivery Systems (89 IAC 146; 42 Ill Reg 13413) that appeared in the 7/13/18 *Illinois Register*. The

amendment changed a cross-reference to Hospital Services payment rules in 89 IAC 148. HFS has since determined that the original cross-reference was correct and the amendment was in error. A companion emergency amendment (42 Ill Reg 13733) will expire on 11/28/18.

## 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 October 16, 2018 meeting.

Cities ( 47 IAC 110 ; 42 Ill Reg 14126) proposed 7/27/18

Illinois Network Opportunity Program (Repealer) (14 IAC 530; 42 Ill Reg 8666) proposed 6/1/18

### DEPT ON AGING

Community Care Program (89 IAC 240; 42 Ill Reg 314) proposed 1/12/18

### DEPT OF INSURANCE

Mid-Term Cancellations (50 IAC 940; 42 Ill Reg 12449) proposed 7/6/18

### CAPITAL DEVELOPMENT BOARD

Illinois Accessibility Code (New Part) (71 IAC 400; 42 Ill Reg 2448) proposed 2/9/18

Registration for Workers' Compensation Utilization Review Organizations (50 IAC 2905; 41 Ill Reg 15182) proposed 12/26/17

### DEPT OF COMMERCE AND ECONOMIC OPPORTUNITY

Metropolitan Pier and Exposition Authority or Rosemont Incentive Fund Grant Program (Repealer)(14 IAC 511; 42 Ill Reg 8653) proposed 6/1/18

Insurance Data Reporting Requirements (50 IAC 4203; 41 Ill Reg 15485) proposed 12/29/17

Managed Care Reform & Patient Rights (50 IAC 4520; 42 Ill Reg 12511) proposed 7/6/18

Health Carrier External Review (50 IAC 4530; 42 Ill Reg 12520) proposed 7/6/18

Employee Ownership Assistance Program (Repealer) (14 IAC 1230; 42 Ill Reg 8670) proposed 6/1/18

### DEPT OF REVENUE

Illinois Hydraulic Fracturing Tax Act (86 IAC 475; 42 Ill Reg 8453) proposed 5/25/18

Uniform Fiscal and Administrative Standards for the Job Training Partnership Act (Repealer) (56 IAC 2630; 42 Ill Reg 10723) proposed 6/22/18

### SECRETARY OF STATE

Issuance of Licenses (92 IAC 1030; 42 Ill Reg 14350) proposed 8/3/18

State Administration of the Federal Community Development Block Grant Program for Small