

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

■ INCOME TAX

The DEPARTMENT OF REVENUE adopted an emergency amendment to Income Tax (86 IAC 100; 44 Ill Reg 4700) effective 3/4/20 for a maximum of 150 days. A companion proposed amendment appears in this week's *Illinois Register* at 44 Ill Reg 4544. The emergency and proposed rules implement the minimum wage tax credit established by Public Act 101-1. For reporting periods beginning 1/1/20, businesses with 50 or fewer full-time employees may claim a credit based on the increase in employee pay attributable to the rise in minimum wage (from \$8.25 to \$9.25/hr) that took effect on 1/1/20. The credit will be reduced in subsequent years and phased out by 1/1/28. Small businesses are affected by this emergency rule.

Questions/requests for copies/ comments on the proposed

rulemaking through 5/4/20: Michael D. Mankowski, DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

SPORTS WAGERING

The ILLINOIS GAMING BOARD adopted emergency amendments to Sports Wagering (11 IAC 1900; 44 Ill Reg 4640), effective 3/9/20, amending an earlier emergency rule effective 1/28/20 at 44 Ill Reg 2900 for the remainder of its 150-day effective period. (Companion proposed rulemakings appeared in the 1/3/20 *Register* at 44 Ill Reg 84 and in the 2/14/20 *Register* at 44 Ill Reg 2618.) The new emergency amendments address and clarify the following issues raised by members of the public concerning the originally published emergency rule. Wagering kiosks do not require supervision by an attendant if they are located within

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Proposed Rulemakings

■ WATER SUPPLIES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Drinking Water Systems Code (77 IAC 900; 44 Ill Reg 4509) implementing a new Revised Total Coliform Rule for non-community public water systems (NCPWS) that have at least 15 service connections used by non-residents or that regularly serve 25 or more non-resident individuals daily for at least 60 days per year. An NCPWS licensed as a recreational facility (e.g., campground) must complete an annual sanitary survey; non-recreational NCPWS must complete the survey every 2 years. For NCPWS that use only groundwater and serve 1,000 or fewer persons, and vending machine systems classified as NCPWS, routine monitoring for coliforms and E. coli must be performed quarterly; if the most

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ADOPTED 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.

Adopted Rules

■ MANAGED CARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to Medical Payment (89 IAC 140; 43 Ill Reg 12000) effective 3/3/20, replacing an emergency amendment effective 10/15/19 (43 Ill Reg 12093). The rulemaking implements PA 101-9, which establishes a provider assessment program for managed care organizations (MCOs) for state fiscal years 2020 through 2025. Medicaid managed care organizations will be assessed \$61.70 per member per month for the first 4.195 million member months that all individuals

in that MCO were enrolled during the base year (1/1-12/31/18) and \$1.20 per member/month for base year member months beyond that number. For non-Medicaid MCOs, the assessment is \$2.40 per member/month for all enrollments during the base year. Assessments are due and payable on the first State business day of each month beginning 11/1/19. A 5% penalty shall be levied for late payments unless the MCO shows good cause due to financial or other difficulties. Proceeds from this assessment shall be deposited into the Healthcare Provider Relief Fund, into which hospital assessments and other assessments intended to

maximize federal Medicaid matching funds are deposited. The rulemaking also implements PA 101-209 by abolishing copayments for all non-institutional medical assistance services rendered on or after 9/1/19; establishes a means for HFS to resolve payment disputes between a provider and a Medicaid MCO; extends the FY20 amount of the inpatient and outpatient hospital assessments through FY21; and changes the hospital assessment payment due date from the 14th to the 17th State business day of each month. Changes since 1st Notice clarify various aspects of the payment dispute resolution process and also clarify the documentation required for the MCO assessment. Those affected by this rulemaking include managed care organizations and Medicaid/medical assistance service providers.

Questions/requests for copies: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763, HFS.Rules@illinois.gov

UTILITIES

The ILLINOIS COMMERCE COMMISSION adopted amendments to the Part titled Electric Reliability (83 IAC 411; 43 Ill Reg 3088), effective 3/4/20, updating and simplifying various reporting requirements. The rulemaking reflects a requirement in the Public Utilities Act that

Emergency Rules

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a portion of a facility that is restricted to persons age 21 and older. Wagers of up to \$500 (formerly \$100) may be placed at a kiosk, and wagers of up to \$2,000 (formerly, \$500) may be redeemed at a kiosk, without the intervention of an attendant unless the wager is placed within the admissions turnstiles of a gaming operation or organization facility. A licensee's adjusted gross sports wagering receipts for a given month (total wagers minus winning wagers) will be based on the value of wagers whose outcome was determined during that month, regardless of when these wagers were placed or when the winning wagers were redeemed. Master sports wagering licensees must check the identity of patrons against the self-exclusion list when

a wager of \$500 (formerly \$100) or more is placed or a wager of \$2,000 (formerly \$500) or more is redeemed. A wager may be declared void if the master sports wagering licensee has reason to believe an error was made in its placement or acceptance; a patron whose wager is declared void for this reason may appeal to the IGB Administrator for reconsideration of the denial. Other provisions set specifications for occupational licensee badges and clarify the operations of surveillance equipment and internet wagering systems. Master sports wagering licensees and their employees are affected.

Questions/requests for copies: Agostino Lorenzini, IGB, 160 N. LaSalle St., Chicago IL 60601, IGB.RuleComments@igb.illinois.gov

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Proposed Rulemakings

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recent sanitary survey shows no defects and the water source is protected, DPH may reduce the monitoring frequency to annually. (Other NCPWS are subject to monitoring requirements for primary drinking water systems in 35 IAC 611.) Seasonal systems must sample and test their water for coliform bacteria before opening to the public and submit verification of this test to DPH. If an E. coli or coliform treatment violation occurs, monitoring must be performed monthly during each month that water is supplied to the public for at least 1 year, unless the cause is pinpointed and corrected before water is supplied to the public. If the cause of the violation cannot be determined, monitoring must be conducted during the most vulnerable times each month for the next 12 months. After 12 consecutive months of monitoring, DPH may allow the water system to return to quarterly monitoring if the water system is free of sanitary defects and in compliance with all applicable DPH rules. Other provisions address procedures for collecting and testing samples and reporting violations, additional monitoring following a coliform-positive sample, actions and events that trigger on-site or monitoring assessments, and corrective actions. The rulemaking also updates various definitions and incorporations by reference. Those affected by this rulemaking include businesses and non-profit organizations that operate facilities with NCPWS.

■ MILK PRODUCTION

DPH also proposed an amendment to Grade “A” Pasteurized Milk and Milk Products (77 IAC 775; 44 Ill Reg 4503) updating incorporations by reference of various federal regulations and guidelines and professional standards. Milk producers are affected by this rulemaking.

Questions/requests for copies/comments on the 2 DPH rulemakings through 5/4/20: Erin Conley, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

■ NURSING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Nurse Practice Act (68 IAC 1300; 44 Ill Reg 4158) implementing Public Act 100-513. The rulemaking clarifies various aspects of licensure, scope of practice, and other criteria for advanced practice registered nurses (APRNs), registered professional nurses (RNs) and licensed practical nurses (LPNs). RNs may delegate certain nursing interventions (e.g., administering oral or topical medication) to other RNs, LPNs or unlicensed personnel depending on the condition of the patient, the potential for harm, the complexity of the procedure/intervention being delegated, and the competency of the individual to

whom the action is being delegated. An RN may not delegate medication administration to unlicensed personnel (e.g., aides) in any hospital, institution or long-term care facility unless specifically authorized by law. Other provisions expand the definition of unprofessional conduct, remove obsolete language, and clarify continuing education requirements, licensure requirements for foreign graduates, and procedures for seeking restoration of an expired or inactive license. Licensed nurses and their employers are affected by this rulemaking.

Questions/requests for copies/comments through 5/4/20: Craig Cellini, DFPR, 320 W. Washington St., 2nd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ APPRENTICESHIPS

The STATE BOARD OF EDUCATION proposed a new Part titled Registered Apprenticeship Program (23 IAC 255; 44 Ill Reg 4553) implementing Public Act 100-992. The PA and the rulemaking allow high school students age 16 and older, in accordance with policies enacted by their school districts, to enroll in registered apprenticeship programs through which they can earn both a high school diploma and an industry-related occupational skills certificate. Eligible apprenticeship programs

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Adopted Rules

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electric utilities with 100,000 or more customers (formerly, 1 million or more customers) keep certain records of service interruptions and removes a requirement that utilities include data for the 3 previous years in their annual reliability reports. It also allows computerized data and information in reports to be submitted in any format agreed to by ICC staff (instead of listing outdated file formats). An ICC proceeding to determine damages or expense reimbursement will be required if a power interruption, surge or fluctuation that affects more than 0.8% of a utility's total

customers (new threshold) or more than 30,000 customers (threshold in current rule; the lesser of the two thresholds will apply) and meets other conditions set forth in the Public Utilities Act. Since 1st Notice, ICC has retained a requirement that data on outages and power fluctuations be included in a utility's annual reports (this provision was originally proposed for removal) and has also removed proposed amendments to Section 411.310 concerning customer surveys.

TELECOMMUNICATIONS

ICC also repealed the Part titled Competition Reporting (83 IAC

793; 43 Ill Reg 7891) effective 3/9/20. This Part formerly required local exchange service telecommunications carriers and Voice over Internet Protocol (VoIP) providers to make annual reports to ICC and required ICC to compile this information for use in an annual report on State telecommunications markets. The statute that this Part implemented (Section 13-407 of the Public Utilities Act) was repealed effective 8/13/18.

Questions/requests for copies of the 2 ICC rulemakings: Brian W. Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/558-2387.

Proposed Rulemakings

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must be reviewed and approved by the US Department of Labor; include on the job learning and related classroom instruction delivered by a high school or community college; pay training wages that are not less than the State minimum wage and escalate throughout the term of the apprenticeship; and lead to continued employment of at least 2 years with the company following the conclusion of the apprenticeship. School district policies established under this Part must allow students that participate in an apprenticeship program to count the entire program, or one or more individual career and technical education courses that cover at least 50% of the content of a required school course, toward their requirements

for graduation. The policy must also include a waiver of all non-academic graduation requirements that would prevent a student from participating in the program, and stipulate that a student's parent or guardian must approve, in writing, any substitution of career and technical education courses for an academic course or graduation requirement. Policies concerning apprenticeship programs must be posted on the school district's website and students and parents must be notified of apprenticeship opportunities via the website and school handbook. Districts must also report data on students participating in registered apprenticeship programs to SBE via the Student Information System. School districts and employers that participate in registered apprenticeship

programs are affected by this rulemaking.

■ TEACHER EVALUATION

SBE also proposed amendments to the Part titled Dismissal of Tenured Teachers under Article 24 and Dismissal of Tenured Teachers and Principals under Article 34 of the School Code (23 IAC 51; 44 Ill Reg 4546) concerning provisions in School Code Article 24 (applies to districts other than Chicago Public Schools) that establish an optional alternative evaluative dismissal (OAED) process for tenured teachers who receive an unsatisfactory performance evaluation and fail to complete a remediation plan. Existing rule allows only school board members that have completed training under

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Proposed Rulemakings

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the Performance Evaluation Reform Act (PERA) to vote on a decision to remove or retain an affected teacher through the OAED process. This rulemaking allows entities that wish to provide this training (e.g., regional offices of education, professional associations, colleges/universities) to apply to SBE for training provider approval at any time (currently, applications are accepted only from March 1 to May 1 of even numbered years). Provider approval remains valid for two full fiscal years (currently, calendar years) and expires on July 1 of the second fiscal year after approval is granted. Entities that provide PERA training are affected.

Questions/requests for copies/comments on the 2 SBE rulemakings through 5/4/20: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed amendments to Video Gaming (General) (11 IAC 1800; 44 Ill Reg 4265) that clarify when the provision of goods and services by a terminal operator to a licensed video gaming location is, or is not, considered an "inducement" prohibited under the Video Gaming Act. Provision of the following items is not considered to be an inducement: terminals and the components (e.g., wiring, network connections)

necessary to make video gaming terminals operable; software upgrades, repairs, or other ongoing maintenance; video surveillance, alarms or other security systems; chairs, stools, or other furniture to be used at video gaming terminals; and assistance in preparing or filing applications or other documentation required by IGB. Providing free or reduced cost services other than those listed to a licensed video gaming location is considered to be an inducement. Goods and services that are presumed to be inducements include: direct monetary payment from a video gaming terminal; loans or financing arrangements; reimbursement or payment to a third party for a debt or obligation of the gaming location; and payment of all or part of any tax or fee incurred by the location. Factors that IGB must consider in determining whether an item constitutes a prohibited inducement are listed. Additionally, the rulemaking requires terminal operators and licensed video gaming locations to keep records of provided goods and services for 3 years and clarifies the definition of a licensed video gaming location to include licensed large truck stop establishments. Terminal operators and licensed video gaming locations are affected by this rulemaking.

Questions/requests for copies/comments through 5/4/20: Agostino Lorenzini, IGB, 160 N. LaSalle St., Chicago IL 60601, IGB.RuleComments@igb.illinois.gov

PRESCRIPTION DRUGS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed amendments to Medical Payment (89 IAC 140; 44 Ill Reg 4288) implementing Public Act 101-62, which establishes a Pharmaceutical and Therapeutics Advisory Board to determine which drug products will be included on HFS' Preferred Drug List (PDL) and which non-PDL drug products will require prior approval in order to be covered under medical assistance. The board will meet at least once per calendar quarter and will include voting members appointed by the Governor for 3-year terms, with non-voting clinicians serving as advisors. Board recommendations are non-binding. When a new drug product is approved by the federal Food and Drug Administration, it will require prior approval until HFS determines otherwise. Drug manufacturers shall provide, in writing, all relevant drug product information to HFS and the board in its entirety.

Questions/requests for copies/comments through 5/4/20: Steffanie Garrett, HFS, 201 S. Grand Ave. East, 3rd Fl., Springfield IL 62763-0002, HFS.Rules@illinois.gov

AIR POLLUTION

The POLLUTION CONTROL BOARD proposed a new Part

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titled Prevention of Significant Deterioration (35 IAC 204; 44 Ill Reg 4375) establishing a State-level Prevention of Significant Deterioration (PSD) permitting program. Under this new Part, the Illinois Environmental Protection Agency (IEPA) assumes responsibility for the PSD program from the US Environmental Protection Agency. (PSD programs apply to new or modified emission sources in areas that meet or exceed USEPA's primary and secondary air quality standards.) Existing federal rules are incorporated by reference. PCB also proposed amendments to General Rules (35 IAC 101; 44 Ill Reg 4316), Appeals of Final Decisions of State Agencies (35 IAC 105; 44 Ill Reg 4347), Major Stationary Sources Construction and Modification (35 IAC 203; 44 Ill Reg 4367), Definitions and General Provisions (35 IAC 211; 44 Ill Reg 4463) and Organic Material Emission Standards and Limitations (35 IAC 215; 44 Ill Reg 4487) aligning these Parts with the new Part 204.

Questions/requests for copies/comments on the 6 PCB rulemakings through 5/4/20: Clerk's Office, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601. Please reference docket R 19-1. Copies of the Board's opinion and order can be obtained by calling 312/814-3620 or downloaded at <https://pcb.illinois.gov>

STUDENT ASSISTANCE

The BOARD OF HIGHER EDUCATION proposed amendments to Illinois Cooperative Work Study Program (23 IAC 1015; 44 Ill Reg 4109) incorporating the requirements of the Grant Accountability and Transparency Act (GATA) regarding application procedures, grant agreements, recordkeeping, and post-award requirements. (The grant program provides financial assistance to college/university student cooperative work study programs.)

TEACHER EDUCATION

BHE also proposed amendments to the Part titled Grow Your Own Teacher Grants (23 IAC 1085; 44 Ill Reg 4120) implementing Public Act 101-122 and provisions of GATA. The rulemaking transfers responsibility for program administration, application review and grantee selection from BHE to Grow Your Own Illinois, a non-profit corporation. BHE remains responsible for allocating program funds, obtaining independent evaluations of the program, and promulgating program rules. Other provisions expand eligibility for GYOT assistance to high school students enrolled in dual credit courses and persons whose college education was not interrupted; allow graduates to work in early childhood programs to earn service credit toward loan forgiveness; and align grant agreement and audit requirements with GATA.

Questions/requests for copies/comments on the 2 BHE rulemakings through 5/4/20: Karen Helland, BHE, 1 N. Old State Capitol Plaza, Suite 333, Springfield IL 62701-1377, 217/557-7358, fax 217/782-8548, helland@ibhe.org

UNIVERSITIES RETIREMENT

The STATE UNIVERSITIES RETIREMENT SYSTEM proposed amendments to Universities Retirement (80 IAC 1600; 44 Ill Reg 4559) implementing several recent changes to the Pension Code. The definition of an "affected annuitant" (a person who continues to work or is rehired while receiving a pension and for whom the employer must make additional contributions to SURS) now includes persons who received annualized annuities of less than \$10,000 on or after 12/8/17. Other provisions allow electronic signatures on beneficiary designations; allow students who attend more than one educational institution to qualify for full-time student survivor benefits if their aggregate class load is equivalent to that of a full-time student; and extend eligibility for the accelerated pension benefit buyout program to persons retiring on or before 6/30/24 (currently 6/30/21).

Questions/requests for copies/comments through 5/4/20: Albert J. Lee, SURS, 1901 Fox Dr., Champaign IL 61820, 217/378-8861.

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 April 21, 2020 JCAR meeting. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF AGRICULTURE

Animal Welfare Act (8 IAC 25; 44 Ill Reg 1745) proposed 1/24/20

DEPT OF HUMAN SERVICES

Temporary Assistance for Needy Families (89 IAC 112; 43 Ill Reg 14540) proposed 12/20/19

Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 43 Ill Reg 14555) proposed 12/20/19

Supplemental Nutrition Assistance Program (SNAP) (89 IAC 121; 43 Ill Reg 14972) proposed 12/27/19

DEPT OF TRANSPORTATION

Procedures (92 IAC 107; 44 Ill Reg 1814) proposed 1/24/20

HUMAN RIGHTS COMMISSION

Procedural Rules (56 IAC 5300; 43 Ill Reg 13913) proposed 12/6/19

IL GAMING BOARD

Video Gaming (General) (11 IAC 1800; 43 Ill Reg 13488) proposed 12/2/19

STATE BOARD OF EDUCATION

Standards for Endorsements in Specific Training Fields (23 IAC 27; 43 Ill Reg 12246) proposed 11/1/19

Standards for Endorsements in Special Education (23 IAC 28; 43 Ill Reg 12600) proposed 11/1/19

Standards for Administrative Endorsement (23 IAC 29; 43 Ill Reg 12727) proposed 11/1/19

STATE BOARD OF INVESTMENT

Rules and Regulations of the Board (74 IAC 800; 43 Ill Reg 13763) proposed 12/2/19

JCAR MEETING NOTE

Due to public health concerns stemming from the COVID-19 pandemic, the JCAR meeting scheduled for March 18 has been postponed. Currently this meeting is scheduled for March 31, 2020, subject to change based on the General Assembly's schedule, ongoing public health restrictions and other factors.
