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Joint Committee on Administrative Rules
Illinois General Assembly

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VOL. 39

October 16, 2015

Issue 42

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

MENTAL HEALTH

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Medicaid Community Mental Health Services Program (59 IAC 132; 39 Ill Reg 7763) effective 10/1/15, updating references to the International Classification of Diseases (ICD) and the Diagnostic and Statistical Manual of Mental Disorders (DSM) to their most recent editions (ICD-10-CM and DSM-5).

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

HARNESS RACING

The ILLINOIS RACING BOARD adopted amendments to Trifecta (11 IAC 360; 39 Ill Reg 7215), Superfecta (11 IAC 311; 39 Ill Reg 7217) and Pentafecta (11 IAC 324; 39 Ill Reg 7221, all effective

10/5/15, lowering the minimum number of betting interests in Standardbred races to 5, 6 and 7, respectively. Identical emergency rulemakings effective 5/7/15 appeared in the *Illinois Register* at 39 Ill Reg 7284(Trifecta), 39 Ill Reg 7288(Superfecta) and 39 Ill Reg 7292(Pentafecta).

HFS Public Hearing, page 3

Questions/requests for copies of the 3 IRB rulemakings: Mickey Ezzo, IRB, 100 W. Randolph, Ste. 7-701, Chicago IL 60601, 312/814-5017.

SCHOOLS

The STATE BOARD OF EDUCATION adopted amendments to Educator Licensure (23 Ill Adm Code 25; 39 Ill Reg 7475) effective 10/5/15

(cont. page 2)

Proposed Rulemakings

PROCUREMENT

The OFFICE OF THE ATTORNEY GENERAL proposed amendments to Attorney General's Procurement (44 IAC 1300; 39 Ill Reg 13542) to align its procurement rules with provisions of Public Act 98-1076. The rulemaking refers to "offerors and potential contractors" in addition to the existing term "bidder", and defines "offer" in accordance with statute as a response by an offeror to a competitive sealed proposal process or in response to a Request for Proposal. Notices and reports required by the OAG rules may be made by paper or electronic means. Various timeframes for action are also clarified by specifying calendar days (rather than business days). Criteria for classification as a small business are also updated

(cont. page 2)

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)

implementing the following Public Acts: PA 98-646, changing the priority consideration of certain categories of activities (annual payments and incentives will be provide on a first-come-first serve basis); PA 98-860, allowing teachers with physical education or health endorsements to meet the No Child Left Behind criteria for highly qualified general education teachers in core subjects; PA 98-947, allowing individuals certified by the National Association of School Psychologists to qualify for a school support personnel endorsement to serve as a school psychologist; and PA 98-917 and

PA 98-1147, which expand the types of experience required to receive the principal endorsement.

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

ABORTION FACILITIES

The HEALTH FACILITIES AND SERVICES REVIEW BOARD adopted an amendment to Processing, Classification Policies and Review Criteria (77 IAC 1110; 39 Ill Reg 5540), effective 10/2/15, clarifying Certificate of Need (CON) provisions applicable to Ambulatory Surgical Treatment

Centers (ASTCs) that provide abortion services. The rulemaking states that ASTCs devoted primarily to abortion-related care, including those licensed as Pregnancy Termination Specialty Centers (PTSCs, which normally are exempt from CON requirements applicable to other ASTCs), must obtain a CON permit to add ASTC services not related to abortion.

Questions/requests for copies: Jeannie Mitchell, HFSRB, 69 W. Washington, Ste. 3501, Chicago IL 60602, 312/814-6226, Jeannie.Mitchell@illinois.gov

Proposed Rulemakings

(cont. from page 1)

to reflect statute, including raising the annual sales threshold for retail businesses from \$6 million to \$8 million and for construction services from \$10 million to \$14 million. This rulemaking will affect small businesses seeking contracts with the OAG.

Questions/requests for copies/comments through 11/30/15: Lynn Patton, Office of the Attorney General, 500 S. 2nd St., Springfield IL 62706, 217/524-1504.

SCHOOLS

The STATE BOARD OF EDUCATION proposed amendments to Public Schools

Evaluation, Recognition and Supervision (23 IAC 1; 39 Ill Reg 13595) adding additional criteria for physical education, including assessments that must be implemented starting the 2016-2017 school year. This rulemaking also establishes procedures for evaluating and managing concussions and head injuries; creates a new credential for the chief state school business official, in the form of an endorsement on the educator license with stipulations; and adds new Illinois Learning Standards for social science that must be implemented for the 2017-2018 school year.

Questions/requests for copies/comments through 11/30/15: Shelley Helton, SBE, 100 N. First St, S-493 Springfield IL 62777, 217/782-5270, rules@isbe.net.

HEALTH FACILITIES

The HEALTH FACILITIES AND SERVICES REVIEW BOARD proposed amendments to Health Facilities and Services Financial and Economic Feasibility Review (77 IAC 1120; 39 Ill Reg 13566) that update and clarify financial and economic feasibility standards. HFSRB adds a definition for “audit” to clarify that an independent certified public accountant must perform audits

(cont. page 3)

Proposed Rulemakings

(cont. from page 2)

of financial reports referenced in this Part. Also added is a requirement that applicants submit their current bond rating and most recent audited financial statement so that Board members can review applications based on up-to-date financial information. The rulemaking updates financial and economic review standards for new construction and modernization costs per gross square foot for end stage renal disease centers and ambulatory surgery treatment centers to reflect 2015 data and removes the cost complexity index criteria that were previously applied to hospital projects to be more consistent with industry practice.

Questions/requests for copies/comments through 11/30/15: Jeannie Mitchell, HFSRB, 69 W. Washington St., Suite 3501, Chicago IL, 60602, 312/814-6226, e-mail: Jeannie.Mitchell@illinois.gov.

HFS Public Hearing

DISABLED PERSONS

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES will hold a public hearing on a proposed amendment to Medical Assistance Programs (89 IAC 120; 39 Ill Reg 10667) **Tuesday, Oct. 20, 1-2 p.m.** at the Prescott E. Bloom Bldg., 1st Floor Conference Room, 201 S. Grand Ave. East, Springfield. The rulemaking, published in the 8/7/15 *Illinois Register*, returns personal needs allowances (PNAs) for residents of Community Integrated Living Arrangements (CILAs) and Intermediate Care Facilities for

Individuals with Developmental Disabilities (ICF/DDs) to their fiscal year 2014 levels. The PNA for both categories of residents had been \$60/month for fiscal year 2015; this rulemaking reduces the allowance to the previous level of \$50/month for CILA residents and \$30/month for ICF/DD residents. Persons wishing to testify at the hearing must bring a written copy of their testimony and may speak for no more than 5 minutes.

Questions regarding the rulemaking or the public hearing: Mollie Zito, HFS, 200 S. Grand Ave. East, 3rd Fl., Springfield IL 62763, 217/782-1233.

ICC RULE WITHDRAWAL

The ILLINOIS COMMERCE COMMISSION has withdrawn its proposed repeal of rules titled Standards of Service for Gas Utilities (83 IAC 500; 38 Ill Reg 17941). The proposed repealer was originally published in the 8/

29/14 *Illinois Register*. ICC is withdrawing this repealer in response to a JCAR Objection because provisions of the new Part (83 IAC 501) intended to replace Part 500 will not be enforced until 1/1/17. The current rules will remain in place until closer to that date.

Joint Committee on Administrative Rules

Senator Pamela Althoff

Senator Bill Brady

Senator Don Harmon

Senator Karen McConnaughay

Senator Tony Muñoz

Senator Ira Silverstein

Representative Greg Harris

Representative Lou Lang

Representative David Leitch

Representative Ron Sandack

Representative André Thapedi

Representative Mike Tryon

Vicki Thomas
Executive Director

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 November 17, 2015 meeting. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

POLLUTION CONTROL BOARD

Control of Emissions from Large Combustion Sources (35 IAC 225; 39 Ill Reg 7176)
proposed 5/22/15

Sulfur Limitations (35 IAC 214; 39 Ill Reg 7125) proposed 5/22/15

Nitrogen Oxides Emissions (35 IAC 217; 39 Ill Reg 7164) proposed 5/22/15

JCAR Meeting Action

At its 10/13/15 meeting, the Joint Committee on Administrative Rules took the following actions:

RECOMMENDATION

With regard to the Teachers' Retirement System of the State of Illinois rulemaking titled The Administration and Operation of the Teachers' Retirement System (80 IAC 1650; 39 Ill Reg 8243), JCAR recommended that TRS consider further amendments to this Part establishing in rule the characteristics of the file that TRS will maintain on investment manager/consultant selections. Examples of changes that would make TRS rules more "substantially similar" to Article 35 of the Procurement Code, as required by Section 1-113.14(b) of the Illinois Pension Code, include: detailing the information to be maintained in the file, such as a description of the position, the specific standards that will be used to rank candidates for the current position, candidate information, candidate rankings and the final selection decision; and stating the extent to which information in the selection file will be accessible by the public.

EXTENSION

JCAR and the Department of Public Health agreed to extend the Second Notice period an additional 45 days for the rulemaking titled Home Health, Home Services, and Home Nursing Agency Code (77 IAC 245; 38 Ill Reg 23298). The rulemaking clarifies the differences between the types of agencies regulated under this Part (home health and home nursing agencies provide skilled nursing services, while home services agencies provide only non-medical services such as housekeeping) and delineates their respective duties and obligations.