

Elaine Spencer, Editor  
jcar@ilga.gov

Joint Committee on Administrative Rules  
Illinois General Assembly

700 Stratton Bldg. Springfield IL 62706  
217/785-2254 ilga.gov/commission/jcar

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Issue 13

*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

### PRISON DISCIPLINE

The DEPARTMENT OF CORRECTIONS adopted amendments to Discipline and Grievances (20 IAC 504; 40 Ill Reg 8628), effective 4/1/17, redesigning the standards for administration of discipline to reduce usage of segregation. The amendments require consideration of mental health impact on offenders in discipline processes, including in the administration of segregation/confinement. An investigative report into any disciplinary offense must be served upon the offender within 8 calendar days after the offense is committed or discovered. Offenders who are seriously mentally ill may not be placed in segregation until a mental health professional has reviewed the offender's mental health records and disciplinary reports and issued a recommendation. Provisions for

recreation, visitation by mental health professionals and chaplains, hygiene standards, and other aspects of segregation are addressed. The rulemaking also revises the levels of institutional privileges offenders receive based on their behavior; those who have committed disciplinary infractions may be restricted in their use of the commissary, telephone use, and in-person or video visitation. Revisions of standards are to be aligned with the American Correctional Association and research group recommendations. Regarding grievance procedures, the rulemaking provides that grievances concerning discipline or allegations of sexual abuse will be sent directly to the institution's grievance officer (instead of to the offender's counselor) and grievances

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## Proposed Rulemakings

### SENIOR SERVICES

The DEPARTMENT ON AGING proposed a new Part titled Community Reinvestment Program (CRP) (89 IAC 237; 41 Ill Reg 3503) establishing a new DonA program to serve non-Medicaid-eligible senior citizens currently served by the Community Care Program (CCP). The new Part establishes the organization and purpose of the CRP; the services it will provide through its network of vendors and private or public agencies; the administrative responsibilities of DonA, Area Agencies on Aging, and Care Coordination Units in relation to CRP; the rights and responsibilities of participating individuals; and the intake process. Financial eligibility criteria for the CRP include household income at or below 400% of the Federal

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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.

# New Rules

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concerning access to or the privacy of medical records will be forwarded to the facility's privacy officer. The rulemaking also removes obsolete provisions for juvenile offenders (now administered by the Department of Juvenile Justice) and updates the numbers and definitions of offenses for which disciplinary measures may be imposed. Changes since 1<sup>st</sup> Notice include increases in the frequency of reviews of segregation placements (from every 180 days to every 90 days) and in the minimum out-of-cell time for offenders in segregation (from 5 to 8 hours per week, spread over at least 2 days per week); addition of age and medical concerns as items to be considered in determining disciplinary sanctions and restrictive housing placement; and clarifications regarding recreation restrictions and sanctions for particular violations.

Questions/requests for copies: Echo Beekman, DOC, 1301 Concordia Ct., PO. Box 19277, Springfield IL 62794-9277, 217/558-2200, ext. 6501, email: [echo.beekman@doc.illinois.gov](mailto:echo.beekman@doc.illinois.gov).

## TORTURE COMMISSION

The TORTURE INQUIRY AND RELIEF COMMISSION adopted amendments to Policy, Hearings and Forms (20 IAC 2000; 40 Ill Reg 14042) and Organization, Public Information, Procedures and Rulemaking (2 IAC 3500; 40

Ill Reg 14032), both effective 3/17/17, implementing Public Act 99-668. The Part 2000 amendments expand the definition of "claim of torture" to include any allegations of police torture through which defendants were forced to confess to crimes for which they received felony convictions in Cook County courts. Amendments to Part 3500 declare automatically refiled, with their original submission dates, any cases that were rejected, dismissed or not referred to the Commission because they were not within the Commission's jurisdiction before PA 99-668 became law. (Originally, the Commission's jurisdiction was limited to cases involving former Chicago Police Commander Jon Burge or officers under his authority.) A deadline of 8/10/19 for accepting new claim forms is also established. This rulemaking lists various factors that may be considered when prioritizing cases, including whether or not the claimant is incarcerated solely for a crime linked to an allegedly tortured confession and the order in which the claim was filed. The amendments also clarify when and how alternate public members of the Commission may substitute for the three appointed members of the Commission who are not attorneys or officers or employees of a court (Public Member Commissioners).

Questions/requests for copies of the 2 TIRC rulemakings: Michelle Jenkins, Staff Attorney, TIRC, 100

W. Randolph St., Suite 10-300, Chicago IL 60601, 312/814-1094, fax 312/814-5333.

## INTERLIBRARY LOANS

The SECRETARY OF STATE adopted amendments to Illinois State Library, Library Operations Division (23 IAC 3010; 40 Ill Reg 16117), effective 3/20/17, updating an incorporation by reference of the Interlibrary Loan Code of the United States from the 2008 edition to the 2016 edition. The 2016 edition of the Code provides that a supplying library will promptly bill for loss or damage to a loaned item and a borrowing library will promptly pay for it. This provision will authorize the State Library to charge fees for lost or damaged materials loaned to non-ILLINET libraries.

## GOVERNMENT DOCUMENTS

SOS also adopted amendments to Illinois State Library, Government Documents Section (23 IAC 3020; 40 Ill Reg 16122), effective 3/20/17, clarifying that ephemeral materials (those that are useful or valid for only a short period of time, e.g., announcements of conferences or seminars, applications, forms) are exempt from the usual 5 year retention period.

Questions/requests for copies of the 2 SOS rulemakings: Joseph Natale, SOS-Illinois State Library, Gwendolyn Brooks Building, Springfield IL 62701-1796; 217/558-4185.

# Proposed Rulemakings

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Poverty Level, as well as asset provisions similar to those required for Medicaid long-term care (e.g., a 60-month/5 year look back period for asset transfers). Other issues addressed in the new Part include the process of eligibility determination and criteria for denial or termination of eligibility; service delivery and other requirements for participating vendors; and the appeal rights of individual clients. The Part also includes a process through which clients may request a transfer to another vendor without any change in services.

DonA also proposed companion amendments to Community Care Program (89 IAC 240; 41 Ill Reg 3584) establishing the program's new status as a federal Medicaid waiver program that will serve only Medicaid-eligible clients. Individuals currently served by the CCP who are not currently enrolled in a Medical Assistance program will be moved to the CRP. These rulemakings will affect small businesses and non-profit agencies offering home and community-based services for seniors.

Questions/requests for copies/ comments on the 2 DonA rulemakings through 5/15/17: Jennifer Reif, DonA, One Natural Resources Way #100, Springfield IL 62702-1271, 217/785-2870, jennifer.reif@illinois.gov.

## ■ SPECIAL EDUCATION

The STATE BOARD OF EDUCATION proposed amendments to Special Education Facilities under Section 14-7.02 of the School Code (23 IAC 401), which applies to private or out of State special education facilities that receive reimbursement from school districts for enrolling special needs students who cannot be adequately served in a less restrictive setting. Facilities seeking approval as special education providers under this Part must apply between 9/1 and 2/1 of the school year prior to the year for which approval is sought. At least 5½ (currently, 5) hours of instruction per school day must be provided, and the regular school year must include at least 176 student attendance days beginning with the 2019-20 school year. The maximum allowable student to licensed teacher ratio is 5:1, or 10:1 if a full-time paraprofessional is also provided. The facility must immediately notify the student's home school district of any change in a student's residence or guardianship, or of any absence of 5 consecutive days or more (currently, 5 or more consecutive days of unexcused absence). Staff rosters will be checked against the Illinois Murderer and Violent Offender Against Youth registry or against a comparable out of State registry. Providers using disciplinary or behavioral techniques prohibited in Illinois,

as well as out of State providers not recognized by the state in which they are located, will not receive SBE approval. An enrollment hold placed on an out of State residential facility by its licensing agent will also serve as an enrollment hold for Illinois school districts. The rulemaking revises numerous aspects of the application, review and approval process for providers. Facilities located more than 50 miles outside of Illinois no longer require an on-site visit by an SBE representative. Facilities that intend to close, move, or discontinue any approved programs must give 40 school days (currently, 60 calendar days) notice to the State Superintendent and to any school districts with which they have contracted to provide services. If the State Superintendent determines a facility is not in compliance, the facility has 80 school days to address the areas of noncompliance; if it fails to meet this deadline, the facility will be placed on "pending further review" status and may not accept any new Illinois students. Facilities pending further review that do not attain full compliance within 40 days will be placed on "nonapproved" status and will no longer receive reimbursement. Illinois facilities must keep on file their most recent State Fire Marshal inspection report, which must be no more than 36 months old, or if that report is not available, an inspection report from a local governmental

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# Proposed Rulemakings

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agency that is no more than 12 months old. Finally, facilities may not pre-bill Illinois public school districts for services that have not yet been provided. School districts and special education facilities are affected by this rulemaking.

Questions/requests for copies/ comments through 5/15/17: Lindsay Bentivigna, SBE, 100 N. First St. S-493, Springfield IL 62777-0001, 217/782-5270, [rules@isbe.net](mailto:rules@isbe.net)

## ■ LONG TERM CARE

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 41 Ill Reg 3761), Sheltered Care Facilities Code (77 IAC 330; 41 Ill Reg 3775) and Illinois Veterans' Homes Code (77 IAC 340; 41 Ill Reg 3787) removing a requirement that persons with a financial interest in a regulated facility, or who own a building in which a facility operates, include their Social Security numbers on the initial and renewal license application forms. Other changes align the language of each Part more closely with the Nursing Home Care Act. Owners, investors and operators of nursing homes are affected.

## ■ HIV/AIDS

DPH also proposed amendments to HIV/AIDS

Confidentiality and Testing Code (77 IAC 697; 41 Ill Reg 3795) implementing Public Act 99-54. The rulemaking allows physicians to notify the spouse or civil union partner of a patient with a confirmed positive test for HIV if the patient refuses to notify the spouse/partner, or has failed to do so. If the patient is under 18, the physician may notify the patient's parent or legal guardian of the test result. The rulemaking establishes pre-test information and consent procedures for both opt-in testing (the patient must either accept or decline testing) and opt-out testing (the patient is notified that testing may take place unless he or she declines). The definition of "health care professional" for purposes of HIV/AIDS testing and other services is expanded to include advanced practice nurses and physician assistants who have clinical privileges at a hospital or ambulatory surgical treatment center, licensed podiatric physicians, and any individual certified to provide HIV testing and counseling by a State or local public health departments. Other changes expand the definition of a health care facility and adopt the definition of health care provider contained in the federal Health Insurance Portability and Accountability Act (HIPAA). Health care providers and facilities that provide HIV testing, counseling and treatment are affected by this rulemaking.

Questions/requests for copies/ comments on the 4 DPH rulemakings through 5/15/17:

Elizabeth Paton, 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)

## ■ AMBULANCE GRANTS

The OFFICE OF THE STATE FIRE MARSHAL proposed amendments to Small Equipment Grant Program (41 IAC 291; 41 Ill Reg 3748) that extend eligibility for the program to ambulance services that are non-profit or operated by a unit of local government such as a township/municipal fire department or fire protection district. Qualifying ambulance services must be volunteer organizations and stand-alone emergency medical service providers. The rulemaking also restructures the requirements and duties of the Grant Application Review Committee and adds a new section regarding pre-screening and ranking of applicants. The point system for ranking applicants is also revised, with up to 50 points (out of 100 maximum) based on equipment need and up to 50 points based on financial need. (Currently, up to 50 points are based on financial need, up to 45 points on equipment need, and up to 5 points are awarded based on the date OSFM receives the application.) Local governments and non-profit ambulance services are affected by this rulemaking.

Questions/requests for copies/ comments through 5/15/17: Cindy

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# Proposed Rulemakings

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Baum, OSFM, 1035 Stevenson Dr.  
Springfield IL 62703-4259, 217/  
785-4212

Questions/requests for copies/  
comments through 5/15/17:  
Debra M. Boggess, DOR, 101 W.  
Jefferson, Springfield IL 62794,  
217/782-2844.

obsolete options for Public  
Service Administrator and Senior  
Public Service Administrator  
titles; add and remove titles  
recently established or abolished  
by the Civil Service Commission  
from the list of merit  
compensation system (MS) titles  
and salary ranges; and establish  
the general applicability of the  
Pay Plan for fiscal year 2018.

## ■ SALES TAX

The DEPARTMENT OF REVENUE proposed an amendment to Retailers' Occupation Tax (86 IAC 130; 41 Ill Reg 3817) implementing PA 97-636, which extends current sales tax exemptions for gasohol, majority blended ethanol, 100% biodiesel and biodiesel blends through 12/31/18.

## STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES proposed amendments to Pay Plan (80 IAC 310; 41 Ill Reg 3632) that remove in-hire rates (matching the City of Chicago's minimum wage) for certain trainee and intern positions located in Chicago; introduce new options and remove

Questions/requests for copies/  
comments through 5/15/17:  
Jason Doggett, CMS, 503 Stratton  
Bldg., Springfield IL 62706, 217/  
524-1055, fax 217/558-4497, e-  
mail: [CMS.PayPlan@illinois.gov](mailto:CMS.PayPlan@illinois.gov)

## 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 April 4, 2017 meeting. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

### DEPT OF CHILDREN AND FAMILY SERVICES

Reports of Child Abuse and Neglect (89 IAC 300; 40 Ill Reg 13064) proposed 9/16/16

### DEPT OF HUMAN SERVICES

Voter Registration Program (89 IAC 512; 41 Ill Reg 782) proposed 2/3/17

## Joint Committee on Administrative Rules

**Senator Bill Brady**  
**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**