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Joint Committee on Administrative Rules
Illinois General Assembly

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Issue 18

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

■ CHILD ABUSE/NEGLECT

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES adopted amendments to Reports of Child Abuse and Neglect (89 IAC 300; 40 Ill Reg 13064), effective 4/21/17, implementing changes to the Abused and Neglected Child Reporting Act. The rulemaking amends the criteria for making an allegation of inadequate supervision to require "blatant disregard" of parental or caregiver responsibilities, and references the statutory definition of blatant disregard (a real, significant and imminent risk of harm to which a reasonable parent or caretaker would not have exposed the child without taking precautionary measures). Three specific categories of inadequate supervision are also named, in addition to the existing general category: children left home alone, outside or in the

community; children left in vehicles; and children left in the care of an inadequate caregiver. Factors to be considered in determining whether an allegation of inadequate supervision should be investigated or is founded include the maturity level of the child; the duration and frequency of the child's being left alone; the location and accessibility of the parent or guardian; and whether the child was given (and was capable of using) a contact telephone number in case of emergency. DCFS states that these changes are intended to allow parents to make prudent and reasonable decisions regarding their children's ability to care for themselves. The rulemaking also adds a new category of allegation, "neglect by agency", which includes the failure of a residential child

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Proposed Rulemakings

■ CHILD CARE FACILITIES

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to Licensing Enforcement (89 IAC 383; 41 Ill Reg 4544) that change the title of the Part to Licensing Compliance Monitoring, Complaints & Enforcement and clarify the role of the licensing supervisor and representative. The rulemaking provides that all types of licensed child care facilities, other than foster homes, shall be monitored by an authorized licensing representative at least annually, or more frequently when conditions warrant; foster homes shall be monitored at least twice a year. Facility permits shall be monitored by an authorized licensing representative at least once a month. The rulemaking expands the definition of a

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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) 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

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welfare facility to insure the health, safety and well-being of residents; conditions that expose residents to harm or lack of care; subjecting residents to an environment injurious to their well-being; and incidents of abuse or neglect against a child or adult resident in which the perpetrator cannot be identified. Those affected by this rulemaking include parents, guardians, caregivers and residential facilities caring for children.

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

■ CREDIT UNIONS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to Illinois Credit Union Act (38 IAC 190; 40 Ill Reg 14443) effective 5/1/17 that revise its policies regarding credit union business loan practices to reflect recent rule changes by the National Credit Union Administration (NCUA). The rulemaking defines an “associated borrower” as any other person or entity that shares ownership or interest with the main borrower and derives a direct benefit from the loan (with some qualified exceptions for partnerships, joint ventures and associations). Other new definitions include “commercial

loan” (a loan for commercial or professional but not personal purposes, with some specified exceptions, e.g., a loan from one credit union to another is not considered a commercial loan); “common enterprise” (exists when each borrower shares the same expected source of repayment, the borrowers are related directly through common control, and substantial financial interdependence exists among the borrowers); “control” (a person or entity controlling more than 25% of the voting stock of an entity or that has a majority control over an entity), and “credit rating system” (a formal process that assigns a credit risk score to a loan in a credit union’s portfolio), among others. Minimum professional standards for the management of a credit union’s loan activities are established, including adoption and implementation of a comprehensive written commercial loan policy that addresses such topics as types of commercial loans permitted; trade area of loans; the maximum amount of assets in relation to net worth allowed for commercial lending; qualifications and experience credentials of loan personnel; underwriting standards for commercial loans; risk management procedures; and loan procedures. Rules for construction and development loans include the following: a loan to finance maintenance, repairs or improvements on property is not considered a construction or development loan; the credit union’s underlying commercial loan

policy must include adequate provisions for establishing collateral value; and qualified personnel must review and approve any line item construction budget prior to closing the loan. Prohibited loan activities include loans to any senior management employee of a credit union involved in the credit union’s underwriting, serving or collection process and loans to any compensated director (unless the board permitted it and the director receiving the loan was recused from the board’s decision making process). Any third party reviewing a loan must not have an interest in or be party to the loan. Also, a loan may not be granted if any additional income received by the credit union or its senior management is tied to the sale or profit of any business enterprise that benefits from the proceeds of the loan. Business loan limits are linked with federal statutory limits (the aggregate limit on a federally insured credit union’s net member loan balances is the lesser of 1.75 times the net worth of the credit union or 1.75 times the minimum net worth required under federal law). Finally, the rulemaking also repeals a regulatory provision on reverse mortgages that is now codified in statute and adds definitions for NCUA and the Uniform Standards of Professional Appraisal Practice. Since 1st Notice, DFPR has added criteria for how financial statement quality will be

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Proposed Rulemakings

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complaint to include allegations that an unlicensed child care facility is operating under conditions that require licensing under the Child Care Act of 1969 (in addition to allegations that a licensed facility is operating in violation of the Act). All licensing complaints made to private supervising agencies must be reported to the Department licensing representative within 3 business days (currently, 72 hours); other notifications (e.g., whether a complaint has been deemed substantiated or unsubstantiated) must be made within 5 business days (currently, 5 calendar days). The rulemaking also addresses the handling of allegations that individual staff at child care facilities or child welfare agencies failed to report abuse or neglect of children within the facility. In such cases the licensing representative shall ensure that the facility takes immediate action with the individual staff involved and documents its actions. The licensing representative must also determine whether the failure to report was an isolated incident, part of a larger incident involving other staff members, or indicative of a systemic problem within the facility or agency. Protective plans that limit or prohibit a license holder's, household member's, volunteer's or employee's contact with children in a child care program must be reviewed by the licensing representative and supervisor at least once a week

(currently, every 6 months). Corrective plans for remedying licensing violations are required if the violation can be corrected within 90 days (currently, 60 days), with 30-day extensions permitted for good cause. Corrective plans for an agency that fails to report suspected abuse or neglect must include the use of supervisory teams to review the staff and facility's understanding of their reporting requirements. Other issues addressed in this rulemaking include supervisory reviews (undertaken when a licensee or permit holder disputes an alleged violation or disagrees with the Department's interpretation of the Act or its licensing standards); informal reviews; conditional licensing; notices of revocation, nonrenewal or refusal to issue a full license; and voluntary surrender of a license or permit. Those affected by this rulemaking include foster homes, day care providers, and employees of child care facilities or child welfare agencies.

■ ADOPTION

DCFS also proposed amendments to Adoption Services for Children for whom the Department of Children and Family Services is Legally Responsible (89 IAC 309; 41 Ill Reg 4528) implementing recent amendments to the Adoption Act (PA 99-345 and PA 99-832). The rulemaking requires disclosure to prospective adoptive parents of requests for post-adoption

contact by the birth parent or parents, and of who selected the adoptive parents and why. It adds and amends various definitions, including adoption dissolution (a child's removal from an adoptive placement after the adoption has been finalized), placement disruption (removal before an adoption is finalized), secondary placement (occurring after a placement disruption or adoption dissolution), and birth grandparent and birth relative (for purposes of the Adoption Registry). The rulemaking also recognizes parties to a civil union as persons who may adopt and exempts adoptive parents of children previously adopted in foreign countries from the 6-month Illinois residency requirement for adoption. Finally, the rulemaking removes a reference to the Adoption Information Center of Illinois, a private firm that formerly managed the Adoption Listing Service (now managed directly by DCFS). Prospective adoptive parents, adoptees and adoption agencies are affected.

Questions/requests for copies/ comments on the 2 DCFS rulemakings through 6/19/17: Jeff Osowski, at the DCFS address and phone numbers on page 2.

INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to the Part titled Regulation of Insurers (50 IAC

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New Rules

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determined, which include the level of review/assurance provided by the preparer of the statement. This rulemaking is too extensive to summarize in its entirety and readers are advised to consult the actual rule text. Credit unions and small businesses or non-profits seeking loans from credit unions are affected by this rulemaking.

Questions/requests for copies: Craig Cellini, DFPR, 320 W. Washington, 3rd Fl., Springfield IL 62786, 217/785-0813 Fax: 217/557-4451.

■ COMMERCIAL FISHING

The DEPARTMENT OF NATURAL RESOURCES adopted amendments to Commercial Fishing and Musseling in Certain Waters of the State (17 IAC 830; 41 Ill Reg 631), effective 4/18/17, clarifying that commercial fishermen and their assistants must obtain both commercial fishing and sport fishing licenses unless they are exempted from having to obtain a sport fishing license, and that priority in granting special use permits for specified bodies of water will be given to fishermen who were issued a permit for the same body of water in the previous year. Other amendments allow commercial musseling of Asian clams, allow up to 2 (formerly, 1) special use permits for Otter Creek in Greene County and Macoupin Creek in Jersey and Greene counties, and allow up to

3 (formerly, 1) special use permits for Quincy Bay. Commercial fishermen are affected by this rulemaking.

Questions/requests for copies: Renee Snow, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

FINANCIAL INSTITUTIONS

The DEPARTMENT OF INSURANCE adopted an amendment to Personal Information Privacy Protection (50 IAC 4002; 40 Ill Reg 16509) effective 4/20/17 implementing recent changes to the federal Gramm-Leach-Bliley Act. The rulemaking exempts financial institutions from the requirement to provide an annual privacy notice to customers if its policies regarding release of information to third parties meet specified criteria and if the institution has not changed its policies since its most recent disclosure statement.

Questions/requests for copies: James Rundblom, DOI, 320 W. Washington St., 4th Fl., Springfield IL 62767-0001, 217/785-8559, fax 217/524-9033.

TELECOMMUNICATIONS

The ILLINOIS COMMERCE COMMISSION adopted amendments to Standards of Service for Local Exchange Telecommunications Carriers (83 IAC 730; 40 Ill Reg 8257), Wholesale Service Quality for Telecommunications Carriers (83

IAC 731; 40 Ill Reg 8264), and Service Quality Requirements Applicable to Wireless Eligible Telecommunications Carriers (83 IAC 736; 40 Ill Reg 8270), all effective 4/19/17. These rulemakings implement the results of a review process required of ICC every 2 years under Sec. 13-512 of the Public Utilities Act. The Part 730 amendments align the network outage reporting requirements with federal requirements and update them to allow outage reporting by e-mail (rather than simply by phone). The Part 731 amendments eliminate the requirement that telecom carriers submit wholesale service quality plans for ICC review when no changes are being made to those plans (other than an extension in term) and update references to ICC personnel to reflect ICC's new organizational structure. The Part 736 amendments incorporate the 8/24/15 edition of the Wireless Association's Consumer Code for Wireless Service (CTIA Code), replacing the formerly incorporated 9/10/13 edition. Telecommunications companies are affected by these rulemakings.

Questions/requests for copies of the 3 ICC rulemakings: Brian W. Allen, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/558-2387. Please reference Docket 16-0308 for Part 730, Docket 16-0309 for Part 731, and Docket 16-0310 for Part 736.

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Proposed Rulemakings

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652; 41 Ill Reg 4592) implementing Public Act 98-609, concerning registration reporting of Illinois domestic insurance companies. The rulemaking requires affected insurers to file their annual enterprise risk reports no later than May 1; outlines how incorporations by reference and summaries of other documents may be included in these reports; and provides an example of the form to be used. It also adds a severability clause allowing other provisions of this Part to remain in effect if any Section or provision is held invalid by a court.

Questions/requests for copies/ comments through 6/19/17: Anne Marie Skallerup, DOI, 122 S. Michigan Ave., 19th Fl., Chicago IL 60601, 312/814-5410, fax 312/814-2862, or Susan Anders, DOI, 320 W. Washington St., Springfield IL 62767, 217/558-0957.

ADA PROCEDURES

The ILLINOIS COMMUNITY COLLEGE BOARD proposed amendments to Americans with Disabilities Act Grievance Procedure (4 IAC 1050; 41 Ill Reg 4585) updating its procedures for filing complaints under the federal Americans with Disabilities Act. The rulemaking

sets timeframes of 15 business days for appointing a panel to review a grievance that has not been resolved by the agency's ADA coordinator; for the panel to schedule its review of the grievance, for the panel to issue its recommendation to the agency executive director; and for the executive director to approve, disapprove, or modify that recommendation.

Questions/requests for copies/ comments through 6/19/17: Matt Berry, ICCB, 401 E. Capitol Ave., Springfield IL 62701-1711, 217/785-7411, fax 217/524-4981, e-mail: Matt.berry@illinois.gov

New Rules

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STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted amendments to Pay Plan (80 IAC 310; 41 Ill Reg 213), effective 4/24/17, adding new job titles and salary ranges recently established (corrections treatment officer, corrections treatment officer trainee, corrections treatment officer supervisor, corrections treatment senior security supervisor, retirement benefits representative, retirement benefits supervisor, retirement benefits representative trainee) and removing titles and salary ranges that have been abolished

(physical therapy aide I, public service trainee) by the Civil Service Commission. In-hire rates effective 1/1/17 are added for temporary Department of Transportation employees appointed to non-bargaining unit positions as bridge tenders, deck hands and ferry operators.

Questions/requests for copies: Jason Doggett, CMS, 503 Stratton Bldg., Springfield IL 62706, 217/524-1055, fax 217/558-4497, e-mail: CMS.PayPlan@illinois.gov

PUBLIC INFORMATION

The DEPARTMENT OF CORRECTIONS repealed the Part titled Freedom of Information (2 IAC 851; 41 Ill Reg 4741) and adopted a new Part titled Access

to Records of the Department of Corrections (2 IAC 851; 41 Ill Reg 4743), both effective 5/1/17. These rulemakings update DOC's Freedom of Information request procedures, including new response timeframes, records that are subject to (or exempt from) disclosure, retrieval of electronic records, appeals of FOIA request denials, and fees for duplication of records.

Questions/requests for copies of the 2 DOC rulemakings: Echo Beekman, DOC, 1301 Concordia Court, P.O. Box 19277, Springfield IL 6294-9277, 217/558-2200, extension 6507, Echo.BEEKMAN@DOC.ILLINOIS.GOV

Second Notices

The following rulemakings were moved to Second Notice this week by the agencies listed below, commencing the JCAR review period. The DHS and DFPR rulemakings will be considered at the Committee's May 9, 2017 meeting while the IGB rulemaking will be considered at the June 13, 2017 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.

DEPT OF HUMAN SERVICES

Office of the Inspector General Investigations of Alleged Abuse or Neglect in State-Operated Facilities and Community Agencies (59 IAC 50; 41 Ill Reg 2305) proposed 2/24/17

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Acupuncture Practice Act (68 IAC 1140; 41 Ill Reg 2724) proposed 3/3/17

ILLINOIS GAMING BOARD

Video Gaming (General) (11 IAC 1800; 41 Ill Reg 2669) proposed 2/24/17

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