

*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 CARE

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Child Care (89 IAC 50; 42 Ill Reg 13430), effective 11/27/18, replacing emergency amendments that were effective 7/1/18. The rulemaking updates Child Care Assistance Program (CCAP) income eligibility criteria to align with the most recent Federal Poverty Level figures. The statutory eligibility threshold of 185% of FPL is implemented based on family size, with gross monthly income limits ranging from \$2,538 for a family of 2 to \$7,866 for a family of 10. Required co-payments (ranging from \$2 to \$393 per month for a family of 4) are also revised based on the new income limits. Since 1<sup>st</sup> Notice, DHS has clarified that eligibility for CCAP services based on need for education or training continues

until the parent has completed a bachelor's degree. Child care providers may be affected by this rulemaking.

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

### ■ ALCOHOL SALES

The ILLINOIS LIQUOR CONTROL COMMISSION adopted an amendment to the Part titled The Illinois Liquor Control Commission (11 IAC 100; 42 Ill Reg 7735), effective 11/29/18, implementing and interpreting the Liquor Control Act's prohibition against "of value" transactions among retailers, manufacturers and distributors. Generally, it is unlawful under the Act for any industry member (licensed manufacturer, non-

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## Emergency Rulemaking

### ■ MEDICAL CANNABIS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted emergency amendments to the Part titled Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 IAC 1290; 42 Ill Reg 23202), effective 12/3/18 for a maximum of 150 days. **(NOTE: Certain provisions of the emergency rule have been suspended effective 12/11/18. See JCAR Meeting Action, page 5.)** Identical proposed amendments appear in this week's *Illinois Register* at 42 Ill Reg 22333. The rulemakings implement Public Act 100-1114, which creates an Opioid Alternative Pilot Program (OAPP), and authorizes the sale and dispensing of medical cannabis to OAPP participants.

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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

(cont. from page 1)

resident dealer, distributor, importing distributor, foreign importer, or any person or entity associated with them) to give or lend money or any “item of value” to a licensed retailer or any person or entity associated with a retailer. Retailers also cannot accept any money or item of value from an industry member. Transactions in which money, services, or other items (e.g., equipment, signs) are given, sold or lent by an industry member to a third party are defined in this rulemaking as indirect “of value” transactions; these include payments for advertising to a retailer association or a display company if the resulting benefits flow to an individual retailer. The rulemaking lists examples of transactions that violate the “of value” prohibition as well as transactions that are exempt from this prohibition. Transactions that may, or may not, violate the prohibition depending on the circumstances include display space advertising; product displays and signage; quantity discounts; free warehousing; rebates and credits; free samples; industry member promotional events; and social media advertising. Persons affected by this rulemaking are encouraged to read the rulemaking in its entirety. Bars and taverns, liquor stores, other establishments that sell alcoholic beverages, liquor distributors, manufacturers, and importers, and municipalities that grant liquor licenses will be affected.

Questions/requests for copies: Pamela Paziotopoulos, ILCC, 100 W. Randolph St., Suite 7-801, Chicago IL 60601, 312/814-1801.

## CYBERSECURITY

The DEPARTMENT OF INNOVATION AND TECHNOLOGY (DoIT) adopted a new Part titled Mandatory Cybersecurity Training (80 IAC 4000; 42 Ill Reg 14173), effective 1/1/19, implementing a provision of the Data Security on State Computers Act [20 ILCS 450]. The Part codifies annual State employee cybersecurity training requirements, including instruction on phishing scams, spyware infections, identity theft, and preventing or responding to data breaches. DoIT shall provide access to electronic, in-person or paper-based training and make reasonable efforts to accommodate the needs of an employee or his/her agency. At least two training periods shall be offered per year, with at least 60 calendar days notice of tentative training dates to the designated contact persons at each agency. In-person training may include web conferences that, if attended online, satisfy the training requirement as though they were attended in person. State agencies, boards and commissions must designate a contact person to monitor compliance with cybersecurity training requirements and maintain a list of employees required to complete this training.

Questions/requests for copies/ comments through 9/10/18: Josue Barba, DoIT, 120 W. Jefferson St., Springfield IL 62702, 217/524-1294, fax 217/524-0755, e-mail: [josue.barba@illinois.gov](mailto:josue.barba@illinois.gov)

## ■ TAXES

The DEPARTMENT OF REVENUE adopted amendments to the Parts titled Cigarette Tax Act (86 IAC 440; 42 Ill Reg 8777) and Cigarette Use Tax Act (86 IAC 450; 42 Ill Reg 8789), both effective 11/29/18, implementing several Public Acts. The rulemakings reflect the additional tax of 50 mills per cigarette (\$1 per pack) imposed by Public Act 97-688 in 2012 and explain the distributions of cigarette tax revenue to various State funds. Other provisions reflect statutory procedures for destroying forfeited packs of cigarettes and remove outdated or obsolete references. DOR also adopted amendments to the Parts titled Use Tax (86 IAC 150; 42 Ill Reg 6280) and Liquor Control Act (86 IAC 420; 42 Ill Reg 8755), both effective 11/29/18, that remove out of date and obsolete provisions and update statutory and other references.

Questions/requests for copies/ comments on the 4 DOR rulemakings: Part 150, Samuel J. Moore; Parts 420, 440 and 450, Richard Wolters; DOR, 101 W. Jefferson St., Springfield IL 62794, 217/782-2844.

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# Proposed Rulemakings

## ■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed an amendment to Video Gaming (General) (11 IAC 1800; 42 Ill Reg 22336) authorizing IGB to rule on petitions brought by terminal operators, licensed video gaming locations, or other interested parties alleging that an agreement or portion of an agreement purporting to control the location and operation of video gaming terminals is invalid. Issues that IGB will have authority to decide have been expanded to include: whether an agreement controls placement or operation of video gaming terminals and whether one or more terms of an agreement constitute practices detrimental to the public interest or against the best interests of video gaming. The rulemaking also adds new provisions allowing the IGB Administrator, upon a timely written application submitted prior to issuance of a recommendation, to permit any interested party to intervene in a petition process if that party could be materially and adversely affected by the final order. The Administrator, in such cases, must also consider whether an intervention will unduly delay or prejudice adjudication of the petition in a manner that impedes the rights of other parties. Owners and operators of video gaming terminals and locations are affected.

Questions/requests for copies/comments through 1/28/19:

(cont. from page 1)

The OAPP allows patients with conditions for which opioids have been, or could be, prescribed (e.g., chronic pain) to enroll in the Department of Public Health cannabis patient registry and obtain medical cannabis instead of opioids. The rulemakings align this Part with corresponding emergency amendments to DPH cannabis registry rules at 77 IAC 946 (published in last week's *Illinois Register*); update provisions regarding inventory

Agostino Lorenzini, IGB, 160 N. LaSalle St., Chicago IL 60601, 3 1 2 / 8 1 4 - 7 2 5 3 , [Agostino.lorenzini@igb.illinois.gov](mailto:Agostino.lorenzini@igb.illinois.gov)

## ■ PROFESSIONAL LICENSES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Administrative Procedures for General Professional Regulation Under the Administrative Code (68 IAC 1130; 42 Ill Reg 22314) implementing two Public Acts. The rulemaking eliminates references to non-binding advisory opinions (abolished by PA 100-883) and codifies DFPR's practice of not renewing professional licenses until outstanding disciplinary fines are paid. A new license also will not be issued until the applicant has paid any outstanding fines for unlicensed practice. Other

## Emergency Rulemaking

control and security, including video surveillance; and alter restrictions on ownership and management of cannabis dispensing organizations. Those affected by these rulemakings include medical cannabis dispensing organizations.

Questions/requests for copies/comments on the proposed rulemaking through 1/28/19: Craig Cellini, DFPR, 320 W. Washington St., 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

provisions require a one-hour sexual harassment prevention continuing education course for all licensed professions that have CE requirements and revise procedures for prospective license applicants who want to ask DFPR whether a past criminal conviction will bar them from entering a licensed profession. Persons applying for or renewing professional licenses are affected.

Questions/requests for copies/comments through 1/28/19: Craig Cellini, DFPR, 320 W. Washington St., 3<sup>rd</sup> Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

# New Rules

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## ■ MEDICAL PAYMENT

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES adopted amendments to the following Parts effective 11/28/18: Medical Payment (89 IAC 140; 42 Ill Reg 8119 and 13411), Diagnosis Related Grouping (DRG) Prospective Payment System (PPS) (89 IAC 149; 42 Ill Reg 13418), and Hospital Reimbursement Changes (89 IAC 152; 42 Ill Reg 13420). An amendment to Hospital Services (89 IAC 148; 42 Ill Reg 13415) was effective 11/29/18. These 4 rulemakings replace emergency rules that were effective 7/2/18. The amendments implement Public Acts 100-580 and 100-581, which extend the hospital assessment program and transitional hospital rate reform programs, including various categories of supplemental Medicaid payments, beyond their previous sunset date of 6/30/18. Additionally, the Part 140

rulemaking adds treatment of impacted maxillary central incisors to the list of orthodontic procedures that may be covered by medical assistance for patients under age 21. Orthodontists that accept medical assistance patients will be affected.

Questions/requests for copies of the 4 HFS rulemakings: Christopher Gange, HFS, 201 S. Grand Ave. East, 3<sup>rd</sup> Fl., Springfield IL 62763-0002, 217/782-1233, [HFS.Rules@illinois.gov](mailto:HFS.Rules@illinois.gov)

## ■ WASTE DISPOSAL

The POLLUTION CONTROL BOARD adopted amendments to Standards Applicable to Transporters of Hazardous Waste (35 IAC 723; 42 Ill Reg 10999), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 IAC 724; 42 Ill Reg 11594), and Standards for the Management of Specific Hazardous Waste and Specific Types of Hazardous Waste

Management Facilities (35 IAC 726; 42 Ill Reg 11016), all effective 11/19/18. These rulemakings are part of a consolidated PCB docket correcting and updating hazardous waste handling, storage, transport and disposal rules to align with federal EPA regulations approved during 2016 and 2017. Small businesses and small municipalities that collect, transport, store or dispose of hazardous waste may be affected by these rulemakings.

Requests for copies/comments on the 3 PCB rulemakings: Michael J. McCambridge, PCB, 100 W. Randolph St., Suite 11-500, Chicago IL 60601, 312/814-6924, [michael.mccambridge@illinois.gov](mailto:michael.mccambridge@illinois.gov). Please reference consolidated docket R17-14/R17-15/R18-11/R18-31. Copies of the Board's opinion and order may be requested at 312/814-3620 or downloaded from the Board's website at <http://www.ipcb.state.il.us>.

## Joint Committee on Administrative Rules

**Senator Don Harmon**  
**Senator Tony Muñoz**  
**Senator Sue Rezin**  
**Senator Paul Schimpf**  
**Senator Ira Silverstein**  
**Senator Chuck Weaver**

**Representative Peter Breen**  
**Representative Barbara Flynn Currie**  
**Representative Tom Demmer**  
**Representative Greg Harris**  
**Representative André Thapedi**  
**Representative Keith Wheeler**

**Vicki Thomas**  
**Executive Director**

# JCAR Meeting Action

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At its 12/11/18 meeting, the Joint Committee on Administrative Rules approved the following actions:

## **OBJECTION & SUSPENSION**

With regard to the emergency rule of the Department of Financial and Professional Regulation titled Rules for Administration of the Compassionate Use of Medical Cannabis Pilot Program (68 IAC 1290; 42 Ill Reg 23202), JCAR objects to and suspends any provision of the rulemaking that does not directly implement any provision of the Opioid Alternative Pilot Program as established by PA 100-1114. The PA explicitly authorized the use of emergency rulemaking for the creation of the Pilot Program, but not the other changes to the Medical Cannabis Pilot Program that the Department has included in the emergency rule. JCAR finds that this inappropriate use of emergency rulemaking poses a threat to the public interest by changing basic tenets of the Medical Cannabis Program without public review or input, and without any justification being offered by the agency for this use of emergency rulemaking.

## **RECOMMENDATIONS**

With respect to the Department of Human Services rulemakings titled Medicaid Community Mental Health Services Program (Repealer) (59 IAC 132; 42 Ill Reg 7322) and Medicaid Community Mental Health Services Program (New Part) (59 IAC 132; 42 Ill Reg 7408), JCAR recommends that DHS delay adopting these rulemakings until the Department of Healthcare and Family Services is ready to adopt related amendments to 89 IAC 140 addressing Medicaid coverage issues that are no longer included in this new Part 132. JCAR further recommends that DHS and HFS, to the greatest extent possible, insure consistency between these rulemakings.

With regard to the Department of Employment Security rulemakings titled Administrative Hearings and Appeals (56 IAC 2725; 42 Ill Reg 16978), Payment of Unemployment Contributions, Interest

and Penalties (56 IAC 1765; 42 Ill Reg 17028) and Collection of Unemployment Contributions (56 IAC 2790; 42 Ill Reg 17048), JCAR recommends that DES be more timely in reflecting statutory changes in rule. The change to the 3-year refund window made by PA 98-1133, effective 1/1/15, was not implemented by DES during the more than 2.5 years before PA 100-84, effective 9/8/17, reversed that change. Additionally, the rulemakings titled Payment of Unemployment Contributions, Interest and Penalties and Collection of Unemployment Contributions implement statutory changes made in 1997 and 2014.

With respect to the rulemaking titled Public Use of State Parks and Other Properties of the Department of Natural Resources (17 IAC 110; 42 Ill Reg 7905) JCAR recommends that, if DNR believes that volunteers on Department property should be examined for criminal background, it seek statutory authority authorizing, and setting parameters for, criminal history background checks for volunteers.

## **EXTENSIONS**

JCAR and the respective agencies agreed to extend the Second Notice periods for the following rulemakings an additional 45 days. These rulemakings will be considered again at the Jan. 15 JCAR meeting.

Department of Public Health, Lead Poisoning Prevention Code (77 IAC 845; 42 Ill Reg 15784)

Department of Insurance, Required Procedure for Filing and Securing Approval of Policy Forms (50 IAC 916; 42 Ill Reg 17342) and Premium Trust Fund Account (50 IAC 3113; 42 Ill Reg 18372)

## 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 January 15, 2019 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.

### **BOARD OF HIGHER EDUCATION**

Tuition and Fee Waiver Guidelines (23 IAC 1075; 42 Ill Reg 17980) proposed 10/12/18

### **CHIEF PROCUREMENT OFFICER-HIGHER ED**

Chief Procurement Officer for Public Institutions of Higher Education Standard Procurement (44 IAC 4; 42 Ill Reg 17986) proposed 10/12/18

### **DEPT OF LABOR**

Minimum Wage Law (56 IAC 210; 42 Ill Reg 17091) proposed 9/28/18

### **DEPT OF INSURANCE**

Insurance Department Consumer Complaints (50 IAC 926; 42 Ill Reg 18347) proposed 10/12/18

Recognition of the 2001 CSO Mortality Table for Use in Determining Minimum Reserve Liabilities and Nonforfeiture Benefits (50 IAC 1412; 42 Ill Reg 18360) proposed 10/12/18

Insurance Oversight Data Collection (50 IAC 2907; 42 Ill Reg 18367) proposed 10/12/18

### **PROPERTY TAX APPEAL BOARD**

Practice and Procedures for Appeals Before the Property Tax Appeal Board (86 IAC 1910; 42 Ill Reg 16136) proposed 8/24/18

### **SECRETARY OF STATE**

Grant Application and Award Procedures—Census Participation and Immigrant Community Assistance Grants (89 IAC 1500; 42 Ill Reg 18440) proposed 10/12/18