

EXHIBIT 3

Claire B. Eberle, Editor

Joint Committee on Administrative Rules

217/785-2254

700 Stratton Bldg., Springfield IL 62706

Illinois General Assembly

www.ilga.gov/commission/jcar

VOL. 31

November 16, 2007

Issue 46

*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 is designed to inform and involve the public in changes taking place in agency administration.*

## New Regulations

## Proposed Regulations

### HOSPITAL BED REPORTS

The HEALTH FACILITIES PLANNING BOARD adopted amendments for rules titled "Narrative and Planning Policies" (77 Ill Adm Code 1100; 31 Ill Reg 2548), effective 11/1/07, to require hospitals to submit annual bed reports, which the Department of Public Health will review. Hospital beds are classified as "physically available", "reserve", or "transitional", and the sum of the bed types available must not exceed the authorized bed capacity. ("Physically available beds" are beds that are physically set up, meet hospital licensure requirements, and are available for use. "Reserve beds" are beds that are not set up for inpatients, but could be made physically available for inpatient use within 72 hours. "Transitional beds" means (1) beds for which a Certificate of Need (CON) has been issued, but that are not yet physically available, or (2) beds that are temporarily unavailable due to modernization projects that do not require a CON.) Bed reports must include information such as a summary of bed count by operational status ("physically available", "reserve", and "transitional") and category of service, identification of the physical location of patient care units (PCUs) and beds, and a description of the

project and timetable for completion if the report contains transitional beds. DPH will review reports, summarize reported changes from the existing Inventory of Hospital Beds, and submit changes to HFPB for approval. The rulemaking states that DPH and HFPB have authority to conduct inspections and request additional information to verify annual bed reports. Each hospital must submit its initial bed report within 6 months after 8/31/07. Every three years, a licensed architect or engineer is to verify that the hospital's PCUs and bed rooms are in compliance with applicable codes for new and existing facilities. Changes since 1<sup>st</sup> Notice, in response to public comment, allow hospitals to time this verification to coincide with the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) recertification process, specify that the hospital's chief executive officer or his or her equivalent must certify bed reports, lengthen from 48 to 72 hours the time frame in which reserve beds can be made available for patient use, and allow reserve beds to be kept in a hospital-owned or hospital-operated storage facility located outside the hospital campus. Entities affected by this rulemaking include hospitals.

(cont'd next page)

### INCOME TAX

The DEPARTMENT OF REVENUE proposed an amendment to "Income Tax" (86 Ill Adm Code 100; 31 Ill Reg 15240) detailing the treatment of federally exempt income that is not exempt from Illinois tax. Such income includes interest on State and local bonds, income earned by insurance companies that is not premiums or decreases in certain reserves, and certain other interest and/or dividends that had been excluded prior to the Tax Reform Act of 1986. Individuals, corporations, trusts and estates, partnerships, and pass-through entities could be affected by this rulemaking.

Questions/requests for copies/comments through 12/31/07: Paul Caselton, DOR, Legal Services Office, 101 W. Jefferson, Springfield IL 62794, 217/524-3951.

### DISCRIMINATION

The DEPARTMENT on AGING proposed a new Part titled "Americans With Disabilities Act and Civil Rights Program Grievance Procedure" (4 Ill Adm Code 1725; 31 Ill Reg 15127) to establish a means under the federal Americans With Disabilities Act of 1990 (ADA) and various federal and State civil rights laws for resolving grievances asserted by individuals who feel they are discriminated against in programs, services, or activities provided by the Department. Procedures

(cont'd next page)

*NEW REGULATIONS: Rules adopted by agencies this week.*

*PROPOSED REGULATIONS: Rules proposed by agencies this week, commencing a 45-day First Notice period. Public comments must be accepted by the agency for the period of time indicated.*

*☞: Symbol designating 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/RULE TEXT: Direct mail or phone calls to the agency personnel listed below each summary. Providing volume and issue number of The Flinn Report or the Illinois Register will expedite the process. Some agencies charge copying fees. However, copy requests do not have to be made under the Freedom of Information Act.*

# New Regulations

---

## HEALTH FACILITIES PROJECTS

The HFPB also adopted amendments to "Health Facilities Planning Procedural Rules" (77 Ill Adm Code 1130; 31 Ill Reg 3679), effective 11/1/07, to revise the Certificate of Need (CON) application processing fees. (The Health Facilities Planning Act [20 ILCS 3960] established Illinois' CON program, which is designed to restrain rising health care costs by preventing unnecessary construction or modification of health care facilities. The Board issues CONs for construction or modification projects proposed by healthcare facilities and also approves transactions for the acquisition of major medical equipment.) For clinical service area projects only, the application processing fee is calculated based on 100% of the total project cost. Non-clinical service area project application fees are calculated using 50% of the total project cost. For projects with combined service area projects, fees are calculated based on 100% of the clinical service area costs plus 50% of the non-clinical service area costs. Part 1130 defines "clinical service area" as a department and/or service that is directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the health care facility. "Non-clinical service area" means an area for the benefit of the patients, visitors, staff, or employees of a health care facility and not directly related to the diagnosis, treatment, or rehabilitation of persons receiving services from the

health care facility (e.g., chapels, gift shops, news stands, tunnels.) For projects less than \$1,250,000, application fees are \$2,500. The fee for a more costly project is 0.22% of the assigned costs. Fees shall not exceed \$100,000. Those affected by this rulemaking include hospitals, long-term care facilities, end-stage renal disease facilities, ambulatory surgical treatment centers, and comprehensive physical rehabilitation centers.

Questions/requests for copies of the 2 HFPB rulemakings above: Susan Meister, DPH, 535 W. Jefferson, 5<sup>th</sup> Fl., Springfield IL 62761, 217/782-2043, e-mail: IDPH.RULES@illinois.gov

## STATE POLICE PROMOTIONS

The STATE POLICE MERIT BOARD adopted amendments to "Procedures of the Department of State Police Merit Board" (80 Ill Adm Code 150; 31 Ill Reg 11545), effective 11/5/07, regarding promotion eligibility for troopers, special agents, sergeants, master sergeants, and lieutenants. Previous rules stated that candidates who ranked in the top 65% among those participating in the promotion process would be certified as eligible for promotion. The adopted rulemaking explains how that percentage will be calculated: by multiplying the total number of candidates by 0.65, rounding the result up to the next whole number if it contains a fraction, and certifying all candidates whose numerical rank is equal to or less than

the result. (For example, if there are 50 applicants, those who rank 1<sup>st</sup> through 33<sup>rd</sup> will be certified; if there are 100 applicants, those ranked 1<sup>st</sup> through 65<sup>th</sup> will be certified.)

Questions/requests for copies: James E. Seiber, SPMB, 3180 Adloff Ln., Ste. 100, Springfield IL 62703, 217/786-6240.

## SEC. OF STATE'S OFFICE

The SECRETARY OF STATE (SOS) adopted amendments to "Public Information, Rulemaking and Organization" (2 Ill Adm Code 550; 31 Ill Reg 15282), effective 11/5/07, as a required rulemaking under Section 5-15 of the Illinois Administrative Procedure Act, which permits summary rulemaking on agency organizational matters while bypassing the First Notice period for public comment. The rulemaking strikes addresses of various Departments within SOS, updates statutory references, and revises an inventory of various rules that are organized by the SOS Department responsible for administering each set of rules. Distinct named position titles no longer at SOS, such as the Executive Secretary and Public Advocate, are stricken. Also, a new organizational chart of the Office is adopted.

Questions/requests for copies: Steven Roth, Office of the SOS, 176 Howlett Bldg., Springfield IL 62701, 217/785-3094.

# Proposed Regulations

---

and time frames for submitting written complaint forms, possible agency actions, and assurance of case-by-case resolution are covered in the rule.

Questions/requests for copies/comments through 12/31/07: Karen Alice Kloppe, DonA, 421 E. Capitol Ave, #100, Springfield IL 62701-1789, 217/785-3346.

## SPORT FISHING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to "Sport Fishing Regulations for the Waters of Illinois" (17 Ill Adm Code 810; 31 Ill Reg 15142) that revise the size, length, and possession limits for non-commercial fishing. The rulemaking makes site-specific changes at more than 40 different sites. Fishing

is no longer allowed at Big Rock Quarry in Kane County, while fishing is allowed at 7 new sites: Fox Valley Park District lakes and ponds, except Blackberry Lake (Kane and DuPage counties), Emiquon Lake (Fulton County), Drake Lake at Jim Edgar Panther Creek Fish and Wildlife Area (Cass County), Omaha Township Reservoir (Gallatin County), Silver Lake (Madison County), and Sparta South

# Proposed Regulations

---

City Reservoir and Derby Lake at the Sparta World Shooting and Recreational Complex (both Randolph County). The rulemaking also design-

nates June 6-9, 2008, as statewide free fishing days.

Questions/requests for copies/com-

ments through 12/31/07: Jack Price, DNR, One Natural Resources Way, Springfield IL 62702-1271, 217/782-1809.

## JCAR Meeting Action

---

At its November 13, 2007 meeting, the Joint Committee on Administrative Rules voted the 2 Objections, 2 Recommendations, and one Suspension summarized below.

### DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES

JCAR objects to and suspends the Department's emergency rule titled "Medical Assistance Programs" (89 Ill Adm Code 120), which became effective 11/7/07, because, contrary to Section 5-45 of the Illinois Administrative Procedure Act, no emergency situation existed that warranted adoption of this entire emergency rule. The agency is maintaining that the loss of the federal State Children's Health Insurance Program (SCHIP) waiver warrants the adoption of an emergency rule to continue coverage of adults served under that waiver. However, this emergency rule is not limited to that issue. It contains other provisions that this Committee does not recognize as an emergency situation. Therefore, JCAR recommends that the Department adopt a rule that addresses only the loss of the SCHIP waiver. The Committee finds that inclusion of policy within this emergency rule that does not address a valid emergency is not in the public interest.

### DEPARTMENT OF HUMAN SERVICES

JCAR objects to the Department's removing dates of incorporation by reference from Section 121.63(f)(2), (f)(5) and (h) in its rule titled "Food Stamps" (89 Ill Adm Code 121; 31 Ill Reg 14372). Removing the dates from incorporations by reference of United States Department of Agriculture regulations contravenes Section 5-75 of the Illinois Administrative Procedure Act that requires materials incorporated by reference to be date-specific.

### DEPARTMENT OF AGRICULTURE

Concerning the rulemaking titled "Halal Food Disclosure" (8 Ill Adm Code 190; 31 Ill Reg 2053), JCAR recommends that the Department of Agriculture initiate rulemaking to implement Public Acts in a more timely manner. This rulemaking was proposed in February 2007, more than 5 years after the effective date of the Public Act requiring the rules (Public Act 92-394).

## 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 JCAR's December 11, 2007 meeting.

### DEPARTMENT OF REVENUE

"Income Tax" (86 Ill Adm Code 100) proposed 9/21/07 (31 Ill Reg 13331)

### DEPARTMENT OF CENTRAL MANAGEMENT SERVICES

"Pay Plan" (80 Ill Adm Code 310) proposed 9/14/07 (31 Ill Reg 13050)

### SECRETARY OF STATE

"Uniform Partnership Act (1997)" (14 Ill Adm Code 166) proposed 9/7/07 (31 Ill Reg 12690)

"Uniform Limited Partnership Act (2001)" (14 Ill Adm Code 171) proposed 9/7/07 (31 Ill Reg 12703)

### ENVIRONMENTAL PROTECTION AGENCY

"Review of Remediation Costs for River Edge Redevelopment Zone Site Remediation Tax Credit" (35 Ill Adm Code 888) proposed 9/14/07 (31 Ill Reg 13053)

# The Flinn Report

# Illinois Regulation

*Illinois General Assembly*

Joint Committee on Administrative Rules  
700 Stratton Building Springfield IL 62706

PRSRT STD  
U.S. Postage  
PAID  
Springfield IL  
Permit NO. 870

## ***Joint Committee on Administrative Rules***

**Senator J. Bradley Burzynski**

**Representative John Fritchey**

**Senator James F. Clayborne, Jr.**

**Representative Brent Hassert**

**Senator Maggie Crotty**

**Representative Louis Lang**

**Senator Randall Hultgren**

**Representative David Leitch**

**Senator Dan Rutherford**

**Representative David Miller**

**Senator Ira Silverstein**

**Representative Rosemary Mulligan**

**Vicki Thomas  
Executive Director**