

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.

Proposed Rulemakings

HEALTH & SEX EDUCATION

The STATE BOARD OF EDUCATION proposed an amendment to Public Schools Evaluation, Recognition and Supervision (23 IAC 1; 46 Ill Reg 3653) implementing Public Act 102-522, which requires SBE to establish learning standards for all classes that teach comprehensive personal health and safety (for K-5 pupils) and comprehensive sexual health education (for 6th-12th grade students). The standards proposed and incorporated in this rulemaking are the National Sex Education Standards: Core Content and Skills, K-12 (Second Edition, 2020) available at <https://siecus.org/wp-content/uploads/2020/03/NSES-2020-2.pdf>. Any subsequent additions or revisions to these standards are also incorporated. SBE may provide additional guidance on these standards at its website (www.isbe.net).

COVID-19 ACTIONS

Executive Orders of the Governor concerning the COVID-19 public health emergency can be accessed at <https://www2.illinois.gov/government/executive-orders>. Emergency rules adopted by State agencies will be summarized in The Flinn Report as they are published in the *Illinois Register*.

SPECIAL EDUCATION

SBE proposed amendments to the Parts titled Special Education (23 IAC 226; 46 Ill Reg 3857) and Special Education Facilities Under Section 14-7.02 of the School Code (23 Ill. Adm. Code 401; 46 Ill Reg 3884), that will, upon adoption, replace emergency amendments effective 2/4/22. Additionally, the PURCHASED CARE REVIEW BOARD proposed amendments to

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Adopted Rules

CHILD CARE

The DEPARTMENT OF HUMAN SERVICES adopted amendments to Child Care (89 IAC 50; 45 Ill Reg 12455) effective 2/24/22, replacing emergency amendments that were effective 10/1/21. The rulemaking establishes, through 6/30/22, a temporary 3-month period of eligibility for the Child Care Assistance Program (CCAP) for parents who have not yet secured a work, training or educational activity that would normally qualify them for CCAP. The change will enable parents who are unemployed due to the COVID-19 pandemic to receive child care assistance while they seek jobs or complete enrollment in an education or training program.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand

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ADOPTED 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.

Adopted Rules

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Ave. East, 3rd Floor, Springfield
IL 62762, 217/785-9772.

VEHICLE REGISTRATION

The SECRETARY OF STATE adopted an amendment to Certificates of Title, Registration of Vehicles (92 IAC 1010; 45 Ill Reg 8627) effective 2/23/22, clarifying that utility trailers with a gross vehicle of weight of less than 10,000 pounds, including camping or travel trailers, cannot be registered as semitrailers, but must be registered according to their use under the Illinois Vehicle Code.

UNINSURED DRIVERS

SOS also adopted amendments to Illinois Safety Responsibility Law (92 IAC 1070; 45 Ill Reg 12457) effective 2/25/22 implementing Public Act 102-052, which allows SOS to reinstate a driver's license that has been suspended for failing to post security following a crash involving an uninsured motorist if the statute of limitations for filing suit has expired, or to return a previously posted security upon the expiration of the statute of limitations.

Questions/requests for copies of the 2 SOS rulemakings: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, pwright@ilsos.gov

STATE RETIREMENT

The STATE EMPLOYEES' RETIREMENT SYSTEM proposed amendments to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 45 Ill Reg 14138) effective 2/23/22, updating and clarifying various provisions. The rulemaking clarifies that if legal action provides for the reinstatement of a terminated employee who accepted a refund or began retirement following a wrongful termination, that member can reinstate the service credit or repay the retirement benefit without interest as long as an installment plan is executed within 30 days of notice. With regard to Qualified Illinois Domestic Relations Orders (QILDROs; typically used to divide pension benefits between divorced spouses), if a SERS member whose benefits were subject to a QILDRO dies before a QILDRO Calculation Order has been submitted, the alternate payee (e.g., the surviving ex-spouse) will be responsible for obtaining that order. If the alternate

payee fails to provide that order within 180 days after notification from SERS, then his or her portion of the benefits shall be payable to the member's estate or designated beneficiaries. For purposes of determining a surviving child's eligibility for a survivor's annuity, full-time student status is determined by the standard set by that student's college for that student's course of study. Other provisions delay the processing of a Termination Refund or Total Buyout Payment for a member with a pending Social Security Disability or Workers' Compensation claim until that claim is resolved, and suspend Nonoccupational Disability Benefits or Temporary Disability Benefits of members that refuse to apply for Social Security Disability benefits. Since 1st Notice, SERS removed a provision that would have required a retiree who returns to active service to reimburse the System for the entire monthly pension payment that member received in the month they returned to active service.

Questions/requests for copies: Jeff Houch, SERS, 2101 S. Veterans Parkway, PO Box 19255, Springfield IL 62794-9255, 217/524-8105, jeff.houch@srs.illinois.gov

Emergency Rule

■ COVID-19 TRAINING

The DEPARTMENT OF PUBLIC HEALTH adopted an emergency amendment to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 45 Ill Reg 4136), effective 2/25/22 for a maximum of 150 days, replacing emergency amendments that expired 2/24/22. The emergency rule requires frontline clinical and management staff at skilled and intermediate care facilities who were hired after 1/31/21 to undergo free COVID-19 training provided by the federal Centers for Medicare & Medicaid Services within 14 days after being hired. For frontline staff hired on or

before that date, the facility must document that at least 50% completed this training by 1/31/21 and that all staff completed training by 2/28/21. Topics addressed by the training program include infection control, personal protective equipment, disinfection, screening, surveillance, cohorting (i.e., housing infected persons in separate areas from non-infected persons), vaccine distribution, and caring for individuals with dementia during a pandemic. Frontline staff required to complete this training include facility medical directors and nursing directors, treating physicians, nurses, aides,

rehabilitation coordinators, social service directors, and any licensed physical, occupational or speech therapists. Volunteers, students, contractors, consultants and caregivers who provide or engage in direct care or services to residents on behalf of a facility are also considered frontline staff who must complete the training program. Nursing homes are affected by this emergency rule.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield, IL 62701, (217)782-1159, dph.rules@illinois.gov

Proposed Rulemakings

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the Part titled Illinois Purchased Care Review Board (89 IAC 900; 46 Ill Reg 3987) that will also replace emergency amendments effective 2/4/22. The SBE and PCRБ emergency rules allow school districts to make emergency or student-specific placements of special education students in non-public special education facilities that do not have SBE approval, provided that the facility has appropriately certified teachers and an age-appropriate curriculum; provides enrollment and attendance data; and demonstrates ability to implement the child's Individualized Education Plan (IEP). The school district also must demonstrate that it made good faith efforts to place the student in an SBE-approved facility but could

not find one that had an opening or would accept the student. If the placement meets these conditions, SBE will reimburse the district for its costs. The placement can continue as long as the student's IEP team determines at least annually that it is appropriate and reviews SBE-approved facilities for openings at least every 3 years.

BILINGUAL EDUCATION

Finally, SBE proposed amendments to Transitional Bilingual Education (23 IAC 228; 46 Ill Reg 3867) that update English language development standards to the 2020 version of the WIDA English Language Development Standards; correct the address and weblinks for all references to WIDA; add a new kindergarten screener for

identifying English Learners and a subsequent sunset date for the current kindergarten screener; clean up obsolete assessment language; and reflect SBE's recent adoption of the Illinois Spanish Language Arts Standards.

Questions/requests for copies of the 4 SBE rulemakings and the PCRБ rulemaking through 4/25/22: Azita Kakvand, SBE, 555 W. Monroe St., Suite 900, Chicago IL 60661, 312/ 783-2757, rules@isbe.net

■ BUILDING TRADES

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY proposed amendments to Illinois Works Job Program Act (14 IAC 680; 46 Ill

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Reg 3639) establishing the Illinois Works Preapprenticeship Program (IWPP). IWPP provides grants to community-based organizations that will recruit, prescreen, and provide preapprenticeship skills training for prospective construction and building trades workers, which participants may attend free of charge and for which they may receive a stipend. Organizations that apply for these grants must register and qualify under the Grant Accountability and Transparency Act (GATA). Information that must be included in the application packet includes a description of the proposed preapprenticeship program and the wrap-around and student support services that will be provided; how the organization will coordinate with local workforce areas, including construction and building trades; and the organization's understanding of how race, ethnicity and gender may impact individuals' access to and experience of construction and building trade apprenticeships. Grants will be awarded based on factors that include the applicant's past experience in serving, and potential to reach, underrepresented populations. Other provisions establish recordkeeping and reporting requirements and list allowable costs that can be covered by these grants. Those affected by this rulemaking include community-based non-profit organizations, construction and building trade businesses, and labor unions.

Questions/requests for copies/ comments through 4/25/22: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, jolene.clarke@illinois.gov

■ DENTISTS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to the Part titled Illinois Dental Practice Act (68 IAC 1220; 46 Ill Reg 3903) implementing recent updates to the Act. The rulemaking establishes Temporary Permits for Free Dental Care that may be issued to dentists from other states or jurisdictions who are invited to administer dental care or receive specialized training in Illinois. The invitation must be extended by a charitable organization or a licensed continuing education (CE) sponsor. Applicants for the temporary permit must submit certification of licensure in their original jurisdiction and any other jurisdiction in which the applicant practiced for at least 1 year; note any record of pending or completed disciplinary action in those jurisdictions; submit certification of dental education meeting DFPR's minimum standards; have a collaborative agreement with an Illinois licensed dentist; and pay the required fee of \$100. Temporary permits must be used within 6 months after issuance, are limited to no more than 5 consecutive days, and can be renewed once within 5 years after initial issuance. A CE sponsor that wishes to invite temporary permit applicants must verify that

their training course will provide services to persons who are uninsured and/or eligible for Medicaid and whose income is at or below 200% of the Federal Poverty Level. The CE sponsor must also submit proof of sufficient malpractice insurance coverage and copies of valid written collaborative agreements with visiting dentists. The rulemaking also establishes the minimum required contents of on-site emergency kits for general practice dentists, which include emergency backup lighting, oxygen delivery apparatus, an Automated External Defibrillator (AED), an emergency backup suction system, a pulse oximeter, and other devices. Other provisions establish procedures for telehealth services; include dental anesthesiologists in rules governing sedation/anesthesia permits; and clarify procedures for restoring licenses or permits to dentists or hygienists whose licenses have been inactive due to disciplinary action. Dentists, dental hygienists, and dental education providers are affected by this rulemaking.

■ FINANCIAL SERVICES

DFPR also proposed an amendment to the Part titled Transmitters of Money Act (38 IAC 205; 46 Ill Reg 3898) requiring licensees to file their statutorily required annual audited financial statements no later than 120 days after the end of the licensee's fiscal

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year (current rule sets a December 1 deadline), after which the licensee is subject to a penalty of \$50 for each day that the statement is not submitted, unless the licensee has applied for and received an extension of the deadline prior to the due date. Currency exchanges and other businesses that transmit or receive payment instruments are affected.

Questions/requests for copies/comments on the 2 DFPR rulemakings through 4/25/22: Craig Cellini, DFPR, 320 West Washington St., 2nd Floor, Springfield IL 62786, 217/785-0813, fax: 217/557-4451.

■ RENTAL ASSISTANCE

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY proposed amendments to Rental Housing Support Program (47 IAC 380; 46 Ill Reg 3952) that align the Part with the State's Rental Housing Support (RHS) Program Act. The rulemaking limits RHS units in buildings with more than 10 (currently, more than 6) units to no more than 50% (currently, 30%) of the total units in the building, and places no limit on the number of RHS units in a building of 10 or fewer units. In buildings that contain 20 or more Permanent Supportive Housing units (for persons who require supportive services, e.g., persons with disabilities or mental illness, or who are at risk of homelessness)

all units must be RHS units. For Long Term Operating Support (LTOS) projects being constructed by developers, if the project has more than 25 (currently, 16) units, no more than 30% of units may be RHS units. If the LTOS project contains 25 or fewer units, there is no limit on RHS units. If the project contains more than 25 Permanent Supportive Housing units, all units must be RHS units. The rulemaking clarifies that while there is no asset limit for RHS program applicants or clients, annual income for purposes of determining eligibility includes net income from household/family assets. It also clarifies that the normal cap of 20% on rural area fund distributions to a single Local Administering Agency (LAA) may be exceeded if that LAA provides technical assistance to other localities that do not have the resources to distribute these funds. The rulemaking also updates various definitions and addresses housing quality standards and inspections; application and recordkeeping requirements; revocation or nonrenewal of a project commitment; and monthly tenant contributions by unit size (number of bedrooms) and annual income range. Those affected by this rulemaking include landlords and developers participating in the RHS program.

Questions/requests for copies/comments through 4/25/22: Susan Kim, IHDA, 111 E. Wacker Dr., Suite 1000, Chicago IL 60601.

COAL MINING

THE DEPARTMENT OF NATURAL RESOURCES proposed amendments to the Parts titled Permanent Program Performance Standards - Surface Mining Activities (62 IAC 1816; 46 Ill Reg 3998) and Permanent Program Performance Standards - Underground Mining Operations (62 IAC 1817; 46 Ill Reg 4040) that clarify and update standards for soil replacement and revegetation at surface and underground mining sites, align each Part with federal laws, remove an outdated agricultural lands productivity formula, and remove sorghum as a crop for testing. Coal mining operations and land reclamation efforts are affected by these rulemakings.

Questions/requests for copies/comments on the 2 DNR rulemakings through 4/25/22: Amy Oakes, DNR, One Natural Resources Way, Springfield, IL 62702, 217/782-1809.

■ VIDEO GAMING

The ILLINOIS GAMING BOARD proposed amendments to Video Gaming (General) (11 IAC 1800; 46 Ill Reg 3939) clarifying procedures for the operation of video gaming terminals (VGTs) that pay progressive jackpots (which increase in value with each play until won, then reset to a predetermined base value). The rulemaking limits VGTs to single

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machine progressive jackpots that can only be won at that terminal (unlike casinos, in which a single progressive jackpot can be linked to and won at multiple gaming devices). If a VGT with a progressive jackpot value recorded on its meter is removed from a video gaming location, that value shall be transferred to another VGT at the same location so that patrons do not lose the opportunity to win that jackpot. Additionally, IGB's Central Communications System shall (once the IGB Administrator has certified the System's capability) track the stored value of any progressive jackpot meter that has been removed from play but whose current value cannot be immediately added to other VGTs. Businesses and organizations with video gaming licenses are affected.

Questions/requests for copies/ comments through 4/25/22: Agostino Lorenzini, IGB, 160 N. LaSalle St., Chicago IL 60601, IGB.RuleComments@illinois.gov

COMMUNITY CARE

The DEPARTMENT ON AGING proposed amendments to Community Care Program (89 IAC 240; 46 Ill Reg 3618) establishing maximum monthly payment levels for Community Care Program (CCP) services effective 1/1/22. Maximum payments for in-home services range from \$627 (currently \$587)

per month for clients with a Determination of Need (DON) score of 29 (the minimum required to qualify for CCP) to \$5,944 (currently \$5,572) per month for clients with the maximum DON score of 100. For service plans that include both in-home and adult day services, maximum payments range from \$1,284 (currently \$1,200) to \$11,273 (currently \$10,536).

Questions/requests for copies/ comments through 4/25/22: James Shovlin, DonA, One Natural Resources Way, Suite 100, Springfield IL 62702-1271, (217) 524-7945, Agging.Rulemaking@illinois.gov

HERBICIDES

The DEPARTMENT OF AGRICULTURE proposed amendments to the Part titled Illinois Pesticide Act (8 IAC 250; 46 Ill Reg 3633) that allow a broader range of herbicides to be used for control of invasive plants on public lands, under specified conditions, by persons who do not hold a DOA herbicide applicator license. Herbicides with either "Caution" or "Warning" labels (currently, only "Warning" labels) may be applied by unlicensed persons who have been trained by a licensed herbicide applicator. Unlicensed persons may not be compensated for applying herbicides; however, participants in supervised conservation job training programs will not be considered "compensated" for purposes of this rulemaking. Park

districts, conservation districts, and other units of local government may be affected by this rulemaking.

Questions/requests for copies/ comments through 4/25/22: Pamela Harmon, DOA, State Fairgrounds, P. O. Box 19281, Springfield, IL 62794-9281, 217/524-6905, 217/785-4505 (fax)

PUBLIC TRANSIT GRANTS

The DEPARTMENT OF TRANSPORTATION proposed an amendment to the Part titled State Operating Assistance to Downstate Areas (92 IAC 653; 46 Ill Reg 4060) concerning audit requirements for Downstate public transportation providers that receive grants from DOT. Current rule requires grant recipients to commission independent audits and also requires DOT to conduct another audit on those documents after they are submitted. The rulemaking eliminates the second audit by DOT and instead requires DOT to simply review and reconcile the audits submitted by grant recipients.

Questions/requests for copies/ comments through 4/25/22: Greg Stucka, DOT, 2300 South Dirksen Pkwy., Room 317, Springfield IL 62764, (217) 524-2638.

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 March 22, 2022, JCAR meeting in Springfield. Further comments concerning these rulemakings should be addressed to JCAR using the contact information on page 1.

DEPT OF EMPLOYMENT SECURITY

Claims, Adjudication, Appeals and Hearings (56 IAC 2720; 46 Ill Reg 786) proposed 1/7/22

Payment of Benefits (56 IAC 2830; 46 Ill Reg 789) proposed 1/7/22

DEPT OF HEALTHCARE & FAMILY SERVICES

Special Eligibility Groups (89 IAC 118; 45 Ill Reg 16128) proposed 12/27/21

Medical Assistance Programs (89 IAC 120; 46 Ill Reg 222) proposed 1/3/22

Medical Payment (89 IAC 140; 46 Ill Reg 242) proposed 1/3/22

Medical Payment (89 IAC 140; 46 Ill Reg 792) proposed 1/7/22

DEPT OF INSURANCE

Workers' Compensation Rate and Manual Filing (50 IAC 2902; 46 Ill Reg 262) proposed 1/3/22

Notice of Non-Compliance with Workers' Compensation Act (50 IAC 2915; 45 Ill Reg 16150) proposed 12/27/21

Portability of Creditable Service Time for Downstate and Suburban Police Pension Funds (50 IAC 4404; 46 Ill Reg 283) proposed 1/3/22

OFFICE OF THE STATE FIRE MARSHAL

Boiler and Pressure Vessel Safety (41 IAC 2120; 45 Ill Reg 16118) proposed 12/27/21

IL COMMERCE COMMISSION

Minimum Safety Standards for Transportation of Gas and for Gas Pipeline Facilities (83 IAC 590; 45 Ill Reg 8602) proposed 7/16/21

IL STATE POLICE

Firearm Owner's Identification Card Act (20 IAC 1230; 45 Ill Reg 16315) proposed 12/27/21

Sex Offender Registration Act (20 IAC 1280; 46 Ill Reg 843) proposed 1/7/22

Child Murderer and Violent Offender Against Youth Registration Act (20 IAC 1283; 46 Ill Reg 848) proposed 1/7/22

DEPT OF PUBLIC HEALTH

Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 45 Ill Reg 15216) proposed 12/3/21

Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 45 Ill Reg 16259) proposed 12/27/21

Sexual Assault Survivors Emergency Treatment Code (77 IAC 545; 46 Ill Reg 840) proposed 1/7/22

Health Care Worker Background Check Code (77 IAC 955; 45 Ill Reg 16292) proposed 12/27/21

SECRETARY OF STATE

Motor Vehicle Accident Prevention Courses for Liability Insurance Premium Reduction (50 IAC 8000; 45 Ill Reg 14114) proposed 11/12/21

Commercial Driver Training Schools (92 IAC 1060; 46 Ill Reg 448) proposed 1/3/22

Online Only Adult Driver Education Course Provider Certification (92 IAC 1066; 45 Ill Reg 14405) proposed 11/19/21