

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

DISABILITY PARKING

The SECRETARY OF STATE proposed amendments to the Part titled Rules of the Road - Persons with Disabilities Parking Program (92 IAC 1100; 46 Ill Reg 19144) implementing Public Act 102-1011, which expands the definition of a competent medical specialist authorized to verify a person's disability. Any person licensed under the Medical Practice Act or a similar act in another jurisdiction, or any person authorized under the Illinois Vehicle Code or Illinois Identification Card Act (including physician assistants, advanced practice registered nurses, or licensed physical therapists), may verify or affirm an applicant's disability for the purpose of obtaining a disability parking decal or device. Other references to "licensed physician" have been amended and the language was rendered gender neutral.

Questions/requests for copies/ comments through 1/16/23: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, pwright@ilsos.gov

INDUSTRIAL HEMP

The DEPARTMENT OF AGRICULTURE proposed amendments to the Part titled Industrial Hemp Act (8 IAC 1200; 46 Ill Reg 19044) to align the Part with USDA hemp program regulations that were effective 1/1/22. The rulemaking adds and clarifies numerous definitions, sets an acceptable THC level for hemp (so that it cannot be used as cannabis), and defines academic research institutions that may conduct research on hemp to include public and private post-secondary institutions, community colleges, and public or nonpublic secondary schools registered with

Adopted Rules

DRIVERS' LICENSES

The SECRETARY OF STATE adopted amendments to Issuance of Licenses (92 IAC 1030; 46 Ill Reg 14049) effective 11/15/22, replacing emergency amendments that were effective 7/21/22. In accordance with Public Act 102-678, the rulemaking extends until 12/1/22 the expiration dates of all driver's licenses, instruction permits, and State identification cards that expired or will expire between 1/1/20 and 11/30/22 and have not been renewed. Driver's licenses whose expiration dates are extended under this rule will not be considered lapsed until 12/1/23. Restricted driving permits that were or are due to expire between 12/1/21 and 11/30/22 are also extended until 12/1/22. Additionally, a streamlined process for holders of out-of-State Commercial Driver's Licenses

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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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(CDLs) seeking to obtain an Illinois CDL with the same classification and endorsements will remain in effect through 12/1/22. Those affected by these rulemakings include prospective Illinois CDL applicants and their employers.

Questions/requests for copies: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, 217/785-3094, pwright@ilsos.gov

■ FOID PROCEDURES

The ILLINOIS STATE POLICE adopted an amendment to the Part titled Firearm Owner's Identification Card Act (20 IAC 1230; 46 Ill Reg 12722) effective 11/21/22, replacing an emergency rule that was effective 7/15/22. The rulemaking aligns the Part's requirements for establishing whether a FOID applicant or holder is a "clear and present danger" (whose application may be denied or current FOID Card revoked or not renewed) with those contained in the FOID Act. Previously, the rule stipulated that for an individual to be deemed a clear and present danger, that individual must pose an "actual, impending or imminent threat of substantial bodily harm to themselves or another person" or "be likely to act in a manner dangerous to public safety or contrary to the public interest" if granted access to a weapon. The amended rule cites the clear and present danger definition in the Act [430 ILCS 65/1.1], which states

that a person who "communicates a serious threat of physical violence against a reasonably identifiable victim", poses a clear and imminent risk of serious physical injury to themselves or another person, or demonstrates "threatening physical or verbal behavior such as violent, suicidal or assaultive threats", as determined by a physician, clinical psychologist, qualified examiner, school administrator, or law enforcement official, is a clear and present danger. These rulemakings also require ISP to ensure that persons identified as clear and present dangers are appropriately recorded and to keep records of clear and present danger reporting as required by State and federal law. (Previously the rule stated that ISP would not maintain records of persons who were not determined to pose a clear and present danger for purposes of FOID issuance or renewal.) Since 1st Notice, ISP has clarified that all reports shall be kept for at least 5 years, whether or not they rise to the level of clear and present danger for purposes of FOID issuance/renewal. Those affected by these rulemakings include local law enforcement agencies, mental health care providers, and others authorized to report or make determinations of clear and present danger under the FOID Act.

Questions/requests for copies: Kelly M. Griffith, ISP, 801 S. Seventh St., Suite 1000-S, Springfield IL 62703, 217/782-7658.

ABLE ACCOUNTS

The OFFICE OF THE STATE TREASURER adopted amendments to Achieving a Better Life Experience (ABLE) Account Program (74 IAC 722; 46 Ill Reg 11427) effective 11/20/22, updating these rules to reflect two Public Acts (102-392 and 102-1024) and final federal regulations for the program (through which funds can be saved for persons with disabilities on a pre-tax basis, without affecting their eligibility for benefits such as Supplemental Security Income). The rulemaking defines an ABLE account owner or beneficiary as the owner of a current account or the prospective owner of an account not yet established and allows beneficiaries to establish ABLE accounts on their own behalf (formerly, a designated representative had to establish an ABLE account for a beneficiary). Other provisions clarify who can be recognized as a designated representative for an ABLE account owner without a court order; update rules concerning contributions, contribution limits, excess contributions, and rollovers; update a cross-reference to applicable U.S. Treasury regulations; and repeal provisions for agreements with other states to manage or participate in their ABLE programs.

Questions/requests for copies: Nicola Bunick, Office of the Treasurer, 555 W. Monroe St., 14th

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Proposed Rulemakings

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the State Board of Education. Academic research institutions that raise hemp for research purposes only will pay a flat licensing fee of \$100 annually (other entities pay licensing fees of \$375 per year, \$700 every 2 years or \$1000 every 3 years, plus application fees) and must dispose of all their crops after sampling and testing are completed. Licensees must report the location and acreage/area of all crops to USDA within 30 calendar days after a crop is planted, and may not harvest or change ownership of the crop until after the lot to be harvested has been sampled and tested to ensure that it has an acceptable THC level. Licensees must obtain the services of a sampling agent to perform this testing within 30 days before the harvest date and must maintain records of harvests, sales, sampling and testing results, disposal results, and other required reports for at least 3 years. All licensees (cultivators) and registrants (processors) are subject to inspections by DOA, including both scheduled and unannounced/random inspections. Other provisions specify information to be provided on an application for an industrial hemp cultivation license; clarify the applicability of the federal prohibition on granting licenses to persons convicted of a controlled-substances-related felony in the past 10 years; specify sampling procedures for hemp crops; outline approved methods for testing and for remediating a crop with a THC

level over the acceptable limit; establish appeal procedures for violations; and require approved laboratories to be registered with the federal Drug Enforcement Agency effective 1/1/23. Those affected by this rulemaking include businesses and non-profit agencies that produce or conduct research on industrial hemp.

Questions/requests for copies/comments through 1/16/23: Brian Navarrete, DOA, State Fairgrounds, P. O. Box 19281, Springfield IL 62794-9281, 217/557-6660, fax: 217/785-4505.

■ NURSE STAFFING AGENCIES

The DEPARTMENT OF LABOR proposed amendments to the Part titled Nurse Agency Licensing Act (68 IAC 690; 46 Ill Reg 19077) implementing Public Act 102-946, which concerns staffing agencies that employ, refer, or assign nurses or certified nurse aides to health care facilities as temporary workers. The rulemaking clarifies which entities are subject to the Act and the Part (including web-based platforms and mobile applications); provides examples of actions that classify these entities as nurse agencies; defines “assign”, “employ” and “refer” for purposes of the Part; and removes requirements for license applications to be notarized (because the application process is transitioning to an electronic process). Each nurse agency, upon applying for a license, must certify that it holds workers compensation and professional liability insurance; provide DOL

copies of its contracts with facilities; pay an application fee (increased from \$250 to \$1,000, plus an additional \$250 per branch office) online; and provide data on its shift fulfillment rate for the previous three quarters. Other provisions outline record keeping and reporting requirements; require quarterly labor cost data reporting; update the process by which nurse agencies verify licensure of their employees; address continuing education opportunities, background checks, on-boarding requirements, and employee classification; and state that nurse agencies hold responsibility for ensuring that employees meet applicable requirements. The rulemaking also establishes that DOL may initiate an investigation of a suspected violation with or without a complaint, sets terms for employer response and hearing, and increases the maximum (statutory) penalty for each violation from \$1,000 to \$10,000. Nurse staffing agencies and the facilities that utilize them are affected.

Questions/requests for copies/comments through 1/16/23: Anna Koeppel, DOL, 524 S. Second St., Suite 400, Springfield IL 62701, 217/558-1270, Anna.Koeppel@illinois.gov

■ HOME HEALTH SERVICES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Home Health, Home Services, and Home Nursing Agency Code

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Adopted Rules

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Floor, Chicago IL 60661, 217/900-0074, NBunick@illinois.treasurer.gov

■ ENVIRONMENTAL LABS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Certification and Operation of Environmental Laboratories (77 IAC 465; 46 Ill Reg 12419) effective 11/17/22, updating the Part to comply with the National Primary Drinking Water Regulations and revisions to its Total Coliform Rule that were adopted in 2013. The rulemaking updates incorporated standards for water testing, removes obsolete methods and adds new testing methods, updates various technical requirements, and adds requirements for Certification Program Managers. Water testing laboratories are affected.

Questions/requests for copies: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield,

IL 62701, 217/782-1159, dph.rules@illinois.gov

STATE RETIREMENT

The STATE EMPLOYEES' RETIREMENT SYSTEM adopted amendments to The Administration and Operation of the State Employees' Retirement System of Illinois (80 IAC 1540; 46 Ill Reg 14192) effective 11/19/22 that implement PA 102-718, which extends the expiration date for the accelerated pension benefit payment (buyout) program to 6/30/26 (formerly, 6/30/24). The rulemaking requires surviving spouses, in order to document that they were married at the time of the SERS member's death and thereby qualify for a survivor's pension benefit, to submit copies of a joint income tax return filed no more than 24 months before the member's death. If the member and survivor filed tax returns separately, the survivor must submit one of the following: proof of co-ownership of their principal residence; a financial account statement showing joint account

ownership between both spouses; or two billing statements from a service provider (e.g., electric bill) that show both names. These documents must not be dated more than 6 months prior to the member's death. The rulemaking also clarifies that members who are receiving compensation from a SERS covered employer under the Uniformed Services and Reemployment Rights Act shall contribute based on the compensation level credited to their SERS accounts, and that survivors will only receive SERS occupational disability benefits if they were also awarded a death benefit under the Worker's Compensation Act or Worker's Occupational Diseases Act (thereby establishing that the member's death was employment related).

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

Joint Committee on Administrative Rules

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Senator John F. Curran
Senator Donald DeWitte
Senator Don Harmon
Senator Kimberly Lightford
Senator Sue Rezin

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Representative Michael Halpin
Representative Frances Ann Hurley
Representative Steven Reick
Representative Curtis Tarver, II
Representative Keith Wheeler, co-chair

Kim Schultz
Executive Director

Proposed Rulemakings

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(77 IAC 245; 46 Ill Reg 19105) clarifying recently adopted training provisions in Section 245.71(g). These amendments provide that required training for home health or home services personnel may be provided by either an agency employee who has worked at least 2 of the past 5 years in a facility-based or home nursing/health services environment, or by a person in a current supervisory position with a home health or home services agency (not necessarily the agency providing

the training) who is licensed or certified in their respective field. Home health and home services agencies are affected.

HOSPITALS

DPH also proposed amendments to Hospital Licensing Requirements (77 IAC 250; 46 Ill Reg 19115) that align the Part's rules for operation of fluoroscopes with Illinois Emergency Management Agency rules for medical use of x-rays in 32 IAC 360. The amendments allow accredited medical radiographers,

accredited radiation therapists, or accredited radiologist assistants, under certain conditions, to operate fluoroscopes as authorized by the IEMA rules. (Current DPH rule restricts this task to credentialed physicians.)

Questions/requests for copies/comments on the 2 DPH rulemakings through 1/16/23: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield, IL 62701, 217/782-1159, dph.rules@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 appear in next week's *Illinois Register* and be considered at the December 13, 2022, meeting in Chicago. Other items not published in the *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 CENTRAL MGMT SERVICES

Pay Plan (80 IAC 310; 46 Ill Reg 16587) proposed 10/7/22

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Illinois Professional Land Surveyor Act of 1989 (68 IAC 1270; 46 Ill Reg 11074) proposed 7/1/22

The Structural Engineering Practice Act of 1989 (68 IAC 1480; 46 Ill Reg 11220) proposed 7/1/22

DEPT OF INSURANCE

Suitability in Annuity Transactions (50 IAC 3120; 46 Ill Reg 15424) proposed 9/16/22

DEPT OF LABOR

Equal Pay in Employment (56 IAC 320; 46 Ill Reg 8023) proposed 5/20/22

POLLUTION CONTROL BOARD

General Program (Repealer) (35 IAC 1500; 46 Ill Reg 4575) proposed 3/18/22