

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.

Emergency Rules

COVID-19 TRAINING

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Assisted Living and Shared Housing Establishment Code (77 IAC 295; 45 Ill Reg 384), Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 45 Ill Reg 393), Sheltered Care Facilities Code (77 IAC 330; 45 Ill Reg 411), Illinois Veterans' Homes Code (77 IAC 340; 45 Ill Reg 425), Intermediate Care for Developmentally Disabled Facilities Code (77 IAC 350; 45 Ill Reg 435), Community Living Facilities Code (77 IAC 370; 45 Ill Reg 450), Specialized Mental Health Rehabilitation Facilities Code (77 IAC 380; 45 Ill Reg 461) and Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 45 Ill Reg 469). These emergency rulemakings are effective 12/18/20 for a maximum of 150 days, except for the Part 300 emergency

COVID-19 ACTIONS

Numerous Executive Orders and emergency rules have been issued in response to the COVID-19 pandemic. Executive Orders of the Governor concerning this pandemic 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*.

Peremptory Rule, Page 3

amendment, which modifies an emergency rule effective 12/2/20 for the remainder of its 150-day term. These emergency rules require frontline clinical and management staff at facilities regulated by these Parts to undergo free COVID-19 training provided by the federal Centers for

(cont. page 2)

Proposed Rulemakings

ELECTRIC GENERATION

The ILLINOIS COMMERCE COMMISSION proposed amendments to Electric Interconnection of Distributed Generation Facilities (83 IAC 466; 45 Ill Reg 1) and Electric Interconnection of Large Distributed Generation Facilities (83 IAC 467; 45 Ill Reg 120), updating ICC rules for joining distributed generation facilities to the electric grid. (Distributed generation facilities produce and store electricity in parallel to that supplied by utilities. They include power plants built specifically for facilities such as industrial complexes, university campuses, or military installations, and may be partly or entirely powered by solar, wind or other alternative energy sources.) The Part 466 rules apply to distributed generation facilities of 10

(cont. page 3)

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

■ CANNABIS BUSINESSES

The DEPARTMENT OF COMMERCE AND ECONOMIC OPPORTUNITY adopted a new Part titled Cannabis Business Incubator and Sponsorship Programs (14 IAC 651; 44 Ill Reg 11733), effective 12/18/20, replacing an emergency rule that was effective 7/2/20 and expired on 11/28/20. The Part implements a provision of PA 101-27 under which early approval adult use dispensing or cultivation licensees that had been previously licensed to cultivate or dispense medical cannabis may agree to serve as DCEO-approved hosts or sponsors to new Social Equity Applicants (license applicants disproportionately impacted by the

enforcement of past cannabis laws) for cannabis licenses. A host must agree to provide mentorship services and a loan of at least \$100,000 to a Social Equity Applicant or to a current licensee that meets the Social Equity Applicant criteria. Loans must have repayment terms of at least 5 years, with the first payment due at least 1 year after execution of the loan, and the interest rate cannot exceed 12%. Alternatively, an early approval licensee may sponsor a Social Equity Applicant with an interest-free loan of at least \$200,000. The rule also outlines application requirements for hosts and the ongoing documentation, reporting and recordkeeping requirements of the program. Current holders of adult use

cannabis cultivation or dispensing licenses and prospective Social Equity Applicants for such licenses are affected.

Questions/requests for copies: Jolene Clarke, DCEO, 500 E. Monroe St., Springfield IL 62701, 217/557-1820, fax 217/524-3701, jolene.clarke@illinois.gov

■ NURSING

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Nurse Practice Act (68 IAC 1300; 44 Ill Reg 4158) effective 1/4/21, implementing Public Act 100-513.

(cont. page 4)

Emergency Rules

(cont. from page 1)

Medicare & Medicaid Services. At least 50% of staff must complete this training by 1/31/21 and all staff must complete training by 2/28/21. Persons hired after 1/31/21 must complete this training within 14 days after hiring. (The emergency amendment to Part 300 aligns its training completion deadlines with those established in the other Parts.) Topics addressed in the training program include infection control, personal protective equipment, disinfection, screening, and caring for individuals with dementia during a pandemic. Additional topics addressed in training for management staff include emergency preparedness and surge capacity, emotional health of

residents and staff, telehealth for nursing homes, and preparing the facility's vaccine delivery system. 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 and must complete the training program. Those affected by these emergency rules include nursing homes, assisted living facilities, sheltered care facilities, community living facilities,

veteran's homes, specialized mental health facilities, and facilities for the developmentally disabled.

■ NURSING ASSISTANTS

DPH also adopted an emergency amendment to Long-Term Care Assistants and Aide Training Programs Code (77 IAC 395; 45 Ill Reg 483) effective 12/19/20 through 1/18/21. This emergency rule extends the Temporary Nursing Assistant (TNA) Program, which had been scheduled to terminate on 12/18/20, through 1/18/21. No new TNAs may be hired after that date. Persons currently working as TNAs may not work in

(cont. page 4)

Proposed Rulemakings

(cont. from page 1)

megavolt amperes (MVA) or less in capacity, while Part 467 applies to facilities with a capacity of greater than 10 MVA. The rulemakings outline the process by which a distributed generation facility may apply to ICC for permission to connect to the grid, and the information that must be provided with or prior to application. Facilities with their own distributed generation facilities may be affected by these rulemakings.

Questions/requests for copies/comments on the 2 ICC rulemakings through 2/17/21: Elizabeth Rolando, ICC, 527 E. Capitol Ave., Springfield IL 62701, 217/782-7434.

■ REAL ESTATE APPRAISERS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION proposed amendments to Real Estate Appraiser Licensing (68 IAC 1455; 45 Ill Reg 204) implementing recommendations of the national Appraisal Foundation. The amendments permit no more than 4 temporary practice permits to be issued to a single non-resident applicant in a calendar year and require applicants for State certification as residential appraisers to document at least 1,500 hours of appraisal experience in no fewer than 12 months (currently, 2,500 hours in no fewer than 24 months). Persons seeking initial or temporary certification as real estate

Peremptory Rule

STATE EMPLOYEES

The DEPARTMENT OF CENTRAL MANAGEMENT SERVICES adopted a peremptory amendment to Pay Plan (80 IAC 310; 45 Ill Reg 503), effective 12/18/20, implementing a memorandum of understanding that adds the job title of Insurance Financial Specialist (Department

appraisers in Illinois are affected by this rulemaking.

BANK EXAMINATIONS

DFPR also proposed a new Part titled Examination Consistency and Due Process (38 IAC 381; 45 Ill Reg 197) setting standards of practice for conducting examinations of State-chartered banks and savings banks. Under this Part, DFPR may establish guidelines to define the scope of the examination process and clarify how examination items shall be resolved. DFPR shall give due consideration to maintaining consistency with guidelines, or interpretations of guidelines, established by federal financial institution regulators (e.g., the Federal Deposit Insurance Corporation, the U.S. Comptroller of the Currency, the Board of Governors of the Federal Reserve). Prior to any examination, DFPR will mail or e-mail a pre-examination memorandum to the affected bank's management and board of directors notifying them of the date

of Insurance) to an AFSCME bargaining unit and assigns a bargaining unit pay grade to that title.

Questions/requests for copies: Jason R. Doggett, CMS, 504 Stratton Building, Springfield IL 62706, 217/782-4267, fax number 217/524-4570, CMS.PayPlan@illinois.gov

of the examination and any information DFPR deems necessary to conduct the examination. Advance notice is not required if the examination is prompted by suspected criminal activity or other unsafe or unsound practices for which advance notice may compromise the results. Draft findings and draft resolutions for corrective action will be provided to the bank's management and board of directors with sufficient time for review prior to the examination report meeting. State-chartered banks and savings banks are affected by this rulemaking.

Questions/requests for copies/comments on the 2 DFPR rulemakings through 2/17/21: Craig Cellini, DFPR, 320 W. Washington St., 2nd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

Adopted Rules

(cont. from page 2)

The rulemaking clarifies various aspects of licensure, scope of practice, and other criteria for advanced practice registered nurses (APRNs), registered professional nurses (RNs) and licensed practical nurses (LPNs). RNs may delegate certain nursing interventions (e.g., administering oral or topical medication) to other RNs, LPNs or unlicensed personnel depending on the condition of the patient, the potential for harm, the complexity of the procedure/intervention being delegated, and the competency of the individual to whom the action is being delegated. An RN may not delegate medication administration to unlicensed personnel (e.g., aides) in any hospital, institution or long-term care facility unless specifically authorized by law. Other provisions expand the

definition of unprofessional conduct, remove obsolete language, and clarify continuing education requirements, licensure requirements for foreign graduates, and procedures for seeking restoration of an expired or inactive license. Since 1st Notice, DFPR has made revisions to conform more closely to statute, including clarifications of various definitions and of when RNs are not required to be physically present at an intervention. Licensed nurses and their employers are affected.

Questions/requests for copies: Craig Cellini, DFPR, 320 W. Washington St., 2nd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

■ TAX INVESTIGATIONS

The DEPARTMENT OF REVENUE adopted an

amendment to Retailers' Occupation Tax (86 IAC 130; 44 Ill Reg 14837) effective 12/21/20, clarifying provisions in the Retailers' Occupation Tax Act (ROTA) that require any information DOR collects in the course of administering ROTA to be kept confidential "except for official purposes". The rulemaking states that when DOR is engaged in a joint investigation of ROTA violations or other tax law violations with another federal, State or local law enforcement authority, the investigation is an "official purpose" under ROTA and DOR may share information with the law enforcement authority. This information shall be provided only under a written agreement with the law enforcement authority that provides for reciprocity and limitations on access to or disclosure of the information.

(cont. page 5)

Emergency Rules

(cont. from page 2)

that capacity after 1/18/21, but hours worked as a TNA may be counted toward clinical instruction requirements for CNA certification. TNAs, their instructors and their employers are affected by this emergency rule.

Questions/requests for copies of the 9 DPH emergency rules: Elizabeth Paton, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-2043, dph.rules@illinois.gov

SURS TRUSTEES

The STATE UNIVERSITIES RETIREMENT SYSTEM adopted an emergency amendment to Universities Retirement (80 IAC 1600; 45 Ill Reg 492) effective 12/18/20 for a maximum of 150 days. An identical proposed amendment appears in this week's *Illinois Register* at 45 Ill Reg 213. The emergency and proposed amendments allow nominating petitions for SURS Board of Trustees candidates to be circulated and signed electronically via an independent,

secure third-party vendor chosen by SURS. Each candidate must individually submit a petition and obtain electronic signatures on behalf of his or her own candidacy; petitions listing multiple candidates will not be accepted.

Questions/requests for copies/comments on the proposed rulemaking through 2/17/21: Albert J. Lee, SURS, 1901 Fox Drive, Champaign IL 61820, 217/378-8861, fax 217/378-9801.

Adopted Rules

(cont. from page 4)

Persons who disclose information collected in the course of such an investigation, except in accordance with a court order or as otherwise provided by law, commit a Class B misdemeanor punishable by a fine of up to \$7,500. Local law enforcement agencies that are investigating tax violations may be affected by this rulemaking.

■ MOTOR FUEL TAX

DOR also adopted a new Part titled Municipal Motor Fuel Tax (86 IAC 696; 44 Ill Reg 14464) effective 12/21/20, implementing provisions of PA 101-604 that authorized municipalities in Cook County, effective 7/1/20, to impose motor fuel taxes of up to 3 cents per gallon (in addition to State motor fuel taxes). This tax, when imposed, must be collected by the retailer selling motor fuel. The amount that the seller adds to the price of fuel to cover this tax cannot be included in the seller's gross receipts subject to State or local sales tax. Returns for the municipal motor fuel tax must be filed with DOR by the 20th day of the month following the month in which the tax

was collected, and filed on the same basis (either gross receipts or gross sales) that the retailer uses to file State sales tax returns. Other provisions of the new Part clarify how the jurisdiction to whom the municipal tax is owed will be determined in the case of multijurisdictional retailers. Businesses selling motor fuel in Cook County are affected by this rulemaking.

Questions/requests for copies of the 2 DOR rulemakings: Samuel J. Moore, DOR, 101 W. Jefferson, Springfield IL 62794, 217/782-2844.

DOT GRANTS

The DEPARTMENT OF TRANSPORTATION adopted a new Part titled General Grantmaking (DOT) (44 IAC 7050; 44 Ill Reg 14099) effective 12/18/20, implementing requirements of the Grant Accountability and Transparency Act (GATA) with regard to non-federal entities that receive State and federal pass-through grant awards from DOT. The new Part incorporates federal grant rules at 2 CFR 200 as they were in effect on 1/1/20. Program-specific exemptions from GATA

will be recorded in the Catalog of State Financial Assistance.

Questions/requests for copies: Greg Stucka, DOT, 2300 S. Dirksen Pkwy., Rm. 317, Springfield IL 62764, 217/524-2638.

AIR POLLUTION

The POLLUTION CONTROL BOARD adopted amendments to Air Quality Standards (35 IAC 243; 44 Ill Reg 16081) effective 12/17/20, updating Illinois ambient air quality requirements to correspond with USEPA amendments to the federal National Ambient Air Quality Standards (NAAQS) adopted between 1/1/20 and 6/30/20.

Requests for copies: PCB, 100 W. Randolph, Suite 11-500, Chicago IL 60601, 312/814-3620. Please reference docket R21-1. Questions: Michael J. McCambridge, 312/814-6924, michael.mccambridge@illinois.gov. Copies of the Board's opinions and orders can also be downloaded at <http://www.pcb.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 be listed in next week's *Illinois Register* and considered at the January 12, 2021 JCAR meeting. 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.

BOARD OF EXAMINERS

Certificate of Education and Examination Requirements (23 IAC 1400; 44 Ill Reg 12013) proposed 7/24/20

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Genetic Counselor Licensing Act (68 IAC 1251; 44 Ill Reg 16063) proposed 10/2/20

Illinois Professional Land Surveyor Act of 1989 (68 IAC 1270; 44 Ill Reg 16065) proposed 10/2/20

Marriage and Family Therapy Licensing Act (68 IAC 1283; 44 Ill Reg 16067) proposed 10/2/20

Naprapathic Practice Act (68 IAC 1295; 44 Ill Reg 16071) proposed 10/2/20

Professional Counselor and Clinical Professional Counselor Licensing Practice Act (68 IAC 1375; 44 Ill Reg 16073) proposed 10/2/20

Illinois Speech-Language Pathology and Audiology Practice Act (68 IAC 1465; 44 Ill Reg 16076) proposed 10/2/20

The Structural Engineering Practice Act of 1989 (68 IAC 1480; 44 Ill Reg 16079) proposed 10/2/20

IL EDUCATIONAL LABOR RELATIONS BOARD

General Procedures (80 IAC 1100; 44 Ill Reg 17536) proposed 11/6/20

Joint Committee on Administrative Rules

Senator Bill Cunningham, *co-chair*

Representative Tom Demmer

Senator John F. Curran

Representative Michael Halpin

Senator Kimberly Lightford

Representative Frances Ann Hurley

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**Vicki Thomas
Executive Director**