

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.

Adopted Rules

■ ROOFERS

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Illinois Roofing Industry Licensing Act (68 IAC 1460; 44 Ill Reg 18546) effective 3/12/21, reflecting the sunset reauthorization of the Act (PA 99-469). The rulemaking provides that DFPR may issue citations to roofers for unlicensed practice or practice on a non-renewed license, allowing an unlicensed person to provide roofing contractor services, aiding or assisting another person in violating the Act or the Part, and for performing "substandard work" as defined in the Act. Civil penalties for unlicensed practice are \$200 for the 1st violation and \$400 for any subsequent violations within 12 months. Fines for aiding and abetting unlicensed practice are \$100 for the 1st violation and \$200

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*.

Emergency Rule, Page 3

for subsequent violations within 12 months. Fines for substandard work are \$100 per violation. Persons may appeal citations by requesting a hearing within 30 days. The rulemaking also requires roofing license applicants to certify their unemployment

(cont. page 2)

Proposed Rulemakings

SCHOOL MEAL PROGRAM

The STATE BOARD OF EDUCATION proposed an amendment to the Part titled School Food Services (23 IAC 305; 45 Ill Reg 2773) updating references to federal laws and regulations that define a "reimbursable meal" under the USDA school breakfast and lunch programs. The amendment states that if the State Superintendent determines that exigent circumstances exist due to an issue related to the health and safety of students, a reimbursable meal may include any meal meeting the criteria of the Richard B. Russell National School Lunch Act (current rule cites two other, more narrowly defined federal regulations). SBE states that this amendment cross references a more expansive definition of a

(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

(cont. from page 1)

insurance account number and that they are not delinquent in payment of any amount due to the Department of Employment Security under the Unemployment Insurance Act. Provisions allowing licensees to show proof of having applied for an unemployment insurance account number are being removed. Other provisions exempt from licensing examinations persons who, prior to 7/1/2003, were designated as “qualifying parties” for a licensee that is seeking restoration of an expired or inactive license. Roofers, roofing contractors and their employees are affected by this rulemaking.

■ REAL ESTATE SALES

DFPR also amendments to the Part titled Real Estate License Act of 2000 (68 IAC 1450; 44 Ill Reg 16584) effective 2/23/21 implementing recent revisions to the Act. The rulemaking includes criteria for establishment and operation of virtual offices, along with clarifications and updates regarding what is considered deceptive or misleading advertising and what is considered permissible; criteria for DFPR to use citations in place of formal disciplinary action against a licensee; handling of escrow accounts; use of electronic communication; and pre- and post-license education and continuing education. Since 1st Notice, DFPR has replaced references to “correspondence” courses with “home study” and has clarified

other definitions and cross references. Individuals and businesses holding real estate licenses may be affected.

■ PROFESSIONAL LICENSING

DFPR adopted amendments to the Parts titled Illinois Certified Shorthand Reporters Act of 1984 (68 IAC 1200; 44 Ill Reg 17839), Electrologist Licensing Act (68 IAC 1246; 44 Ill Reg 17853), Funeral Directors and Embalmers Licensing Code (68 IAC 1250; 44 Ill Reg 17859), Massage Licensing Act (68 IAC 1284; 44 Ill Reg 16069), Nursing Home Administrators Licensing and Disciplinary Act (68 IAC 1310; 44 Ill Reg 17868) and Illinois Physical Therapy Act (68 IAC 1340; 44 Ill Reg 17879) all effective 3/1/21, concerning online continuing education (CE) requirements for the affected professions. Amendments to Parts 1200, 1246, 1250, 1284, and 1310 allow all CE requirements to be fulfilled online; amendments to Part 1340 allow 75% (currently 50%) of physical therapists’ CE to be earned online. Persons in the licensed professions and their employers are affected by these rulemakings.

■ OPTOMETRISTS

DFPR also adopted an amendment to the Part titled Optometric Practice Act of 1987 (68 IAC 1320; 44 Ill Reg 18543) effective 3/12/21, replacing an emergency rule that was effective 11/4/20. The rulemaking permits licensed optometrists to prescribe topical ophthalmic treatments for

acquired blepharoptosis (droopy eyelids) that were recently approved by the federal Food and Drug Administration and by the Illinois Optometry Board. Optometrists are affected by this rulemaking.

Questions/requests for copies of the 9 DFPR rulemakings: Craig Cellini, DFPR, 320 W. Washington, 2nd Fl., Springfield IL 62786, 217/785-0813, fax 217/557-4451.

PORT FACILITY GRANTS

The DEPARTMENT OF TRANSPORTATION adopted a new Part titled Port Facilities Capital Investment Grant Program (92 IAC 600; 44 Ill Reg 16745) effective 2/25/21, implementing provisions of Public Act 101-10. The Part outlines the procedures and requirements for public port districts to apply for grants toward expansion or repair of docks and terminals; rehabilitation of roadways, warehouses and other buildings; improvements to port security (e.g., lighting); installation/improvement of equipment for loading or off-loading vessels; navigational aids; and other improvements that will benefit marine transportation. DOT will publish a Notice of Funding Opportunity (NOFO), including a grant application and other forms, when funds become available. Applicants must register and become pre-qualified under the Grant Accountability and Transparency Act (GATA) before

(cont. page 3)

Proposed Rulemakings

(cont. from page 1)

reimbursable meal that will enable the State to receive federal reimbursement for free meals provided by schools during the COVID-19 pandemic or during similar events in the future.

Questions/requests for copies/comments through 4/26/21: Azita Kakvand, SBE, 100 N. First St., Springfield IL 62777-0001, 217/782-6510, rules@isbe.net

STATE ID CARDS

The SECRETARY OF STATE proposed an amendment to Issuance of Licenses (92 IAC 1020; 45 Ill Reg 2777) reflecting provisions of the Illinois Identification Card Act that provide for issuance of a Person with a

Adopted Rules

(cont. from page 2)

receiving funding and must submit applications within 60 days after the NOFO is published. The rule also addresses allowable and non-allowable uses of grant award funds and the process for obtaining cost reimbursement. Since 1st Notice, DOT has added scoring criteria and considerations for evaluating grant applications and has clarified the requirements for local matching funds.

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

Emergency Rules

LONG TERM CARE

The DEPARTMENT OF PUBLIC HEALTH adopted emergency amendments to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; 45 Ill Reg 3046), Intermediate Care for the Developmentally Disabled Facilities Code (77 IAC 350; 45 Ill Reg 3060), and Medically Complex for the Developmentally Disabled Facilities Code (77 IAC 390; 45 Ill Reg 3072), all effective 3/1/21 for a maximum of 150 days. These emergency rules continue

Disability Wallet Card, upon request, to persons with medically diagnosed mental or developmental disabilities.

the provisions of COVID-19 Executive Orders and previous emergency rules that expired 2/28/21 prohibiting nursing homes and care facilities for persons with developmental disabilities from discharging residents for late payment or non-payment.

Questions/requests for copies of the 3 DPH emergency rules: Tracy Trigillo, DPH, 535 W. Jefferson St., 5th Fl., Springfield IL 62761, 217/782-1159, dph.rules@illinois.gov

Questions/requests for copies/comments through 4/26/21: Pamela Wright, SOS, 298 Howlett Bldg., Springfield IL 62756, pwright@ilsos.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; 44 Ill Reg 18667) effective 2/26/21, clarifying the definition of final average compensation for SERS members who joined the System prior to 1/1/98 and were eligible to receive alternative formula pensions on or after that date (e.g., police, firefighters). The rulemaking also clarifies that the requirements of the Pension Code with respect to non-occupational disability benefits may be deemed

satisfied when a member who has applied for this benefit was originally eligible for a temporary leave of absence for disability but, upon medical examination, was determined to be permanently and totally disabled before the leave was granted.

Questions/requests for copies: Jeff Houch, SERS, 2101 S. Veterans Pkwy., P. O. Box 19255, Springfield IL 62794, 217/524-8105, jeff.houch@srs.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 March 16, 2021 JCAR meeting. Further comments concerning these rulemakings should be addressed to JCAR.

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Examination Consistency and Due Process (38 IAC 381; 45 Ill Reg 197) proposed 1/4/20

DEPT OF NATURAL RESOURCES

The Illinois Explosives Act (62 IAC 200; 44 Ill Reg 18816) proposed 12/4/20

STATE BOARD OF EDUCATION

K-12 Recycling Grant Program (23 IAC 267; 44 Ill Reg 18275) proposed 11/13/20

Joint Committee on Administrative Rules

Senator Bill Cunningham, <i>co-chair</i>	Representative Tom Demmer
Senator John F. Curran	Representative Michael Halpin
Senator Donald DeWitte	Representative Frances Ann Hurley
Senator Kimberly Lightford	Representative Steven Reick
Senator Tony Muñoz	Representative André Thapedi
Senator Sue Rezin	Representative Keith Wheeler, <i>co-chair</i>

**Kim Schultz
Executive Director**