

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

VOLUME 49

ISSUE 16

April 18, 2025

The Flinn Report is a weekly summary of regulatory actions of State agencies published in the *Illinois Register* and action taken by the Illinois General Assembly's Joint Committee on Administrative Rules (JCAR). The Flinn Report honors founding JCAR member Representative Monroe Flinn, and is designed to inform and involve the public in changes taking place in agency administration.

Proposed Rulemakings

• DAY CARE CENTERS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to Licensing Standards for Day Care Centers (89 IAC 407; 49 Ill Reg 4753) that implement various changes to the Child Care Act of 1969, the Abused and Neglected Child Reporting Act, federal requirements for child care and development block grants, and other statutory and regulatory changes. Day care centers and their employees are affected.

Licensing Process

Centers must pass a fire safety inspection by the Office of the State Fire Marshal and DCFS must keep a record of the inspection findings. DCFS must also inspect centers' premises and records at the time of license renewal and conduct random surveys of parents to assess the quality of care at the center. License applicants and licensees seeking renewal must verify that they are no more than 30 days

delinquent in complying with a child support order and that they will comply with State cannabis regulation statutes.

Background Checks

Paid or unpaid employees, interns, volunteers and contracted staff with access to children (including custodial, kitchen and other staff who are on the

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premises while children are present) must complete a comprehensive criminal background check that consists of a fingerprint-based check of the Illinois State Police and FBI databases; a check of the DCFS State Central Register of child abuse and neglect reports; and a check of the Illinois and National Sex Offender Registries. For employees, volunteers, etc. that have resided in another state during the past 5 years, that state's criminal, child abuse and sex offender

registries must also be checked. An employee may begin working on a probationary basis after receiving clearance from ISP or the FBI, but must be supervised by a person who has passed the comprehensive background check and cannot be left alone with children until the entire background check has been completed. At parent-assisted events (e.g., field trips, parties), parents shall not have unsupervised access to any children other than their own.

Training

Within 90 days after hiring, or for current staff, within one year after the effective date of this rulemaking, all child care staff shall complete DCFS-approved orientation training concerning health and safety requirements and child development. The Gateways to Opportunity i-learning course in Child Development, Health, and Safety Basics meets this

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ADOPTED RULES: Rules adopted by agencies this week. **EMERGENCY RULES:** Temporary rules adopted for no more than 150 days.

PROPOSED RULEMAKINGS: Rules proposed by agencies this week, commencing a First Notice public comment period of at least 45 days.

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/or non-profit organizations. Agencies must consider comments from these groups and attempt to minimize regulatory burdens on them.

QUESTIONS/COMMENTS: Submit mail, e-mail or phone calls to the agency personnel listed below each summary.

RULE TEXT: First Notice proposed text, emergency rule and peremptory rule text is available at the Secretary of State website (<https://www.sos.il.gov/departments/index/register/home.html>) or at the Illinois General Assembly website (<http://www.ilga.gov>) under "Illinois Register". Second Notice text for proposed rulemakings (original version with any changes made by the agency during First Notice included) is available at the JCAR website.

Proposed Rulemakings

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requirement. (This is in addition to the 15 clock hours per year of in-service training currently required for directors and child care staff.) Mandated reporter training, including a section on implicit bias, must be completed within 90 days of hiring and repeated every 3 years. Training in social-emotional learning and early childhood mental health training, including early childhood trauma and adverse experiences, must also be completed within 90 days of hiring and repeated every 3 years. If a new hire already has a certificate of completion of training in social-emotional learning, SIDS prevention, safe sleep practices, abusive head trauma and/or child maltreatment from a recognized and approved source within the past 3 years, the initial training requirement for that subject will be considered fulfilled.

Safety Requirements

Requirements for child restraints in vehicles now apply to children under 8 (currently, 4) years of age and include rear-facing seats for children under 2 years of age or under 40 pounds. During swimming activities, adult supervision must be designated for each child, whether they enter the water or not, rather than for a group as a whole. Evacuation plans in case of fire, and shelter-in-place procedures for tornadoes or for lockdowns due to a threat of violence, must be posted in all child care rooms. Fire drills must be conducted monthly, tornado drills and lockdown drills twice annually, and the time and date of each drill must be documented. A center's emergency plan must include procedures for reuniting children and parents, continuity of operations, and accommodations for children with

disabilities or medical conditions. Firearms are prohibited on day care premises except when in the possession of peace officers, and an ISP "no firearms" sign must be posted conspicuously at all entrances. Prohibitions against smoking on day care premises are expanded to include vaping and electronic cigarettes, and the use of cannabis or cannabis infused products on day care premises or in any vehicle used to transport children is also prohibited.

Health Requirements

Child immunization requirements and exclusion rules for sick children and staff are revised in accordance with Department of Public Health rules and Centers for Disease Control and Prevention (CDC) guidelines. Any child or adult with diarrhea, vomiting or fever believed to be infectious in nature may not enter the center until they have been free of fever, diarrhea or vomiting for at least 24 hours without the use of medication. Children with head lice are excluded until the morning after their first treatment, but do not have to be sent home early on the day lice are discovered. Child care staff who care for children age 6 and under must have proof of immunization against measles, mumps and rubella (MMR) and tetanus, diphtheria and pertussis (Tdap). Staff known or suspected to have a communicable illness may be required to obtain clearance from a health care professional before returning to work. Day care centers must have written plans for addressing anaphylactic shock based on American Academy of Pediatrics recommendations, have at least one staff member present at all times who is trained in responding to anaphylaxis, and keep on file specific instructions for individual children with food allergies or other conditions that may cause anaphylaxis. Non-latex gloves must be used for food

service, first aid, and other tasks that require gloves.

Food Service

Staff members who prepare or serve unpackaged food must complete approved DPH food handler training within 30 days of hiring and every 3 years thereafter. Foods prohibited for children under 2 years of age due to choking hazards now include sausages (as well as hot dogs), hard pretzels and chips, cheese cubes, cherry tomatoes, and marshmallows. Flavored milk may not be served to children under age 6 and may be served to school age children only if fat free. Beverages with added sugar or other natural or artificial sweeteners may not be served to children. Any center in which food is served must post the DPH Choke Saving Methods Poster in a conspicuous place. Revised meal pattern charts for infants and for children over 1 year old, based on the most recent USDA nutrition standards, are included.

Other

Other amendments clarify notification requirements when a day care center must be temporarily or permanently closed; allow homeless families 90 days from the date of enrollment to provide a certified copy of a child's birth certificate and to comply with health exam and immunization requirements; and allow children to remain in care for up to 12 hours if the parent can document employment or training that requires extended care hours.

*Questions/requests for copies/comments through 6/2/25:
Tamara Bristow, DCFS, 406 E. Monroe St., Station #65-D, Springfield IL 62701, 217-524-1983,
DCFS.Policy@illinois.gov*

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Proposed Rulemakings

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VOTER REGISTRATION

The STATE BOARD OF ELECTIONS and the DEPARTMENT OF EMPLOYMENT SECURITY proposed Joint Rules of the State Board of Elections and the Department of Employment Security: Automatic Voter Registration (26 IAC 310; 49 Ill Reg 4915 and 26 IAC 311; 49 Ill Reg 4925) establishing a process whereby individuals applying for unemployment benefits or engaging in other transactions through DES can also be registered to vote at the same time. The proposed SBEL rules at 26 IAC 310 (cross referenced by the DES rules at 26 IAC 311) provide that information contained in a DES application will be forwarded to SBEL's online election portal, after which the applicant will have an opportunity to complete the voter registration process through the SBEL portal. However, DES will not knowingly forward applications that lack a residential address (business addresses and Post Office boxes are not acceptable) or applications from persons who qualify under the Address Confidentiality for Victims of Domestic Violence, Sexual Assault, Human Trafficking, or Stalking Act.

Questions/requests for copies/comments through 6/2/25: H. Poyer, SBEL, 2329 S. MacArthur Blvd., Springfield IL 62704, 217-782-4141, GeneralCounsel@elections.il.gov or Kevin Lovellette, DES, 115 S. LaSalle Street, 19th Floor, Chicago IL 60603, 312-793-1224, fax: (312) 793-5645, Kevin.Lovellette@illinois.gov

▪ PHARMACIES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION

proposed amendments to the Part titled Pharmacy Practice Act (68 IAC 1330; 49 Ill Reg 4982) reflecting changes to the Act that expand pharmacy services to outpatient clinics and ambulatory surgical treatment centers; allow pharmacists to order and administer certain tests and therapeutics; and update various requirements for pharmacy technicians. These amendments also increase, for the first time in at least 30 years, license application fees for pharmacists (from \$75 to \$400), pharmacist license renewal fees (from \$75 to \$175 per year) and fees for Illinois registry as a pharmacist licensed or registered in another jurisdiction (from \$200 to \$400). Initial licensing application fees for pharmacies are also being increased from \$100 to \$600 and from \$100 to \$250 per year for license renewals. For registration as a pharmacy technician, initial registration fees are increased from \$40 to \$50 and renewal fees from \$25 to \$35 per year. Pharmacists who meet certain conditions (including specified training or board certification and Basic Life Support first aid training) may administer and order tests and therapeutics for influenza, SARS-CoV-2 (COVID-19), Group A streptococcus, respiratory syncytial virus (RSV), adult-stage head lice, any condition identified as a statewide public health emergency, and any other condition authorized by the Act, after obtaining a health history intake form from the patient. Testing for these conditions may be delegated to a trained pharmacy technician or student pharmacist under the pharmacist's supervision. A new Section establishes requirements for outpatient clinic pharmacies. Other provisions clarify license/registration renewal procedures; clarify procedures for centralized filling of prescriptions for multiple dispensing pharmacies; shift responsibility for taking inventory of all drugs in stock at the time of a

change in the pharmacist in charge (PIC) from the departing to the incoming PIC; and require DFPR to approve any remodeling of a pharmacy. Pharmacies, pharmacists and pharmacy technicians, and outpatient clinics are affected.

Questions/requests for copies/comments through 6/2/25: Craig Cellini, DFPR, 320 W. Washington St., 2nd Floor, Springfield IL 62786, 217-785-0810, fax 217-557-4451, Craig.Cellini@illinois.gov

▪ PAINT DISPOSAL

The POLLUTION CONTROL BOARD proposed amendments to the Parts titled RCRA Permit Program (35 IAC 703; 49 Ill Reg 5114), Hazardous Waste Management System: General (35 IAC 720; 49 Ill Reg 5124), Identification and Listing of Hazardous Waste (35 IAC 721; 49 Ill Reg 5162), Standards for Owners and Operators of Hazardous Waste Treatment, Storage, and Disposal Facilities (35 IAC 724; 49 Ill Reg 5172), Interim Status Standards for Owners and Operators of Hazardous Waste Treatment, Storage and Disposal Facilities (35 IAC 725; 49 Ill Reg 5192), Land Disposal Restrictions (35 IAC 728; 49 Ill Reg 5210), and Standards for Universal Waste Management (35 IAC 733; 49 Ill Reg 5220) implementing Public Acts 103-372 and 103-887. These Acts require manufacturers of architectural paint sold at retail to establish and operate a post-consumer paint stewardship program, and also require the Illinois Environmental Protection Agency and PCB to adopt rules permitting oil-based paints to be treated as "universal waste" in the same manner as batteries, pesticides, mercury-containing equipment, lamps, and aerosol cans. The Part 703 amendments clarify that collectors of

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Proposed Rulemakings

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paint and paint-related waste (PPRW) are not required to obtain RCRA permits. Amendments to Parts 720, 721, 724, 725, and 728 reflect the classification of PPRW as a universal waste. The Part 733 rulemaking defines PPRW and establishes standards and procedures for handling this waste. Those affected by these rulemakings include businesses and municipalities that dispose of paint and paint related waste or that collect such waste.

Questions/requests for copies/comments on the 7 PCB rulemakings through 6/2/25: Clerk's Office, PCB, 60 E. Van Buren, Suite 630, Chicago IL 60605, 312-814-3621, don.brown@illinois.gov. Please reference Docket R25-22. Comments may also be filed electronically through the Clerk's Office On-Line (COOL) on the Board's website at wwwpcb.illinois.gov.

DES CONTACT INFO

The DEPARTMENT OF EMPLOYMENT SECURITY proposed amendments to Access to Records of the Department of Employment Security (2 IAC 1301; 49 Ill Reg 4919), General Application (56 IAC 2712; 49 Ill Reg 4928), Claims, Adjudication, Appeals and Hearings (56 IAC 2720; 49 Ill Reg 4934), Administrative Hearings and Appeals (56 IAC 2725; 49 Ill Reg 4943), Employment (56 IAC 2732; 49 Ill Reg 4949), Notices, Records, Reports (56 IAC 2760; 49 Ill Reg 4955), Payment of Unemployment Contributions, Interest and Penalties (56 IAC 2765; 49 Ill Reg 4961), Employees' General

Rights and Duties (56 IAC 2815; 49 Ill Reg 4967), Payment of Benefits (56 IAC 2830; 49 Ill Reg 4971) and Claimant's Availability For Work, Ability to Work and Active Search for Work (56 IAC 2865; 49 Ill Reg 4977). These amendments update the address of the DES main office in Chicago and clarify where unemployment benefit applicants, employers, labor unions, and others are to send documents by U.S. mail, fax or e-mail.

Questions/requests for copies/comments on the 10 DES rulemakings through 6/2/25: Kevin Lovellette, DES, 115 S. LaSalle Street, 19th Floor, Chicago IL 60603, 312-793-1224, fax: (312) 793-5645, Kevin.Lovellette@illinois.gov

LONG TERM CARE

The DEPARTMENT OF HEALTHCARE AND FAMILY SERVICES proposed an amendment to Medical Assistance Programs (89 IAC 120; 49 Ill Reg 5055) implementing PA 103-593 by increasing the personal needs allowance for residents of Supportive Living Facilities (SLFs) from \$90 to \$120 per month. HFS also proposed amendments to Specialized Health Care Delivery Systems (89 IAC 146; 49 Ill Reg 5074) that implement PA 103-8 by increasing Medically Complex for the Developmentally Disabled (MC/DD) exceptional care per diem rates by 6%, requiring that all tiers of exceptional care receive any increases applied to the base rate, and increasing the rate for Tier 3 to \$1,000. This rulemaking also includes a \$2.50 per hour wage increase for all direct support personnel and other frontline personnel who work in residential and community day services settings. Finally, HFS proposed amendments to Long Term Care Reimbursement

Changes (89 IAC 153; 49 Ill Reg 5101) pursuant to PA 103-0102 that increase the support component of nursing facility rates for skilled or intermediate care facilities on and after 1/1/24 by 12% from the rate in effect on 6/30/24.

Questions/requests for copies/comments on the 3 HFS rulemakings through 6/2/25: Kathy Muse, HFS, 201 S. Grand Ave. East, 3rd Floor, Springfield IL 62763-0002, 217-782-1233, HFS.Rules@illinois.gov

POWER PROCUREMENT

The ILLINOIS POWER AGENCY proposed amendments to the Part titled Fee Assessment and Collection for Regular Procurement Events, Special Procurement Events and Other Services (83 IAC 1200; 49 Ill Reg 5259) updating the Part to reflect amendments to the Illinois Power Agency Act since these rules were adopted in 2014. The proposed amendments reflect changes in the Agency's procurement plans and programs, including the establishment of new procurement plans/programs such as those for long-term renewable resources, zero emissions, and carbon mitigation credits, and removing references to the former annual calendar year planning cycle. This rulemaking also clarifies how and when expenses are recovered from bidders, suppliers, and participating electric utilities to reimburse the Agency for procurement planning and program administration.

Questions/requests for copies/comments through 6/2/25: Kelly A. Turner, IPA, 180 N. Wabash Ave., Suite 500, Chicago IL 60601, 312-814-4101, Kelly.A.Turner@illinois.gov

Adopted Rules

▪ SUBSTANCE USE TREATMENT

The DEPARTMENT OF HUMAN SERVICES repealed the Part titled Alcoholism and Substance Abuse Treatment and Intervention Licenses (77 IAC 2060; proposed at 48 Ill Reg 5389, adopted at 49 Ill Reg 5287) and adopted a new Part titled Substance Use Disorder Treatment and Intervention Services (77 IAC 2060; proposed at 48 Ill Reg 5484, adopted at 49 Ill Reg 5290), both effective 4/2/25. The new Part incorporates updated (from 2nd edition (2001) to 3rd edition (2013)) substance use disorder (SUD) patient placement criteria promulgated by the American Society of Addiction Medicine (ASAM) and promotes trauma-informed, culturally relevant, and evidence-based approaches to SUD treatment. It also establishes DHS' Division of Substance Use Prevention and Recovery (SUPR) as the sole authority for licensing and regulating community-based treatment and intervention organizations. Services that may be provided by licensed intervention organizations include DUI evaluations, DUI risk education, case management for criminal justice clients diverted to treatment rather than incarceration, and recovery homes for persons in any stage of recovery from an SUD. The new Part also clarifies level of care requirements ranging from outpatient care to medically-monitored inpatient withdrawal management; adds provisions for opioid use disorder treatment providers; removes or replaces stigmatizing language (e.g., replacing "relapse" with "reoccurrence"); adds, removes or revises various definitions; updates incorporations by reference of the American Psychiatric Association's Diagnostic and Statistical Manual 5th Edition (DSM-5), other professional standards, and facility codes; and more clearly separates medical and

clinical responsibilities. Since 1st Notice, DHS has made numerous changes requested by commenters, including: changing the criteria for a "high risk" DUI offender from 3 or more DUI convictions/dispositions in a 10-year period to 3 or more lifetime DUI dispositions; clarifying the professional qualifications for various clinical and supervisory positions; clarifying the supervision requirements for clinical staff (e.g., interns) that have yet to complete educational or other criteria for their position; removing references to organization licensing fees; and recognizing the 4th edition (2024) of the ASAM patient placement criteria for use beginning 7/1/25. Substance use disorder intervention and treatment providers are affected by these rulemakings.

Questions/requests for copies: Tracie Drew, DHS, 100 S. Grand Ave. East, 3rd Floor, Springfield IL 62762, 217-785-9772,

DHS.AdministrativeRules@illinois.gov

▪ SALES TAXES

The DEPARTMENT OF REVENUE adopted amendments to Retailers' Occupation Tax (86 IAC 130; proposed at 48 Ill Reg 17483 and 17691) effective 4/1/25 at 49 Ill Reg 5419, combining two separately proposed rulemakings. These amendments implement Public Act 103-0966 and its provisions for Direct Pay Permit holders (taxpaying entities granted approval from DOR to pay the sales taxes due on their vendor purchases directly to DOR with their own sales tax returns, instead of paying that tax to the vendor) and other Public Acts concerning taxable sales and sales tax exemptions. The rulemaking provides guidance, including examples, regarding the annual review process for Direct Pay Permit holders, the filing

of amended returns, and penalties for noncompliance. Taxpayers must complete and submit annual reviews for each calendar year (to determine whether all sales taxes were correctly sourced and paid) by March 31 of the following year. If corrections are needed, an amended return must be filed by April 20. Failure to comply with these requirements incurs a \$6,000 penalty for each review period. The rulemaking also expands the definition of taxable sales effective 1/1/25 to include leases, except for certain leases of computer software and property leases taxed by a home rule unit of local government prior to 1/1/23 (these exemptions remain in effect through 12/31/29). Other transactions exempt from sales or service tax include sales made to an active duty member of the U.S. Armed Forces who presents valid military identification and uses a form of payment whereby the federal government is the payor, as well as home-delivered meals to Medicare or Medicaid recipients paid for by an intermediary such as a managed care organization or a Medicare Advantage Organization pursuant to a government contract. This rulemaking also repeals an obsolete tax exemption for commercial distribution fees on vehicles that expired in 2005. Businesses that have received Direct Pay Permits are affected. DOR also adopted amendments to Service Occupation Tax (86 IAC 140; proposed at 48 Ill Reg 17725) effective 4/1/25 at 49 Ill Reg 5457, that extend the service occupation tax to leases effective 1/1/25 (with exceptions for computer software and property leases taxed by a home rule unit of government), exempt sales to active-duty service members and home-delivered meals from this tax, and repeal the obsolete

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Adopted Rules

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exemption for commercial distribution fees on vehicles.

RETIREMENT SAVINGS

DOF also adopted an amendment to the Part titled Secure Choice Savings Program Act (86 IAC 950; proposed at 48 Ill Reg 15825) effective 4/1/25 at 49 Ill Reg 5486, that defines ordinary business care for purpose of

compliance with the Act and makes grammatical corrections.

Questions/requests for copies of the 3 DOR rulemakings: Part 130, Alexis K. Overstreet; Part 140, Kimberly Rossini; Part 950, Brian Fliflet; DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-7055, REV.GCO@illinois.gov

SOS PUBLIC INFORMATION

The SECRETARY OF STATE adopted an amendment to Departmental Duties (2 IAC 552; 49 Ill Reg 5490) effective

4/7/25, updating the address of the SOS General Counsel's Chicago office. This is a required rulemaking under Section 5-15 of the Illinois Administrative Procedure Act and does not require First Notice publication or public comment prior to adoption.

Questions/requests for copies: Pamela Wright, SOS, 298 Howlett Building, Springfield IL 62756, 217-785-3094, pwright@ilsos.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 considered at the May 13, 2025 meeting in Springfield. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

DEPT OF HEALTHCARE AND FAMILY SERVICES

Medical Payment (89 IAC 140; 49 Ill Reg 288) proposed 1/10/25

DEPT OF REVENUE

Illinois Gives Tax Credit Act (86 IAC 1050; 49 Ill Reg 1532) proposed 2/7/25

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Marriage and Family Therapy Licensing Act (68 IAC 1283; 48 Ill Reg 18075) proposed 12/27/24

Professional Counselor and Clinical Professional Counselor Licensing Act (68 IAC 1375; 48 Ill Reg 18081) proposed 12/27/24

Behavior Analyst Licensing Act (68 IAC 1376; 48 Ill Reg 18088) proposed 12/27/24

Clinical Psychologist Licensing Act (68 IAC 1400; 48 Ill Reg 18095) proposed 12/27/24

Next JCAR Meeting: Tuesday, May 13, 10:30 a.m.

Room C-1, Stratton Bldg., 401 S. Spring St., Springfield

Meeting will be live streamed on the JCAR website

Joint Committee on Administrative Rules

Senator Bill Cunningham, Co-Chair
Senator Cristina Castro
Senator Donald DeWitte
Senator Dale Fowler
Senator Napoleon Harris, III
Senator Sally Turner

Representative Ryan Spain, Co-Chair
Representative Eva-Dina Delgado
Representative Jackie Haas
Representative Steven Reick
Representative Curtis Tarver, II
Representative Dave Vella

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