

THE FLINN REPORT

ILLINOIS GENERAL ASSEMBLY JOINT COMMITTEE ON ADMINISTRATIVE RULES

Elaine Spencer, Editor

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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

DCFS CASE REVIEWS

The DEPARTMENT OF CHILDREN AND FAMILY SERVICES proposed amendments to the Part titled Administrative Case Reviews and Court Hearings (89 IAC 316; 49 Ill Reg 5999) implementing Public Act 103-0850. This rulemaking requires caseworkers to present a completed hair care plan for youth in DCFS care, meeting the requirements of the PA, during administrative case reviews. Other provisions clarify when a parent may be terminated from an administrative case review hearing (due to disruptive or threatening behavior) and the steps that the reviewer must take before terminating the parent; incorporate current DCFS policy regarding normalcy parenting and the "reasonable and prudent parent standard" for caregivers regarding a child's participation in sports and other activities; and codify the practice of reviewing the Illinois Foster

Child and Youth Bill of Rights at each review with the youth in care and their parents or legal guardian.

Questions/requests for copies/comments through 6/23/25: Tamara Bristow, DCFS, 406 E. Monroe St., Station #65-D, Springfield IL 62701, 217-524-1983, DCFS.Policy@illinois.gov

**Adopted Rules, Page 2
No Second Notices This Week**

▪ HOUSING DEVELOPMENTS

The ILLINOIS HOUSING DEVELOPMENT AUTHORITY proposed amendments to the Part titled State Housing Appeals Board (47 IAC 395; 49 Ill Reg 6024) reflecting changes to the Affordable Housing and Planning Appeals Act. The Act and this rulemaking allow current or retired administrative law judges and attorneys with experience in land use

law to serve as chairman of the State Housing Appeals Board (SHAB) in addition to retired circuit or appellate judges. Interested housing organizations and persons eligible to apply for residency in a proposed housing development (in addition to the proposed developer) may now appeal to SHAB when a local government body denies or places conditions on an application for an affordable housing development. Finally, SHAB meetings must be scheduled when there are appeals or other business pending (currently, meetings must be scheduled at least once a year but can be canceled if there is no business). Local governments and non-profit fair housing organizations are affected.

Questions/requests for copies/comments through 6/23/25: Christina McClernon, IHDA, 111 E. Wacker Dr., Suite 1000, Chicago IL 60601, 872-271-8481, cmccclernon@ihda.org

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.ilsos.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.

Adopted Rules

• AMUSEMENTS

The DEPARTMENT OF LABOR adopted amendments to the Part titled Amusement Ride and Attraction Safety Act (56 IAC 6000; proposed at 48 Ill Reg 6438) effective 4/25/25 at 49 Ill Reg 6097, implementing Public Act 103-177. The rulemaking removes the distinction between paid and volunteer carnival workers and makes volunteers subject to the same drug testing and background checks as paid employees. The Director of DOL may waive the requirement to apply for a permit at least 30 days in advance of operating a ride or attraction (or in advance of expiration of the current permit) if the applicant provides satisfactory proof that the application could not have been filed sooner. The Director may also accept permit applications filed less than 30 days in advance provided the application was submitted before the ride or attraction begins operation. Permits may be categorically denied to applicants who have previously made misrepresentations or material omissions on applications or documents submitted to DOL. Inspections by DOL and the associated fees may be waived if the operator provides proof that the ride/attraction has passed an inspection by another public or private agency (e.g., a municipality) whose standards are at least as stringent as DOL's standards under the Act. Operating permit holders must have a first aid and CPR-certified employee on staff at all times of operation. In instances where a ride or attraction is not in compliance with this Part but does not pose an immediate danger to the public or to workers, DOL may issue a correction notice with a specified compliance deadline, after which a stop operation order may be issued if the deficiency is not corrected. A civil penalty of \$1,000 per violation may be imposed for any

violation of the Act or this Part, and the maximum penalty for operating without a permit is raised to \$10,000 per day for a third or subsequent violation. Other provisions add a definition of "special amusement structures" including haunted houses (which need not be Halloween-themed) and prohibit amusement workers at haunted houses from making physical contact with patrons unless necessary to remove a patron or prevent injury to the patron or others; clarify administrative hearing procedures; incorporate the 2005 edition of the National Fire Protection Association Life Safety Code 101; and update requirements for bungee jumping, zip lines, aerial adventures and trampoline courts. Since 1st Notice, DOL has clarified the definitions of "slide" to exclude water slides and "zip line" to exclude playground zip lines not normally requiring supervision or third-party operation. Businesses, municipalities and non-profit organizations that sponsor carnivals, fairs, haunted houses and similar attractions are affected.

• NURSE AGENCIES

DOL also adopted amendments to the Part titled Nurse Agency Licensing Act (68 IAC 690; proposed at 48 Ill Reg 6519) effective 4/25/25 at 49 Ill Reg 6180, implementing PAs 102-946 and 102-1124. The rulemaking clarifies which types of nurse staffing agencies that temporarily employ or assign nurses or certified nurse aides to health care facilities are subject to the Act and this Part, and also provides guidance on how the requirements of the Act and this Part interact with other licensure laws. A nurse agency applying to DOL for a license must certify that it holds workers' compensation and professional liability insurance; provide copies of its

facility contracts to DOL; pay an application fee of \$1,000 (previously \$250) online, plus \$250 for each Illinois branch office or location; and provide data on its shift fulfillment rate for the previous 3 quarters. Applications no longer have to be notarized since they are being submitted electronically. Fines are raised to \$10,000 (formerly \$500) per violation (other than submission of false/misleading information, for which the fine remains \$500). The rulemaking allows DOL to initiate an investigation of a suspected violation with or without a complaint and sets conditions for the employer to respond and request a hearing. Other provisions address recordkeeping, quarterly labor cost data reporting, verification of employees' current licensure and continuing education, background checks, on-boarding requirements, and non-compete agreements with employees. Since 1st Notice, DOL has removed mobile applications, web-based platforms, and managed service providers from the definition of a nurse agency subject to this Part; removed a requirement that the nurse agency verify an applicant's educational credentials; changed the quarterly labor cost reporting schedule; clarified procedures for complaint hearings; and removed or modified various definitions. Nurse staffing agencies and healthcare facilities which use their services are affected.

Questions/requests for copies of the 2 DOL rulemakings: Anna Koeppel, DOL, 524 S. Second St. Suite 400, Springfield IL 62701, 217-558-1270, Anna.Koeppel@illinois.gov

(cont. page 3)

Adopted Rules

(cont. from page 2)

▪ INCOME TAX CREDITS

The DEPARTMENT OF REVENUE adopted an amendment to Income Tax (86 IAC 100; 48 Ill Reg 17689) effective 4/22/25 at 49 Ill Reg 6621, replacing an emergency amendment that was effective 11/26/24. This rulemaking expands eligibility for a \$500 individual, non-refundable income tax credit for volunteer emergency workers (e.g., volunteer firefighters and ambulance personnel) to include volunteers for county or municipal Emergency Services and Disaster Agencies (ESDAs) for tax years 2024 through 2027. To qualify for the credit, a taxpayer who is a volunteer with a local ESDA must have worked at least 100 hours during the taxable year. The coordinator of each local ESDA is responsible for notifying the Illinois Emergency Management Agency and Office of Homeland Security (IEMA-OHS) by Jan. 12 of its volunteers who qualify for the tax credit. IEMA-OHS in turn, must submit the list of qualified tax credit recipients (including their names, addresses, and identification numbers) to DOR no later than Jan. 24. Eligible emergency workers may begin applying for the tax credit on Feb. 1 through the DOR website. DOR will verify each applicant's eligibility and issue a certificate to those who qualify; the credit cannot be claimed without this certificate. Credits will be awarded on a first-come, first-served basis and may not exceed a statewide total of \$5 million for all eligible emergency workers. Local ESDA volunteers are affected.

Questions/requests for copies: Brian Fliflet, DOR, 101 W. Jefferson St., Springfield IL 62794, 217-782-2844, REV.GCO@illinois.gov

NURSING HOMES

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Skilled Nursing and Intermediate Care Facilities Code (77 IAC 300; proposed at 49 Ill Reg 1397) effective 4/22/25 at 49 Ill Reg 6468, that define a medical ventilator and require facilities to obtain DPH approval and meet National Fire Protection Association Standards 70 (National Electrical Code) and 99 (Health Care Facilities Code) before providing medical ventilator care to residents. The rulemaking also requires licensed staff who administer life-sustaining treatments or high acuity services (e.g., ventilator care, on-site dialysis, infusion therapy, artificial nutrition/hydration) to be adequately trained to administer these treatments.

DPH also adopted amendments to Sheltered Care Facilities Code (77 IAC 330; proposed at 49 Ill Reg 1124) effective 4/22/25 at 49 Ill Reg 6515, updating the Part to align with changes in statute and policy. The rulemaking implements Public Act 103-691, under which facilities that are only partially Medicaid-certified may discharge a resident from the non-Medicaid-certified portion of the facility for inability to pay without Medicaid only if: the resident and/or their representative was informed at the time of admission and at each contract renewal that the resident could be discharged for inability to pay, and the resident or representative acknowledged receiving this information in writing. If the resident has been covered by Medicare, the facility must notify the resident or representative at least 5 days before the 100-day Medicare benefit period ends. The rulemaking also implements Public Act 103-776, which requires both the current and prospective owners of facilities that are changing ownership to submit to

DPH for approval, at the same time that DPH is notified of the pending transfer of ownership, a transition plan explaining how resident care and appropriate staffing levels will be maintained during the transition period. If any resident suffers harm due to failure of the transition plan, the facility will receive a "high risk" designation and the party that failed to carry out their responsibility under the transition plan will be cited for a violation.

DPH also adopted amendments to Illinois Veterans' Homes Code (77 IAC 340; proposed at 48 Ill Reg 17240) effective 4/22/25 at 49 Ill Reg 6539, to align this Part with recent updates to the Nursing Home Care Act and federal regulations. The rulemaking updates requirements for obtaining informed consent for psychotropic medications; implements Public Act 103-1, which allows DPH to conduct certain inspections of licensed facilities "to the extent feasible" during a statewide public health emergency; and incorporates federal requirements regarding antibiotic stewardship programs, strike notification, and drug regimen review processes.

Questions/requests for copies of the 3 DPH rulemakings: Tracey Trigillo, DPH, 524 S. Sixth St., 6th Fl., Springfield IL 62701, 217-782-1159, dph.rules@illinois.gov

▪ NURSES

The DEPARTMENT OF FINANCIAL AND PROFESSIONAL REGULATION adopted amendments to the Part titled Nurse Practice Act (68 IAC 1300; proposed at 48 Ill Reg 13019) effective 5/9/25 at 49 Ill Reg 6052, that add a new Section addressing requirements for certified nurse midwives to report adverse occurrences (death or hospitalization

(cont. page 4)

Adopted Rules

(cont. from page 3)

of a newborn or mother within 48 hours after delivery or attempted delivery), allow other English tests approved by the Division of Professional Regulation (previously, only the Test of English as a Foreign Language (TOEFL) or the International English Language Testing System (IELTS) were approved) to be used by licensure applicants whose primary language is not English, and set minimum passing scores for some of the alternative tests. Grounds for withdrawing approval of a nurse education program now include failure to maintain a pass rate for graduates of 75% or higher on the National Council Licensing Examination for 2 consecutive years. Other provisions require all substance abuse assessments, in cases involving substance-abuse-related allegations, to be paid for by the licensee (formerly, by DFPR); set timelines for action when a licensee contests a suspension; and allow licensees to request a hearing to terminate a suspension. Changes since 1st Notice clarify that DFPR may offer care, counseling and treatment agreements to a nurse impaired by substance use disorder and clarify the factors DFPR will consider when evaluating a nurse education program. Licensed nurses, their employers, and nurse education programs are affected.

Questions/requests for copies: Craig Cellini, DFPR, 320 W. Washington St. 2nd Floor, Springfield IL 62786, 217-

785-0810, fax 217-557-4451, Craig.Cellini@illinois.gov

AIR POLLUTION

The POLLUTION CONTROL BOARD adopted amendments to Permits and General Provisions (35 IAC 201; proposed at 48 Ill Reg 6554, adopted at 49 Ill Reg 6216), Alternative Control Strategies (35 IAC 202; proposed at 48 Ill Reg 6569, adopted at 49 Ill Reg 6232), Major Stationary Sources Construction and Modification (35 IAC 203; proposed at 48 Ill Reg 6574, adopted at 49 Ill Reg 6237), Prevention of Significant Deterioration (35 IAC 204; proposed at 48 Ill Reg 6655, adopted at 49 Ill Reg 6332) and Toxic Air Contaminants (35 IAC 232; proposed at 48 Ill Reg 6676, adopted at 49 Ill Reg 6462) all effective 4/23/25, that align the Board's Non-Attainment New Source Review (NA-NSR) rules to be consistent with the federal Clean Air Act and underlying NA-NSR programs. Amendments to Parts 201, 202, 204 and 232 are primarily clarifications or technical changes. Amendments to Part 203 add new Subparts I through R, which will become effective upon approval by the U.S. Environmental Protection Agency and include incorporated federal regulations, definitions, and specific provisions for affected emission sources.

NITROGEN OXIDES EMISSIONS

PCB also adopted amendments to the Part titled Nitrogen Oxides Emissions (35 IAC 217; 48 Ill Reg 11469) effective 4/23/25 at 49 Ill Reg 6355, in anticipation of a change in USEPA's

ozone standards for the Chicago and Metro East areas. These areas were designated as "marginal nonattainment" areas in 2015 for purposes of meeting National Ambient Air Quality Standards (NAAQS), but USEPA downgraded them to "moderate nonattainment" in 2022 and was expected to downgrade them further to "serious nonattainment" effective 8/3/24 based on ozone monitoring data. Effective 7/1/25, the rulemaking lowers the major source limit for nitrogen oxides in the nonattainment areas from 100 to 50 tons per year and requires emissions measurements and compliance to be determined on a 30-day rolling average basis. It also clarifies requirements for initial performance testing and compliance certification that include recording the type of fuel used and total mass emissions on a daily (previously, monthly, seasonally, and annually) basis beginning 7/1/25. Since 1st Notice, PCB has made numerous clarifying revisions, including changing the effective date from 5/1/25 to 7/1/25 and making additional exceptions for particular emission sources in the affected areas.

Questions/requests for copies of the 6 PCB rulemakings: Clerk's Office, PCB, 60 E. Van Buren, Suite 630, Chicago IL 60605, don.brown@illinois.gov. Please reference Docket R25-17 for Part 217 and Docket R22-17 for the remaining Parts. Copies of the Board's opinions and orders are available at www.pcb.illinois.gov or can be requested by calling 312-814-3620.

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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