

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

▪ BUILDING CODES

The CAPITAL DEVELOPMENT BOARD proposed amendments to the Part titled Illinois Energy Codes (71 IAC 600; 49 Ill Reg 7704) updating the incorporated/referenced version of the International Energy Conservation Code (IECC) in this Part from the 2021 to the 2024 edition and updating Illinois-specific adaptations to the IECC. Adaptations to the 2024 IECC listed in Appendix A include: requiring construction documents to show any additional electric infrastructure (e.g., branch circuits, panel capacity, space for future electrical equipment) being installed in anticipation of future power needs; new requirements for horticultural lighting, non-commercial cooking and clothes drying, and low-capacity space heating and water heating; defining a "residential building" as any building 3 stories or fewer above ground level that includes one or more permanent dwelling units, except in municipalities

of 1 million or more population, where the threshold is 4 stories or fewer; and updating energy efficiency credit requirements; various technical sections related to building envelope; total building performance requirements; additions, alterations and repairs of existing buildings; alternative compliance methods; and

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duct and ventilation requirements for residential buildings. Building construction businesses and local governments that have adopted the CDB energy codes are affected by this rulemaking.

Questions/requests for copies/comments through 7/21/25: Robert Coslow, CDB, 401 S. Spring St., 3rd Floor Stratton Building, Springfield IL 62706, 217-685-4079, CDB.EnergyCodes@illinois.gov

▪ HOME HEALTH SERVICES

The DEPARTMENT OF PUBLIC HEALTH proposed amendments to Home Health, Home Services, and Home Nursing Agency Code (77 IAC 245; 49 Ill Reg 7878) that allow registered nurses to delegate skilled nursing activities, tasks, or interventions to other RNs, licensed practical nurses, and home health aides in specific situations. The rulemaking aligns this Part with the provisions of the Nurse Practice Act and nursing licensure rules (68 IAC 1300) regarding RN delegation. An RN may delegate skilled nursing tasks only with written informed consent in advance from the patient or client, and also has the right to refuse to delegate or to rescind delegation of any task. An RN delegating a task to an LPN or home health aide must instruct them regarding how to perform the task, potential adverse effects, and how to

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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.ilso.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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report and document any adverse effects, and must ensure that the LPN or aide demonstrates competency in performing the task. Home health and home nursing agencies must have written policies and procedures for RN delegation that include review of any adverse events such as medication errors or drug reactions. Home health and home nursing agencies that employ RNs are affected.

• NEWBORN SCREENING

DPH also proposed amendments to Newborn and Infant Screening and Treatment Code (77 IAC 661; 49 Ill Reg 7922) that add guanidinoacetate methyltransferase (GAMT) deficiency and metachromatic leukodystrophy (MLD) to the list of conditions for which newborns are screened at birth and increase the screening test fee from \$128 to \$411.35. (DPH states that the increase is necessary to maintain program operations and address unmet needs.) Hospitals and other facilities that submit newborn screening tests to DPH are affected.

Questions/requests for copies/comments on the 2 DPH rulemakings through 7/21/25: Tracey Trigillo, DPH, 524 S. Second St., 6th Floor, Springfield IL 62701, 217-782-1159, dph.rules@illinois.gov

COMMUNITY COLLEGES

The ILLINOIS COMMUNITY COLLEGE BOARD proposed amendments to Administration of the Illinois Public Community College Act (23 IAC 1501; 49 Ill Reg 7743) concerning community college scholarships for Lincoln's Challenge Academy graduates. (The Academy, located in

Rantoul and administered by the Department of Military Affairs, provides quasi-military-style education and life skills training for youth ages 15½ to 18, including the opportunity to earn a State of Illinois High School Diploma.) The rulemaking increases the amount of the scholarship from \$1,000 to \$2,000 per semester for a maximum of 4 semesters, and allows the scholarship to be deferred for up to two semesters if a deferral application is submitted by August 10 for the fall semester and January 10 for the spring semester. (Current rule requires students to begin using the scholarship in the semester following high school graduation.) Students who leave the Academy and earn their diploma from an Illinois public high school may also apply for the scholarship. Applications and transcripts required for renewal of a Lincoln's Challenge scholarship must be submitted by August 10 (currently, July 1) for the fall semester.

Questions/requests for copies/comments through 7/21/25: Matt Berry, ICCB, 401 East Capitol Avenue, Springfield IL 62701-1711, 217-785-7411, Matt.Berry@illinois.gov

HEALTH INSURANCE

The DEPARTMENT OF INSURANCE proposed amendments to Navigator, In-Person Counselor and Certified Application Counselor Certification (50 IAC 4515; 49 Ill Reg 7753) implementing provisions of Public Act 103-0103 concerning the transition from a federal to a State-based health insurance exchange. The rulemaking establishes training standards for persons who apply to become Navigators, In-Person Counselors or Certified Application Counselors to complete an Illinois-specific education curriculum with specified course topics and content. Successful completion of a course is defined as

passing the final exam with a score of 80% or higher with no more than 3 attempts. The rulemaking also removes the current requirement for fingerprinting of Navigators and In-Person Counselors and the requirement for applicants or certificate holders to maintain their principal place of business in Illinois (since neither of these conditions is required by federal law or regulation).

Questions/requests for copies/comments through 7/21/25: Melanie Grant, DOI, 115 S. LaSalle St., 13th Floor, Chicago IL 60603, 312-793-3979, Melanie.grant2@illinois.gov, or Susan Anders, DOI, 320 W. Washington St., 4th Floor, Springfield IL 62767, 217-558-0957, sue.anders@illinois.gov

FISHING

The DEPARTMENT OF NATURAL RESOURCES proposed amendments to Sport Fishing Regulations for the Waters of Illinois (17 IAC 810; 49 Ill Reg 7766) that require all paddlefish landed while fishing on the Illinois River to be taken into immediate possession and included in the daily harvest limit; clarify that a fishing tournament requires a permit only if there are 20 or more participants or an exception to statewide or site-specific rules is requested; amend or clarify various site-specific fishing rules; and schedule the 2026 Free Fishing Days for June 19-22 (Friday through Monday of Father's Day weekend).

Questions/requests for copies/comments through 7/21/25: Carrie Leitner, DNR, One Natural Resources Way, Springfield IL 62702, 217-782-1809, dnr.rules@illinois.gov

Adopted Rules

• TAX CREDITS

The DEPARTMENT OF REVENUE adopted a new Part titled Illinois Gives Tax Credit Act (86 IAC 1050; proposed at 49 Ill Reg 1532) effective 5/23/25 at 49 Ill Reg 8025, implementing Public Act 103-592, the Illinois Gives Tax Credit Act. A companion emergency rule expired on 5/10/25. The PA and the new Part establish (for tax years 2025 through 2029) income tax credits equal to 25% of each qualified contribution to a permanent endowment fund held by a qualified community foundation. To qualify for this credit, taxpayers must receive contribution authorization certificates from DOR and endowment funds must receive approval to issue certificates of receipt to taxpayers making qualified contributions. Applications are available through the DOR website. Endowment funds must renew their certificate of receipt approval annually. A taxpayer must make the intended qualified contribution within 15 business days before or 10 business days after receiving a contribution authorization certificate, and the community foundation must issue a written certificate of receipt to the taxpayer within 30 business days after receiving the contribution. In order to receive qualified contributions, an endowment fund must provide charitable grants exclusively for the benefit of Illinois residents or a variety of charities or charitable projects located in Illinois; must be intended to exist in perpetuity; must have an annual spending rate based on the foundation spending policy, but not exceeding 7%; must be held by a qualified community foundation, as defined in the federal Internal Revenue Code, that complies with the Community Foundations National Standards or has accreditation from the Community Foundations National

Standards Board; and must not be a donor advised fund (tax advantaged investment fund for charitable contributions) as defined by the IRS. A foundation that funds only its own operations or programs, or that issues grants to only a particular religious sect or charitable cause, is not eligible to receive qualified contributions. The total amount of tax credits awarded cannot exceed \$5 million per year, of which 25% must be reserved as credits for small gifts of \$25,000 or less, and the maximum amount of credits per individual per year is \$100,000. Qualified contributions to any single endowment fund cannot exceed \$3 million per year. Examples of information to be provided to DOR and that demonstrate how the authorization certificate and certificate of receipt process works are included. Since 1st Notice, DOR has clarified how a community foundation which is not accredited can substantially comply with national standards and thereby qualify for the tax credit program. Those affected by this rulemaking include businesses that donate to qualified community foundations and non-profit community foundations.

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

PRESCRIPTION DRUG COVERAGE

The DEPARTMENT OF INSURANCE adopted a new Part titled Standard Drug Formulary Template (50 IAC 2030; proposed at 48 Ill Reg 17942) effective 5/22/25 at 49 Ill Reg 7945, implementing Public Act 103-650 ("Healthcare Protection Act"). The PA and this rulemaking require health insurance issuers, effective 10/1/25, to post their drug formularies on their public websites using a template

created by DOI. The new Part codifies the DOI template and the categories of information that must be included in order to meet State and federal requirements. Information that must be included in formularies includes cost-sharing tiers and utilization review requirements (e.g., prior authorization) for each covered drug; which generic and brand name drugs are covered; which drugs are preferred over others; information on the differences between drugs covered under medical benefits and drugs covered under prescription benefits; and information on how to obtain nonformulary drugs. Entities exempt from the drug formulary requirements include Medicare supplement insurance policies, Medicare Advantage plans, fraternal benefit societies, dental service plans, and the Illinois Medical Assistance/Medicaid program. Health insurers must submit their current formularies to DOI by 10/1/25. Insurers that are subject to the "step therapy" ban in the Insurance Code (prohibiting health insurers from requiring patients to try less expensive treatments first before agreeing to cover more expensive treatments recommended by their health care providers) must also submit the formularies they will use once the ban takes full effect on 1/1/26. Since 1st Notice, DOI has added a definition of "plain language" as defined by federal regulations; added language advising users of the online formulary to search for drugs by generic as well as brand names (since some insurers may only cover the generic version); and updated referenced materials.

LIFE/ACCIDENT INSURANCE

DOI also adopted amendments to Credit Life and Credit Accident and

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Adopted Rules

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Health Insurance (50 IAC 1051; proposed at 48 Ill Reg 14484) effective 5/22/25 at 49 Ill Reg 7938, that slightly reduce (by 1 or 2 cents per \$100 or \$1,000 of coverage per month) prima facie premium rates for various forms of term life insurance; reduce the exclusion period for suicide from 1 year to 6 months and expand exclusions to include war or any act of war; prohibit age restrictions for policy purchasers under age 66 (previously 65); and allow DOI to review prima facie premium rates as needed (formerly, every 3 years) using data collected during the previous 3 to 10 year period. Requests to set rates higher than the prima facie rates established in rule will now be reviewed by the DOI Director, without the previously required administrative hearing process.

Questions/requests for copies of the 2 DOI rulemakings: Part 1051, Christina Roy (217-785-0598, Christina.Roy2@illinois.gov); Part 2030, Shannon McNally (217-836-3275, Shannon.McNally@illinois.gov); DOI, 320 W. Washington St., Springfield IL 62767-0001.

HOSPITALS

The DEPARTMENT OF PUBLIC HEALTH adopted amendments to Hospital Licensing Requirements (77 IAC 250; proposed at 49 Ill Reg 2901) effective 5/21/25 at 49 Ill Reg 7975, implementing Public Act 103-784, which amends the Hospital Emergency Service Act (HESA) with regard to emergency treatment of pregnancy complications. The PA and the rulemaking include in the definition of an injury or acute medical condition liable to cause death, severe injury or serious illness (for which hospitals are obligated by State and

federal law to provide emergency services, including screening and stabilizing treatment) instances in which a pregnant patient is experiencing an ectopic pregnancy, complications of pregnancy loss, risks to future fertility, previable preterm premature rupture of membranes, or emergent hypertensive disorders such as preeclampsia. Stabilizing treatment, in these instances, includes but is not limited to abortion when "necessary to resolve the patient's injury or acute medical condition that is liable to cause death, severe injury or serious illness". The rulemaking also provides that DPH will investigate alleged violations of the HESA and may impose a minimum fine of \$50,000 per violation if the hospital is not also cited for a violation of the federal Emergency Medical Treatment and Active Labor Act (EMTALA). Factors DPH will consider in determining whether to impose a fine, and the amount of the fine, include the degree of harm suffered by the patient; whether the hospital has previously violated the HESA; whether the patient was transferred without documentation by the transferring physician that the benefits of a transfer outweighed the risks; whether staff and employees were properly trained regarding their duties under the HESA; and whether the hospital demanded payment or proof of prior authorization or insurance coverage prior to screening or stabilizing treatment.

• HEALTHCARE WORKERS

DPH adopted amendments to Health Care Worker Background Check Code (77 IAC 955; proposed at 49 Ill Reg 3028) effective 5/22/25 at 49 Ill Reg 7999, implementing PAs 102-538, 103-428 and 103-1032. The rulemaking updates the statutory definition of "direct care" to state that the entity responsible for inspecting, licensing, certifying or registering a

health care employer may prescribe guidelines in administrative rule for the employers it regulates regarding how to define a direct care employee. Comprehensive Community Mental Health Centers (CCMHCs) certified by the Department of Human Services are added to the list of health care employers subject to the Health Care Worker Background Check Act and this Part. Employment verifications must be submitted for contracted and subcontracted workers (in addition to employees) at least annually. The rulemaking also requires employers to retain a screen print in an employee's file showing whether the employee has received a waiver from any disqualifying criminal convictions or administrative findings. Health care employers subject to the Background Check Act are affected.

BIRTH CENTERS

DPH adopted an amendment to Birth Center Licensing Code (77 IAC 264; proposed at 49 Ill Reg 2918) effective 5/21/25 at 49 Ill Reg 7994, implementing Public Acts 103-160 and 103-605. The PAs and this rulemaking require birth centers with obstetrical service beds to inform parents of newborns of the option to donate breast milk to nonprofit human milk banks accredited by the Human Milk Banking Association of North America. This information may be provided in writing or electronically, and birth centers may distribute information provided directly from the Association.

HMOs

DPH adopted an amendment to Health Maintenance Organizations Code (77 IAC 240; proposed at 49 Ill Reg 2895) effective 5/21/25 at 49 Ill Reg 7969, that aligns the Part more closely to statute. With regard to

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Adopted Rules

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examinations of an HMO and its contracted providers, DPH will consider, in addition to factors already listed in rule, whether the HMO has met its obligation to provide coverage

to enrollees; the HMO's ability to provide for or arrange basic health services; and the HMO's ability to meet its contractual obligations to providers. DPH will determine what constitutes a material violation of a contract or evidence of coverage, or what constitutes good faith regarding certification.

Questions/requests for copies of the 4 DPH rulemakings: 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 be considered at the June 17, 2025, meeting in Chicago. Other items not published in the *Illinois Register* or The Flinn Report may also be considered. Further comments concerning these rulemakings should be addressed to JCAR at jcar@ilga.gov.

BOARD OF HIGHER EDUCATION

Nurse Educator Fellowship Program (23 IAC 1105; 49 Ill Reg 1097) proposed 1/24/25

DEPT OF CHILDREN AND FAMILY SERVICES

Placement and Visitation Services (89 IAC 301; 48 Ill Reg 10483) proposed 7/19/24

DEPT OF FINANCIAL AND PROFESSIONAL REGULATION

Illinois Architecture Practice Act of 1989 (68 IAC 1150; 49 Ill Reg 2575) proposed 3/14/25

Registered Interior Designers Act (68 IAC 1255; 49 Ill Reg 2612) proposed 3/14/25

Illinois Professional Land Surveyor Act of 1989 (68 IAC 1270; 49 Ill Reg 2621) proposed 3/14/25

The Professional Engineering Practice Act of 1989 (68 IAC 1380; 49 Ill Reg 2659) proposed 3/14/25

The Structural Engineering Practice Act of 1989 (68 IAC 1480; 49 Ill Reg 1700) proposed 2/14/25

DEPT OF HEALTHCARE AND FAMILY SERVICES

Special Eligibility Groups (89 IAC 118; 49 Ill Reg 3418) proposed 3/21/25

DEPT OF NATURAL RESOURCES

Herptile Code (17 IAC 885; 48 Ill Reg 11437) proposed 8/9/24

Forestry Development Cost-Share Program (17 IAC 1536; 49 Ill Reg 2868) proposed 3/14/25

Floodplain Development Requirements for State Owned Properties (17 IAC 3710; 49 Ill Reg 1772) proposed 2/14/25

Next JCAR Meeting: Tuesday, June 17, 11 a.m.

Room C-600, Bilandic Bldg., 160 N. La Salle, Chicago

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

Kim Schultz, Executive Director ■ Kevin Kulavic, Deputy Director

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